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**Ordinance Number 11092**

AN ORDINANCE

AUTHORIZING THE ISSUANCE OF  
CITY OF COTTONWOOD SHORES, TEXAS,

\$1,395,000

COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION,

SERIES 2017;

AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT;  
ESCROW AGREEMENT; LEVYING AN AD VALOREM TAX; PLEDGING SURPLUS  
REVENUES; AND OTHER MATTERS IN CONNECTION THEREWITH

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CITY OF COTTONWOOD SHORES, TEXAS

ADOPTED DECEMBER 1, 2016

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**AN ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF COTTONWOOD SHORES, TEXAS, CERTIFICATES OF OBLIGATION, SERIES 2017; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT; ESCROW AGREEMENT; LEVYING AN AD VALOREM TAX; PLEDGING SURPLUS REVENUES; AND OTHER MATTERS IN CONNECTION THEREWITH**

**RECITALS**

**WHEREAS, THE CITY OF COTTONWOOD SHORES, (the "City")** authorized the publication of notice of intention to issue certificates of obligation to the effect that the City Council would meet on December 1, 2016 to adopt an ordinance and take other actions as may be necessary to authorize the issuance of certificates of obligation (the "Certificates") in the amount of \$1,395,000 payable from the City's ad valorem taxes and from a pledge of and lien on certain surplus revenues of the City's water and sewer system, for the purpose of purchasing and constructing upgrades at the City's water plant and for paying legal, fiscal and engineering fees in connection with such project; and

**WHEREAS,** the notice was published once a week for two (2) consecutive weeks in a newspaper of general circulation in the City, the first (1<sup>st</sup>) publication being not less than 30 days prior to the tentative date stated in the notice for the passage of this ordinance; and

**WHEREAS,** no petition signed by at least 5% of the qualified electors of the City protesting the issuance of the Certificates has been presented to or filed with the City Secretary prior to the date set in such notice for passage of this Ordinance, nor has any such petition been filed as of this date; and

**WHEREAS,** the City Council has found and determined that \$1,395,000 in aggregate principal amount of the Certificates described in such notice should now be issued and sold; and

**WHEREAS,** it is in the City's best interest to issue the Certificates.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, THAT:**

**ARTICLE ONE**  
**DEFINITIONS AND OTHER PROVISIONS OF**  
**GENERAL APPLICATION**

SECTION 1.1        *Definitions.*

For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires:

(1)        The terms defined in this Section have the meanings assigned to them in this Section.

(2)        All terms defined herein include the plural as well as the singular.

(3)        All references in this Ordinance to designated "Articles," "Sections," "Exhibits," and other subdivisions are to the designated Articles, Sections, Exhibits, and other subdivisions of this Ordinance as originally adopted.

(4)        The words "herein," "hereof," and "hereunder" and other words of similar import refer to this Ordinance as a whole and not to any particular Article, Section, Exhibit, or other subdivision.

"*Act*" means Chapter 271, Texas Local Government Code, as amended.

"*Attorney General*" means the Attorney General of the State of Texas.

"*Blanket City Letter of Representations*" means the Blanket City Letter of Representations between the City, the Paying Agent/Registrar and DTC.

"*Bond Counsel*" means Radcliffe Bobbitt Adams Polley PLLC.

"*Business Day*" means any day which is not a Saturday, Sunday, or a day on which the Paying Agent/Registrar is authorized by law or executive order to close, or a legal holiday.

"*Certificate*" or "*Certificates*" means the City of Cottonwood Shores, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2017 authorized in this Ordinance, unless the context clearly indicates otherwise.

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

"*Collection Date*" means, for any year, the date that annual ad valorem taxes levied by the City in that year become delinquent.

"*Debt Service Requirement*" has the meaning stated in Section 4.6

"*Comptroller*" means the Comptroller of Public Accounts of the State of Texas.

"DTC" means The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"Escrow Agent" means BOKF, NA and its successors and assigns, or such other escrow agent as may be approved by the Mayor or Mayor Pro Tern and acceptable to the TWDB.

"Escrow Agreement" means the escrow agreement by and between the City and the Escrow Agent pertaining to the deposit of the proceeds of the Certificates.

"Fiscal Year" means the annual financial accounting period for the City as established by the City on or prior to the date of this Ordinance; provided, however, the Governing Body may change such annual financial accounting period to end on another date if such change is found and determined to be necessary for accounting purposes or is required by applicable law.

"Governing Body" means the City Council of the City.

"Governmental Obligations" means (1) direct obligations of, or obligations the timely payment of the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America, or (2) obligations authorized under Texas law from time to time for discharge and final payment of political or governmental obligations which, at the time of deposit have been assigned ratings in the highest rating category of either Moody's Investors Service or Standard & Poor's Corporation, or any successor to the bond operations of either of such corporations, *but* in the case of both Clauses (1) and (2) only if such obligations may not be called for redemption prior to maturity.

"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 Certificates.

"Gross Revenues" for any period means all revenue during such period in respect or on account of the operation or ownership of the System, excluding refundable deposits, restricted gifts, refunds for amounts advanced in aid of construction, and grants in aid of construction, but including earnings and income derived from the investment or deposit of money in any special fund or account (other than earnings on the Certificate Debt Service Fund) created and established for the payment or security of the Certificates.

"Initial Certificate" means the Initial Certificate authorized by Section 6(d) of this Ordinance.

"Interest and Sinking Fund" means the interest and sinking fund for payment of the Certificates established by the City in Section 4.1 of this Ordinance.

"Issuance Date", with respect to the Certificates initially delivered to TWDB, shall mean the date on which each such Certificate is authenticated by the Paying Agent/Registrar and

delivered to and paid for by TWDB. Certificates delivered on transfer of or in exchange for other Certificates shall bear the same Issuance Date as the Certificate or Certificates in lieu of or in exchange for which the new Certificate is delivered.

"*Interest Payment Date*" means a date specified in the Certificates as a fixed date on which an installment of interest thereon is due and payable.

"*Maintenance and Operating Expenses*" means all current expenses of operating and maintaining the System not paid from the proceeds of the Certificates, including the cost of all salaries, labor, materials, interest, repairs, and extensions necessary to provide efficient service, and each proper item of expense, but only if, in the case of repairs and extensions, they are, in the judgment of the Governing Body, necessary to keep the System in operation and render adequate service to the City and its residents, or respond to a physical accident or condition that would otherwise impair the Certificates or Prior Obligations or Parity Obligations.

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

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Ordinance*" as used herein and in the Certificates means this ordinance authorizing the Certificates.

"*Outstanding*" when used with respect to Certificates means, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except, without duplication:

(1) *Canceled Certificates*: Certificates theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;

(2) *Gross Cash Defeasance*: Certificates for whose payment or redemption money in the necessary amount has been theretofore deposited with the Paying Agent in trust for the Registered Owner of such Certificates, provided that, if such Certificates are to be redeemed, notice of such redemption has been duly given pursuant to this Ordinance, irrevocably provided for to the satisfaction of the Paying Agent, or waived;

(3) *Replaced Certificates*: Certificates in exchange for or in lieu of which other Certificates have been registered and delivered pursuant to this Ordinance;

(4) *Paid Missing Certificates*: Certificates alleged to have been destroyed, lost, or stolen which have been paid as provided in Section 1.5; and

(5) *Net Cash Defeasance*: Certificates for the payment of the principal (or Redemption Price) of and interest on which money or Governmental Obligations or both are held by the Paying Agent or other bank or trust company and with the effect specified in Section 6.1; provided, however, that in determining whether the Registered Owners of the requisite principal amount of Certificates Outstanding have given any request,

demand, authorization, direction, notice, consent, or waiver hereunder, Certificates owned by the City or any other obligor upon the Certificates are disregarded and deemed not Outstanding, except that, in determining whether the Paying Agent is protected in relying upon any such request, demand, authorization, direction, notice, consent, or waiver, only Certificates which the Paying Agent knows to be so owned are required to be so disregarded.

"*Owner*" means any person who shall be the registered owner of any outstanding Certificate.

"*Paying Agent/Registrar*" means BOKF, NA, and its successors in that capacity.

"*Project*" means the acquisition and construction of improvements to and the equipment of the City's water system, including water wells, a water treatment plant, a ground storage tank, an elevated storage tank and a transmission line to the City's water distribution system, and the cost of professional services incurred in connection therewith.

"*Project Fund*" shall mean the project fund established by the City pursuant to Section 4.4 of this Ordinance.

"*Parity Obligations*" means the obligations of the City so defined in Section 4.8.

"*Paying Agent*" means the corporation named as the "Paying Agent" herein until a successor Paying Agent becomes such pursuant to the applicable provisions of this Ordinance, and thereafter "Paying Agent" means such successor Paying Agent.

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

"*Place of Payment*" means a corporate trust office of the Paying Agent in the State of Texas, as established in Section 1.1.

"*Record Date*" means, for any Interest Payment Date, the fifteenth day of the month next preceding such Interest Payment Date.

"*Redemption Date*" means the date fixed for redemption of a Certificate pursuant to the terms of this Ordinance.

"*Redemption Price*" means the price specified in the Form of Certificate in Section 3.2 as the price at which a Certificate may be redeemed pursuant to the terms of the Ordinance.

"*Register*" means the books of registration kept by the Paying Agent/Registrar in which are maintained the names and addresses of and the principal amounts registered to each Owner.

"*Registered Owner*" means the registered owner, whose name appears in the Security Register, for any Certificate.



"*Regulations*" means the applicable, proposed, temporary or final Treasury Regulations promulgated under the Code, or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

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

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

"*Surplus Revenues*" means the revenues available after the payment of operation and maintenance expenses of the System and the debt service payable from Gross revenues of the System, if any, as well as any other payments, costs or expenses designated in an ordinance authorizing the issuance of System revenue obligations.

"*Security Register*" has the meaning stated in Section 1.4.

"*Stated Maturity*" when used with respect to any Certificate means the date specified in such Certificate as the fixed date on which the principal of such Certificate is due and payable.

"*Subordinate Lien Obligations*" means any bonds, notes, warrants, certificates of obligation, or any similar obligations hereafter issued by the City that are payable, in whole or in part, from and equally and ratably secured by a lien on and pledge of the Surplus Revenues, such pledge being subordinate and inferior to the lien on and pledge of Surplus Revenues to payment of the Certificates.

"*System*" means all of the City's waterworks and sanitary sewer system, together with all future extensions, improvements, and additions thereto and replacements thereof, excluding from the foregoing, however, to the extent now or hereafter authorized or permitted by law, facilities of any kind which are declared by the Governing Body, prior to the acquisition or construction thereof by the City, 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 Obligations," which are hereby defined as being special revenue obligations of the City which are not payable from Surplus Revenues 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 Certificates.

"*TWDB*" means the Texas Water Development Board.

"*Yield*" of

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

(2) the Certificates have the meaning set forth in Section 1.148-4 of the Regulations.

SECTION 1.2 *Notices.*

Where this Ordinance provides for notice to Registered Owners of any event, such notice is sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Registered Owner, at the address of such Registered Owner as it appears in the Security Register. Neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Registered Owner affects the sufficiency of such notice with respect to all other Registered Owners. Any notice so mailed shall be conclusively presumed to have been duly given, whether or not the Registered Owner receives such notice. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver is the equivalent of such notice. Waivers of notice by Registered Owners are to be filed with the City, but such filing is not a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 1.3 *Effect of Headings and Table of Contents; Recitals.*

The section headings herein and in the Table of Contents are for convenience only and do not affect the construction hereof.

The Recitals contained in the preamble hereof are hereby found to be true, and such Recitals are hereby made a part hereof for all purposes and are adopted as part of the judgment and findings of the Governing Body.

SECTION 1.4 *Ordinance a Contract; Amendments.*

This Ordinance constitutes a contract with the Registered Owners entered into upon the initial purchase of the Certificates, is binding on the City and its successors and assigns whether or not so expressed, and may not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section.

The City may, without the consent of or notice to any Registered Owner, from time to time and at any time amend this Ordinance in any manner not detrimental to the interests of the Registered Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein or therein. In addition, the City may, with the written consent of the Registered Owners of a majority in aggregate principal amount of the Certificates then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of the Registered Owners of all of the affected Outstanding Certificates, no such amendment, addition, or rescission may (1) change the Stated Maturity of the Certificates or any Interest Payment Date for an installment of interest thereon, reduce the principal amount thereof, the Redemption Price therefor, or the rate of interest thereon, change the place or places at, or the coin or currency in, which any Certificate or the interest thereon is payable, or in any other way modify the terms or sources of payment of the principal of or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, (3) modify any of the provisions of the proviso to the definition of the term "Outstanding," or (4) modify any of the provisions of

this Section, except to increase the percentage provided hereby or to provide that certain other provisions of this Ordinance cannot be modified or waived without the consent of the Registered Owner of each Certificate affected thereby.

Any consent to any amendment hereof by the Registered Owner of any Certificate binds every future Registered Owner of the same Certificate and the Registered Owner of every Certificate issued upon transfer or in lieu thereof or in exchange therefor, in respect of anything done or suffered to be done by the City in reliance thereon, whether or not notation of such action is made upon such Certificate.

SECTION 1.5            *Benefits of Ordinance.*

Subject to Section 8.3, nothing in this Ordinance, expressed or implied, is intended or may be construed to confer upon any Person (other than the City and Registered Owners) 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 and the Registered Owners.

SECTION 1.6            *Repealer.*

All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed and declared to be inapplicable to the extent of such conflict, and the provisions of this Ordinance are controlling as to the matters prescribed herein.

SECTION 1.7            *Governing Law.*

This Ordinance is to be construed in accordance with and governed by the laws of the State of Texas and the United States of America.

SECTION 1.8            *Severability.*

If any provision of this Ordinance or the application thereof to any Person or circumstance is held to be invalid, illegal, or unenforceable, the remainder of this Ordinance and the application of such provision to other Persons and circumstances is nevertheless valid, legal, and enforceable and the Governing Body hereby declares that this Ordinance would have been enacted without such invalid provision or application.

SECTION 1.9            *Public Meeting.*

The Governing Body officially finds, determines, and declares that notice of the adoption of this Ordinance was posted as required by law at a location within the City in a place readily accessible to the general public at all times for at least 72 hours preceding the scheduled time of the meetings at which this Ordinance is read and approved; that such meetings were open to the public; and that public notice of the time, place, and purpose of such meetings was given as required by Texas Government Code chapter 551, as amended.

SECTION 1.10        *Authority of Officers.*

The Mayor, the Mayor Pro Tem, the City Secretary or any Attorney, or Director of Finance of the City, or any of them, are authorized to evidence adoption of this Ordinance and to do any and all things proper and necessary to carry out the intent hereof.

SECTION 1.11        *Changes to Ordinance.*

Bond Counsel is hereby authorized to make changes to the terms of this Ordinance if necessary or desirable to carry out the purposes hereof or in connection with the approval of the issuance of the Certificates by the Attorney General.

*[The remainder of this page intentionally left blank.]*

**ARTICLE TWO**  
**FORMS**

SECTION 2.1        *Forms Generally.*

The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be reproduced on the initial Certificates, the Registration Certificate of the Paying Agent to be reproduced on subsequently delivered Certificates, and the form of Assignment to be reproduced on each of the Certificates are to be substantially in the forms set forth in this Article with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and the Certificates may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel or notice of insurance) thereon as may, consistently herewith, be determined by the officers executing such Certificates as evidenced by their execution thereof. Any portion of the text of any Certificates may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Certificate.

The Certificates may be printed, lithographed, engraved, typewritten, photocopied, or produced by any combination of these methods, or produced in any other manner, all as determined by the officers executing such Certificates as evidenced by their execution thereof. The initial Certificates to be delivered to the Attorney General may be issued either (i) as a single fully registered certificate for each but the Initial Certificate submitted to the Attorney General of Texas shall be issued as one Certificate, numbered T-1 in the aggregate principal amount of \$1,395,000 being due and payable as provided in Section 1.1 hereof. The Initial Bond may be printed, lithographed, typewritten, photocopied, mimeographed, or otherwise produced.

*[The remainder of this page intentionally left blank.]*

SECTION 2.2 *Form of Certificate.*

The form of the Certificates, including the form of the Paying Agent/Registrar's Authentication Certificate, the form of Assignment, the form of Statement of Insurance, and the form Of Registration Certificate of the Comptroller shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Ordinance:

United States of America  
State of Texas

REGISTERED  
NUMBER

REGISTERED  
DENOMINATION

CITY OF COTTONWOOD SHORES, TEXAS  
COMBINATION TAX AND REVENUE  
CERTIFICATES OF OBLIGATION  
SERIES 2017

Dated Date: January 1, 2017

Interest Rate:	Maturity Date:	Principal Amount:	CUSIP NO.:
[see Section 3.3]	[see Section 3.3]	[see Section 3.3]	_____
REGISTERED OWNER: _____			

The City of Cottonwood Shores, Texas (hereinafter together with its successors referred to as the "City"), a body politic and municipal corporation duly organized and existing under and by virtue of the laws of the State of Texas, for value received, hereby promises to pay, but solely to and from the extent of the sources described herein, to the Registered Owner specified above or registered assigns, on the Stated Maturity specified above, the Principal Amount specified above, and to pay interest thereon to the Person herein specified from the Dated Date specified above, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until such principal is paid or duly provided for on or after such Stated Maturity or any earlier Redemption Date, semiannually on May 1 and November 1 in each year commencing May 1, 2017, at the per annum Interest Rate specified above, computed on the basis of a 360-day year of twelve 30-day months and, except as otherwise permitted by the Ordinance hereinafter referred to, to make the payments to the United States of America in the amounts and on the date therein described when due. Principal of this Certificate is payable at its Stated Maturity to the Registered Owner hereof, upon presentation and surrender, at the principal payment office of the Paying Agent executing the Registration Certificate of Paying Agent appearing hereon, which shall initially be BOKF, NA or its successor in its designated place of payment, initially Austin, Texas (the "Place of Payment").

The interest so payable on, and paid or duly provided for on any Interest Payment Date will be paid to the Person in whose name this Certificate (or one or more Predecessor Certificates evidencing the same debt) is registered at the close of business on the Regular Record Date for such interest, which is the 15th day (whether or not a business day) of the calendar month next

preceding such Interest Payment Date. Any such interest not so paid or duly provided for ceases to be payable to the Person in whose name such Certificate is registered on such Regular Record Date, and shall be paid to the Person in whose name this Certificate (or one or more Predecessor Certificates) is registered at the close of business on a Special Record Date for the payment of such interest to be fixed by the Paying Agent, notice whereof being sent to the Registered Owners of the Certificates not less than five business days prior to the Special Record Date. All such interest is payable at the Place of Payment. Such interest is payable (1) by check or draft mailed to the address of the Registered Owner as the same appears on the Security Register of the City kept by the Paying Agent, as Registrar, or (2) in accordance with other customary arrangements acceptable to the Paying Agent made by the Registered Owner; provided, however, that for so long as the TWDB is the Registered Owner of the Certificates, all payments of principal and interest will be made in wire transfer form at no cost to the TWDB. The principal or Redemption Price of this Certificate is payable at the Place of Payment upon presentation and surrender of this Certificate. All such payments must be made in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

If the specified date for any such payment is a Saturday, Sunday, or legal holiday or equivalent (other than a moratorium) for banking institutions generally in the city in which the Place of Payment is located, such payment may be made on the next succeeding day which is not one of the foregoing days without additional interest and with the same force and effect as if made on the specified date for such payment.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$1,395,000 (the "*Certificates*") pursuant to an Ordinance adopted by the governing body of the City (the "*Ordinance*"), for the purpose of purchasing and constructing upgrades at the City's water plant and for paying legal, fiscal and engineering fees in connection with such project under and in strict conformity with the laws of the State of Texas, particularly Texas Government Code Section 1502.052 and the Certificate of Obligation Act of 1971, as amended, Texas Local Government Code Sections 271.041 through 271.063.

The Certificates with a Stated Maturity on or after May 1, 2028, may be redeemed at the option of the City, on notice mailed to the Registered Owners thereof not less than 30 days prior to the Redemption Date as provided in the Ordinance, as a whole or from time to time in part in integral multiples of \$5,000 principal on any date prior to their Stated Maturity, but not before May 1, 2027, upon payment of the Redemption Price, which is the principal amount thereof together with interest, if any, accrued from the most recent Interest Payment Date to the Redemption Date.

Certificates of a denomination larger than \$5,000 may be redeemed in part (in, and leaving unredeemed, an authorized denomination) and upon any partial redemption of any such Certificate the same must be surrendered in exchange for one or more new Certificates of the same Stated Maturity in authorized denominations for the unredeemed portion of principal. Certificates (or portions thereof) for whose redemption and payment provision is made in accordance with the Ordinance cease to bear interest from and after the Redemption Date.

If this Certificate (or any portion of the principal sum hereof) has been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Certificate (or the portion of the principal sum hereof to be redeemed) is 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, interest ceases to accrue and to be payable hereon from and after the redemption date on the principal amount hereof to be redeemed.

The Certificates of this series are payable from the proceeds of an ad valorem tax levied upon all taxable property within the City, within the limitations prescribed by law, and are further payable from and secured by a limited and subordinate lien on and pledge of the Surplus Revenues from the operation of the City's the System as identified and defined in the Ordinance. In the Ordinance, the City reserves and retains the right to issue additional obligations prior and superior in right to, on a parity with, or subordinate to the Certificates with respect to the lien on Surplus Revenues, and the Certificates are issued with the pledge of Surplus Revenues subordinate to the pledge of Surplus Revenues to the City's other outstanding obligations, and any other obligations of the City hereafter issued which are issued with a pledge of Surplus Revenues prior and senior to the pledge of Surplus Revenues to the Certificates.

Reference is hereby made to the Ordinance, copies of which are on file in the principal corporate trust office of the Paying Agent, and to all of the provisions of which the Registered Owner by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied and the revenues pledged for the payment of the Certificates; the terms and conditions relating to the transfer or exchange of the Certificates; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Registered Owner; the rights, duties, and obligations of the City and the Paying Agent; the terms and provisions upon which this Certificate 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.

The Ordinance permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the City and the rights of the Registered Owners of the Certificates under the Ordinance at any time by the City with the consent of the Registered Owners of a majority in aggregate principal amount of such Certificates at the time outstanding affected by such modification. Any such consent by the Registered Owners of this Certificate or any Predecessor Certificate herefore evidencing the same debt is conclusive and binding upon such Registered Owner and all future Registered Owners of this Certificate and of any Certificate issued upon the transfer or in lieu hereof or in exchange herefore, whether or not notation of such consent is made upon this Certificate.

As provided in the Ordinance and subject to certain limitations therein set forth, this Certificate is transferable on the Security Register of the City, upon surrender of this Certificate for transfer to the Paying Agent at the Place of Payment, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent duly executed by the Registered Owner hereof or its attorney duly authorized in writing, and thereupon one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, and



for the same aggregate principal amount will be issued to the designated transferee or transferees.

The Certificates are issuable as fully registered Certificates in denominations of principal, equal to \$5,000 and any integral multiple thereof. Upon surrender of this Certificate for exchange to the Paying Agent at the Place of Payment, and subject to certain limitations set forth in the Ordinance, one or more new fully registered Certificates of the same Stated Maturity, of designated authorized denominations, and for the same aggregate principal amount will be issued to the Registered Owner of this Certificate.

No service charge may be made for any transfer or exchange hereinabove referred to, but the City or the Paying Agent may require payment of a sum sufficient to cover any tax or governmental charge payable in connection therewith.

The City, the Paying Agent, and any agent of either of them may treat the Person in whose name this Certificate is registered as the Registered Owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Certificate be overdue, and none of the City, the Paying Agent, and any such agent is affected by notice to the contrary.

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 Certificate in order to render the same a legal, valid, and binding 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 Certificates does not exceed any constitutional or statutory limitation. In case any provision in this Certificate or any application thereof is deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications is not in any way affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance are to be construed in accordance with and governed by the laws of the State of Texas.

Unless either a Registration Certificate hereon has been executed by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent or by the Paying Agent, respectively, by manual signature, this Certificate shall not be entitled to any benefit under the Ordinance or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the City has caused this Certificate to be duly executed.

Dated: January 1, 2017.

CITY OF COTTONWOOD SHORES, TEXAS

By: \_\_\_\_\_  
Mayor

ATTEST:

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City Secretary

*[The remainder of this page intentionally left blank.]*

SECTION 2.3 *Form of Registration Certificate of Comptroller of Public Accounts.*

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS\*

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

I HEREBY CERTIFY that this Certificate 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 Certificates

SECTION 2.4 *Form of Certificate of Paying Agent.*

CERTIFICATE OF PAYING AGENT\*

This Certificate has been duly issued under the provisions of the within-mentioned Ordinance; the Certificate or Certificates 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.

BOKF, NA, as Paying Agent

By: \_\_\_\_\_  
                  Authorized Officer

\_\_\_\_\_  
\*Note to Printer: Not to appear on initial Certificates

SECTION 2.5      *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 Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_  
attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

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

Signature guaranteed:

\_\_\_\_\_

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

*-[The remainder of this page intentionally left blank.]*

**ARTICLE THREE  
THE CERTIFICATES**

**SECTION 3.1**      *Authorization.*

The Certificates shall be issued pursuant to the Act in fully registered form, without coupons, in the total authorized principal amount of \$1,395,000 for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the Project.

**SECTION 3.2**      *Designation and Date.*

The Certificates shall be designated as the "CITY OF COTTONWOOD SHORES, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2017," and shall be dated January 1, 2017. The Certificates shall bear interest at the rates set out in Section 3.3 of this Ordinance, from the later of the Issuance Date or the most recent Interest Payment Date to which interest has been paid or duly provided for, calculated on the basis of a 360-day year of twelve 30-day months.

**SECTION 3.3**      *Initial Certificates: Numbers and Denominations.*

The Certificates shall be issued in the principal amounts and bearing interest at the rates set forth in the following schedule, and may be transferred and exchanged as set out in this Ordinance. The Certificates shall mature on May 1 in each of the years and in the amounts set out in such schedule. The Initial Certificate shall be numbered T-1 and all other Certificates shall be numbered in sequence beginning with R-1. Certificates delivered on transfer of or in exchange for other Certificates shall be numbered in order of their authentication by the Paying Agent/Registrar, shall be in the denomination of \$5,000 or integral multiples thereof, and shall mature on the same date and bear interest at the same rate as the Certificate or Certificates in lieu of which they are delivered.

<u>Years of Stated Maturity</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>
May 1, 2018	\$50,000	0.340%
May 1, 2019	\$55,000	0.650%
May 1, 2020	\$55,000	0.910%
May 1, 2021	\$55,000	1.130%
May 1, 2022	\$55,000	1.270%
May 1, 2023	\$55,000	1.490%
May 1, 2024	\$60,000	1.700%
May 1, 2025	\$60,000	1.860%
May 1, 2026	\$60,000	1.970%
May 1, 2027	\$60,000	2.080%
May 1, 2028	\$65,000	2.170%
May 1, 2029	\$60,000	2.260%

May 1, 2030	\$65,000	2.330%
May 1, 2031	\$65,000	2.400%
May 1, 2032	\$70,000	2.470%
May 1, 2033	\$100,000	2.520%
May 1, 2034	\$100,000	2.560%
May 1, 2035	\$100,000	2.590%
May 1, 2036	\$100,000	2.610%
May 1, 2037	\$105,000	2.630%

SECTION 3.4            *Execution, Registration, Delivery, and Dating.*

The Mayor of the City or the Mayor Pro Tem of the City shall execute the Certificates on behalf of the City as attested by the Secretary of the City. The signature of either of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of individuals who were at the time the proper officers of the City bind the City, notwithstanding that such individual or either of them cease to hold such offices prior to the certification and delivery of such Certificates.

No Certificate is entitled to any right or benefit under this Ordinance, or is valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 2.3, 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 2.4, executed by the Paying Agent by manual signature, and either such certificate upon any Certificate is conclusive evidence, and the only evidence, that such Certificate has been duly certified or registered and delivered.

In lieu of the executed Registrar's Authentication Certificate described above, the Initial Certificate delivered at the Issuance Date shall have attached hereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

On the Issuance Date, the Initial Certificate, being a single certificate representing the entire principal amount of the Certificates, payable in stated installments to the TWDB or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro Tem and as attested by the Secretary of the City, approved by the Attorney General, and registered and manually signed by the Comptroller, shall be delivered to the TWDB or its designee. Upon payments for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver definitive Certificates to DTC.

SECTION 3.5            *Registration, Transfer, and Exchange.*

The City shall cause to be kept at the Place of Payment a register (herein referred to as the "Security Register") in which, subject to such reasonable regulations as the City or the

Paying Agent may prescribe, the Paying Agent shall provide for the registration of the Certificates and of transfers of the Certificates as herein provided.

Upon surrender for transfer of any Certificate at the Place of Payment, the City shall execute, and the Paying Agent shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates of the same Stated Maturity, of any authorized denominations, and of a like aggregate principal amount. New Certificates registered and delivered in an exchange or transfer will be delivered by the Paying Agent at the Place of Payment or sent by United States Mail at the Registered Owner's written request, risk, and expense.

At the option of the Registered Owners, Certificates may be exchanged for other Certificates of the same Stated Maturity, of any authorized denominations, and of like aggregate principal amount, upon surrender of the Certificates to be exchanged at the Place of Payment. Whenever any Certificates are so surrendered for exchange, the City shall execute, and the Paying Agent shall register and deliver, the Certificates which the Registered Owner of Certificates making the exchange is entitled to receive.

All Certificates issued in any transfer or exchange of Certificates shall be delivered to the Registered Owners at the principal corporate trust office of the Paying Agent or sent by United States Mail, first class, postage prepaid to the Registered Owners, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

Every Certificate presented or surrendered for transfer or exchange must be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Paying Agent duly executed, by the Registered Owner thereof or his attorney duly authorized in writing.

No service charge may be made to the Registered Owner for any registration, transfer, or exchange of Certificates, but the City or the Paying Agent may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Certificates.

Neither the City nor the Paying Agent is required (1) to transfer or exchange any Certificate during a period beginning 45 days prior to a Redemption Date hereunder and ending at the close of business on the day of mailing of a notice of redemption or (2) thereafter to transfer or exchange in whole or in part any Certificate so selected for redemption.

#### SECTION 3.6 *Mutilated, Destroyed, Lost, and Stolen Certificates.*

If (1) any mutilated Certificate is surrendered to the Paying Agent, or the City and the Paying Agent receive evidence to their satisfaction of the destruction, loss, or theft of any Certificate, and (2) there is delivered to the City and the Paying Agent such security or indemnity as they require to save each of them harmless, then, in the absence of notice to the City or the Paying Agent that such Certificate has been acquired by a bona fide TWDB, the City shall execute and upon its request the Paying Agent shall register and deliver, in exchange for or in

lieu of any such mutilated, destroyed, lost, or stolen Certificate, a new Certificate of the same Stated Maturity, and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost, or stolen Certificate has become or is about to become due and payable, the City in its discretion may pay such Certificate instead of issuing a new Certificate.

Upon the issuance of any new Certificate under this Section, the City or the Paying Agent may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith.

Every new Certificate issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Certificate constitutes an original additional contractual obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Certificate is at any time enforceable by anyone, and the new Certificate is entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates.

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

#### SECTION 3.7 *Persons Deemed Owners.*

The City and the Paying Agent, and any agent of either, may treat the Registered Owner as the owner of a Certificate for purposes of receiving payment of principal and Redemption Price of and (subject to Section 3.1) interest on the Certificate and for all other purposes whatsoever, whether or not the Certificate is due or overdue, and neither the City nor the Paying Agent, or any agent of either, is affected by notice to the contrary. All payments made to or duly provided for the Certificate holder in accordance with this Ordinance will be valid and effectual and will discharge the liability of the City to the extent of the sums paid in or duly provided for.

#### SECTION 3.8 *Cancellation.*

All Certificates surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent, are to be promptly canceled by it and, if surrendered to the City, are to be delivered to the Paying Agent and, if not already canceled, are to promptly be canceled by the Paying Agent. The City may at any time deliver to the Paying Agent for cancellation any Certificates previously certified and delivered which the City acquires in any manner whatsoever, and all Certificates so delivered are to be promptly canceled by the Paying Agent. No Certificate may be certified in lieu of or in exchange for any Certificate canceled as provided in this Section, except as expressly provided by this Ordinance. All canceled Certificates held by the Paying Agent are to be disposed of in accordance with the standard document retention policies of the City.



SECTION 3.9            *Book-Entry Only.*

Notwithstanding the provisions contained in Sections 3.2, 3.3, 3.4 and 3.5 relating to the payment, redemption and transfer/exchange of the Certificates, the City hereby approves and authorizes the use of "Book-Entry Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with DTC's requirements and procedures, and authorizes the City and the Paying Agent to take such as actions as are necessary to qualify the Certificates with DTC and to deliver the Certificates through DTC.

Pursuant to the rules and procedures of DTC now in effect, the Initial Certificates shall be delivered against payment to the TWDB. The TWDB shall be required to promptly surrender the Initial Certificates to the Paying Agent/Registrar for exchange. Certificates issued in exchange shall be registered in the name of Cede & Co., as nominee of DTC, as registered owner of the Certificates, and held in the custody of DTC. Unless otherwise requested by DTC, a single certificate will be issued and delivered to DTC for each maturity of the Certificates. While the Certificates are so held, the Registered Owner of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual TWDB or owner of each Certificate (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Certificates, the City covenants and agrees with the Registered Owners of the Certificates to cause Certificates to be printed in definitive form and provide for the certificated certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Certificates in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent and payment of such Certificates shall be made in accordance with the provisions of Sections 3.2, 3.3, 3.4 and 3.5.

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**ARTICLE FOUR**  
**TAXES, REVENUES AND FUNDS;**  
**INVESTMENTS**

SECTION 4.1      *Interest & Sinking Fund.*

To pay interest on and to provide a sinking fund for the payment, redemption, and retirement of the Certificates, the City hereby creates and shall maintain solely for such purposes (subject to the provisions of Section 5.5) a special fund designated as its "CERTIFICATES OF OBLIGATION, SERIES 2017, INTEREST AND SINKING FUND" (the "Interest & Sinking Fund"); notwithstanding anything here to the contrary, the City may comingle its debt service funds holding ad valorem taxes securing prior and future Bonds and Obligations in a single debt service fund. The City authorizes and directs its authorized officials to withdraw from the fund and to transfer to the Paying Agent money on deposit in the fund sufficient to pay the amount of principal or interest falling due on the Certificates, such transfer of funds to the Paying Agent to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent on or before the last business day next preceding each Maturity or Interest Payment Date for the Certificates.

If system funds are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund.

If the City does not levy taxes in any year, the City must transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Certificates.

The City shall not transfer any funds from the City's pledged Surplus Revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Certificates for the then-current fiscal year has been deposited in the Interest and Sinking Fund.

For each year the Certificates are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt and maintain an annual budget that provides for either the monthly deposit of sufficient Surplus Revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Certificates.

The City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Certificates of the City and other obligations of the City which are secured in whole or in part by the pledged revenues for which the City is budgeting the repayment of such Certificates. Upon the written request of the TWDB, the City shall provide

documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, or information that the City has budget sufficient Surplus Revenues of the System in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements.

SECTION 4.2            *Deposits to Interest and Sinking Fund; Excess Certificate Proceeds.*

The City, prior to a Maturity or Interest Payment Date for the Certificates, may deposit any of the Surplus Revenues to the Interest and Sinking Fund in accordance with Section 4.3. The Surplus Revenues, if deposited, shall be expended annually to pay principal of and interest on the Certificates as the same become due and payable. The Surplus Revenues so deposited shall be accounted for and transferred to the Paying Agent in accordance with the provisions of Section 4.1 governing other money in the Interest and Sinking Fund. The City shall deposit accrued interest and premium, if any, received from the TWDB and ad valorem taxes levied and collected to pay principal or Redemption Price of or interest on the Certificates to the Interest and Sinking Fund. In addition, the City may deposit any surplus proceeds, including investment income therefrom, from the sale of the Certificates not expended for authorized purposes to the Interest and Sinking Fund but only if such amount is not comingled with debt service funds related to or used to pay principal or interest of other obligations of the City.

SECTION 4.3            *System Account.*

The City shall keep all Gross Revenues derived from operation of the System separate and apart from all other funds, accounts, and money of the City and shall deposit amounts collected into the City's "WATER SYSTEM ACCOUNT" (the "System Account"). The City shall pledge and appropriate money in the System Account as required for the following purposes and in the order of priority shown:

First: as a first charge on and claim against the Gross Revenues, to pay reasonable and proper Maintenance and Operating Expenses required by statute or ordinances authorizing the issuance of any indebtedness of the City;

Second: to deposit amounts required in the special funds and accounts established for payment of any obligations of the City with a lien on Surplus Revenues prior or superior to the lien granted to secure payment of the Certificates;

Third: to deposit amounts required in the special funds and accounts established for the payment of the Certificates or any additional obligations of the City secured by the Surplus Revenues on a parity with the Certificates; and

Fourth: any Surplus Revenues remaining in the System Account after satisfying the foregoing payments, or making adequate and sufficient provision for the payment, security and benefit thereof, to be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 4.4            *Project Fund.*

The City shall maintain on its books of account a special account (herein referred to as the "Project Fund") for the purpose of financing water supply improvements and rehabilitation to existing systems, as well as all expenses in any manner incidental thereto and the Costs of Issuance of the Certificates, all as permitted by law and hereafter provided. The City shall further maintain on its books of account two (2) separate accounts, designated the "Project Account" and the "Costs of Issuance Account" within the Project Fund and shall separately account for all money credited to the Project Fund and proceeds from the investment thereof as follows:

A.     *Project Accounts.* With delivery of the Certificates to the TWDB, the City shall credit to the Project Account from the proceeds of the sale of the Certificates, an amount sufficient to pay all construction and related costs approved by the TWDB Resolution approving the issuance of the Certificates. To the extent required by the rules of the TWDB, funds in the Project Account shall be placed in escrow pursuant to an escrow agreement. Such funds in escrow and any surplus funds shall not be spent by the City except in accordance with the requirements of any applicable agreement and the rules of the TWDB. To effectuate the provisions of this Section 4.3A, an escrow agreement is hereby approved with BOKF, NA as escrow agent and the appropriate officials of the City are authorized to execute such agreement for and on behalf of the City.

The City shall debit the Project Account on the Issue Date, or other date selected by the City, for the purposes for which the Certificates were issued and related costs required by law, particularly the TWDB Resolution approving the issuance of the Certificates, subject to approval of the TWDB.

Accrued interest and premium, if any, received from the TWDB, as well as surplus proceeds of the sale of the Certificates, including investment earnings, remaining after completion of all authorized projects or purposes, shall be deposited to the credit of the Interest and Sinking Fund; notwithstanding, upon completion of the construction of the projects financed, in whole or in part, by the Certificates, a final accounting of the total costs of the projects and a final funds requisition form shall be provided to the Executive Administrator of the TWDB within 60 days of the City's receipt of the certificate of approval and the final inspection report. If the projects as finally completed are built at a total cost less than the amount of available funds for building the projects, or if the Executive Administrator of the TWDB disapproves construction of any portion of such projects as not being in accordance with the plans and specifications, the City agrees to immediately, with filing of the final accounting, return to the TWDB the amount of any such excess and/or the cost determined by the Executive Administrator of the TWDB relating to the parts of such projects not built in accordance with the plans and specifications, to the nearest multiple of the authorized denominations for the Certificates, upon the surrender and cancellation of a like amount of such Certificates held by the TWDB in inverse order of their Stated Maturities.

B.     *Costs of Issuance Account.* The City shall credit to the Costs of Issuance Account on the Issue Date, all remaining proceeds of the sale of the Certificates, to pay the costs of issuing the Certificates.

The City shall debit the Costs of Issuance Account to (1) pay the costs of issuing the Bonds, as determined by the Governing Body; and (2) to the extent that amounts remain on deposit for such purposes on the 90th day after delivery of the Certificates the City shall transfer such amounts to the City's Project Fund to be treated as surplus funds pursuant to the rules of the Texas Water Development Board.

Except as provided in Section 4.2, the City will deposit proceeds derived from the sale of the Certificates (after paying costs of issuance) into special construction account or accounts created for the projects to be constructed with such proceeds. Pending completion of construction of the projects financed with such proceeds interest earned on such proceeds must be accounted for, maintained, deposited, and expended as permitted by the provisions of Texas Government Code Section 1201.043, as from time to time in effect, or as otherwise required by applicable law. Thereafter, such interest must be accounted for, maintained, deposited, and expended in accordance with Section 4.5.

SECTION 4.5            *Investments and Security For Funds.*

The City is required to keep all money in such funds and accounts at a depository of the City except when invested pursuant to this Section. Subject to Section 5.6, money in any fund established by this Ordinance may, at the option of the City, be invested in a manner permitted by the provisions of the Public Funds Investment Act, Texas Government Code Chapter 2256, Subchapter A, as then in effect, the Public Funds Collateral Act, Texas Government Code chapter 2257, as then in effect, or by any other law applicable to the City; provided that all such investments must be made so that money required to be expended will be available at the proper time or times. The City shall credit or debit all interest and income or losses from deposits and investments in any fund or account established pursuant to the provisions of this Ordinance shall be credited to such fund or account. The City shall sell investments promptly as necessary to prevent any default in connection with the Certificates.

All money on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested as provided herein) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds, and money on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

SECTION 4.6            *Tax Levy.*

To provide for the payment of the Debt Service Requirements, which are defined to be (i) the interest on the Certificates and (ii) a sinking fund for payment of principal of the Certificates at Stated Maturity or earlier redemption or a sinking fund of 2% (whichever amount is greater), the City levies and shall levy for the current year and each succeeding year thereafter while the Certificates or any interest thereon is Outstanding, a sufficient tax on each \$100 of taxable property in the City, within the limitations prescribed by law, adequate to pay such amounts, full allowance being made for delinquencies and costs of collection. Such tax shall be assessed and collected each year, and the same may not be diverted to any other purpose. The City shall pay the taxes so levied and collected into the Interest and Sinking Fund. The Governing Body hereby declares its purpose and intent to provide and levy such tax, it having been determined

that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

The City shall assess and levy annually each year a tax to pay the Debt Service Requirements sufficient to provide tax revenues in the amount established in paragraph (1) above less the sum total of the amounts established in paragraphs (2) and (3), after taking into consideration delinquencies and costs of collecting such annual taxes.

Texas Government Code chapter 1208 applies to the issuance of the Certificates and the pledge of the tax revenues granted hereunder, and such pledge is therefore valid, effective, and perfected. If Texas law is hereafter amended at any time while the Certificates are Outstanding and unpaid so that the pledge of taxes hereunder is subject to the filing requirements of chapter 9, Texas Business & Commerce Code, then in order to preserve to the Registered Owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of chapter 9, Texas Business & Commerce Code and enable a filing to perfect the security interest in such pledge to occur.

SECTION 4.7            *Surplus Revenues.*

The City covenants and agrees that the Surplus Revenues derived from the operation of the System are hereby irrevocably pledged to the payment of the principal of and interest on the Certificates as the same come due. The pledge of Surplus Revenues hereunder is subordinate to the pledge of Surplus Revenues to the City's other outstanding obligations, and any other obligations of the City hereafter issued which are issued with a pledge of Surplus Revenues prior and senior to the pledge of Surplus Revenues to the Certificates.

SECTION 4.8            *Issuance of Additional Obligations.*

The City hereby expressly reserves the right to hereafter issue bonds, notes, warrants, certificates of obligation, or similar obligations, payable, wholly or in part, as appropriate, from and secured by a pledge of and lien on the Surplus Revenues of the System prior and superior in right to, on a parity with or subordinate to the pledge of and lien on the Surplus Revenues in favor of the Certificates, without limitation as to principal amount, but subject to any terms, conditions, or restrictions applicable thereto under existing ordinances, laws, or otherwise.

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**ARTICLE FIVE**  
**COVENANTS**

**SECTION 5.1**            *To Maintain Agency.*

The City will at all times until the Certificates are duly paid maintain an agency meeting the qualifications herein described, for the performance of the duties of the Paying Agent hereunder. BOKF, NA is hereby appointed Paying Agent for such purposes. The City retains the right to replace the Paying Agent, and the Paying Agent may be removed from its duties hereunder at any time upon not less than 45 days' notice with or without cause by action of the City entered in its minutes, but no such removal is effective until a successor has accepted the duties of the Paying Agent hereunder by written instrument.

Every Paying Agent appointed hereunder must at all times be a commercial bank or trust company organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$10,000,000, subject to supervision or examination by federal or state authority, registered as a transfer agent with the Securities and Exchange Commission. If such corporation publishes reports of condition at least annually pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. Upon any change in the Paying Agent, the City agrees to promptly cause a written notice thereof to be sent to each Registered Owner affected by the change, which notice shall also give the address of the new Paying Agent, which shall be the designated Place of Payment.

This Section is subject to the provisions of Section 8.2.

The terms of the Transfer and Paying Agency Agreement with the initial Paying Agent are hereby approved in substantially the form and to the effect presented to the Governing Body on this date, and the Mayor and the Mayor Pro Tem of the City, or either of them, and the Secretary and any Assistant or Acting Secretary of the City, or any of them, are hereby authorized to execute and deliver such Transfer and Paying Agency Agreement.

**SECTION 5.2**            *To Maintain and Operate the System and Insure Property.*

The City covenants and agrees that while the Certificates remain Outstanding it will maintain and operate the System with all possible efficiency and maintain casualty and other insurance on the properties of the System and its operations of a kind and in such amounts customarily carried by counties in the State of Texas engaged in a similar type of business and in an amount sufficient to protect the TWDB's interests and that it will faithfully and punctually perform all duties with reference to the System required by the laws of the State of Texas. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses. Nothing in this Ordinance may be construed as requiring the City to expend any funds which are derived from sources other than the operation of the System but nothing herein may be construed as preventing the City from doing so.

SECTION 5.3 *Rates and Charges.*

The City hereby covenants and agrees that rates and charges for services afforded by the System will be established and maintained to provide Gross Revenues sufficient at all times:

- A. to pay all Maintenance and Operating Expenses;
- B. to produce Surplus Revenues sufficient (but subject to the maximum amount of Surplus Revenues pledged hereunder), together with any other lawfully available funds, to produce an amount of Surplus Revenues sufficient to pay the interest on and principal of the Certificates and any additional obligations of the City hereafter issued on a parity therewith; and
- C. to pay other legally incurred indebtedness payable from the Surplus Revenues or secured by a lien on the System or the Surplus Revenues thereof.

SECTION 5.4 *Records and Accounts, Annual Audit.*

The City covenants and agrees that so long as any of the Certificates 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 Texas Government Code Section 1502.068, as amended, or other applicable law. The Registered Owners or any duly authorized agent or agents of the Registered Owners may inspect the System and all properties comprising the same. The City agrees that, following the close of each Fiscal Year, it will cause an audit of its books and accounts to be made by an independent firm of Certified Public Accountants. Copies of each annual audit shall be furnished to the TWDB, Executive Director of the Municipal Advisory Council of Texas at his office in Austin, Texas, and, upon written request, to the original TWDB of the Certificates and any subsequent Registered Owner thereof. Expenses incurred in making the annual audit of the operations of the System are Maintenance and Operating Expenses. The City further covenants and agrees to annually submit to the TWDB a copy of its audited

SECTION 5.5 *Special Covenants.*

The City covenants that:

- A. *Lawful Authority:* it has the lawful power to pledge the Surplus Revenues supporting the Certificates and has lawfully exercised said powers under the laws of the State of Texas;
- B. *No Encumbrance:* as long as any Certificates or any interest thereon remain Outstanding, the City will not sell, lease or encumber (except in the manner provided in Section 4.8) the System or any substantial part thereof, provided that this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which have become obsolete or otherwise unsuited to the efficient operation of the System; and
- C. *No Franchise:* to the extent that it legally may, the City further covenants and agrees that, so long as any of the Certificates, or any interest thereon, are Outstanding, no franchise shall be granted for the installation or operation of any competing systems other than



those owned by the City, and the operation of any such systems by anyone other than the City is hereby prohibited.

D. *Compliance with State Revolving Fund Conditions:*

(1) the TWDB may exercise all remedies available to it in law or equity, and any provision of the Ordinance that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;

(2) all laborers and mechanics employed by contractors and subcontractors for projects 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 U. S. Department of Labor's implementing regulations. The City, all contractors and all subcontractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available by the TWDB shall insert in full in any contract in excess of \$2,000 the contract clauses as provided by the TWDB;

(3) the City will provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City will obtain a Data Universal Number System (DUNS) Number and will register with System for Award Management ("SAM") and maintain current registration at all times during which the Obligations are outstanding;

(4) all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d); and

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

E. *Environmental Indemnification:* The City agrees to indemnify 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, excavation, removal, storage, treatment, transport and/or disposal of contaminated sewage sludge and sediments, contaminated media and any other municipal solid waste(s) generated by the City, its contractors, consultants, agents, officials and employees as a result of construction and rehabilitation activities undertaken during this project. It is specifically agreed by and between the City and the TWDB that the City will waive and release all claims against the TWDB and its employees for any injury to or death of persons and/or damage to property arising in any way from the sewer system improvement and rehabilitation project being financed by this loan.

SECTION 5.6 *Covenants to Maintain Tax-Exempt Status.*

A. *Not to Cause Interest to Become Taxable.* The City shall not use or permit the use of Gross Proceeds or any other amounts (or any property acquired, constructed, or improved with Gross Proceeds or proceeds of the Certificates) in a manner which (or take or omit to take any

other action which, if taken or omitted, respectively), if made or omitted, respectively, would cause the Certificates to become "private activity bonds" within the meaning of section 141 of the Code as amended, and the Treasury regulations promulgated thereunder, or would cause the interest on any Certificates not to be excludable from the gross income, as defined in section 61 of the Code, of the owners thereof for federal income tax purposes. The City shall adopt and comply with the provisions of such amendments hereof and supplements hereto as may, in the opinion of nationally recognized bond counsel, be necessary to preserve or perfect such exclusion. Without limiting the generality of the foregoing, the City shall comply with each of the specific covenants in this Section at all times prior to the last Maturity of Certificates (and thereafter in the case of Section 5.6L), unless and until the City shall have received a written opinion of nationally recognized bond counsel to the effect that failure to comply with such covenant will not adversely affect the excludability of interest on any Certificates from the gross income of the owner thereof for federal income tax purposes, and thereafter such covenant shall no longer be binding upon the City to the extent described in such opinion, anything in any other Subsection of this Section to the contrary notwithstanding.

B. *No Private Use or Payments.* At all times prior to the last Maturity of Certificates, whether by Stated Maturity, the City shall neither:

(1) use nor permit the use of Gross Proceeds (or any property acquired, constructed, or improved with Gross Proceeds or with proceeds from the sale of a series of certificates of which the Certificates are a part or income from the investment thereof) in any trade or business carried on by any Person (or in any activity of any Person other than a natural person) other than a state or local government, nor

(2) directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds (or use of any such property acquired, constructed, or improved with Gross Proceeds or with proceeds from the sale of a series of bonds of which the Certificates are a part or income from the investment thereof) in any trade or business carried on by any Person (or in any activity of any Person other than a natural person) other than a state or local government unless either (1) such use is merely as a member of the general public, or (ii) such charge or payment consists of taxes of general application within the City or interest earned on temporary Investments acquired with Gross Proceeds pending application of such Gross Proceeds for their intended purposes. For purposes of this Subsection B, property is considered to be "used" by a Person if:

(a) *Sale or Lease:* it is sold or otherwise disposed of, or leased, to such Person;

(b) *Management Contract:* it is operated, managed, or otherwise physically employed, utilized, or consumed by such Person, excluding operation or management pursuant to an agreement which meets the conditions described in I.R.S. Rev. Proc. 97-13, as modified by Notice 2014-67;

(c) *Capacity, Output, or Service Commitment:* capacity in or output or service from such property is reserved or committed to such Person under a take-or-pay, output, incentive payment, or similar contract or arrangement;

(d) *Preferential Service*: such property is used to provide service to (or such service is committed to or reserved for) such Person on a basis or terms which (except possibly for the amount of use and any corresponding rate adjustment) are different from the basis or terms on which such service is provided (or committed or reserved) to members of the public generally;

(e) *Developer*: such Person is a developer and a significant amount of property acquired, constructed, or improved with proceeds from the sale of the series of bonds of which the Certificates are a part serves only a limited area substantially all of which is owned by such Person, or a limited group of developers, unless such property carries out an essential governmental function, use by such Person is during an initial development period and such property is developed and sold to a governmental Person in accordance with the Regulations; or

(f) *Other Incidents of Ownership*: substantial burdens and benefits of ownership of such property are otherwise effectively transferred to such Person.

C. *No Private Loan*. The City shall not use Gross Proceeds to make or finance loans to any Person other than a state or local government, excluding loans consisting of temporary investments of Gross Proceeds pending application of such Gross Proceeds for their intended purposes. For purposes of this Subsection C, Gross Proceeds are considered to be "loaned" to a Person if (1) property acquired, constructed, or improved with Gross Proceeds or with proceeds from the sale of a series of certificates of which Certificates are a part of or bond anticipation bonds retired with such proceeds is sold or leased to such Person 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 under a take-or-pay, output, or similar contract or arrangements, or (3) indirect benefits, or burdens and benefits of ownership, of Gross Proceeds or such property are otherwise transferred to such Person in a transaction which is the economic equivalent of a loan.

D. *Not to Invest at Higher Yield*. The City shall not, at any time prior to the final Maturity of the Certificates, directly or indirectly invest Gross Proceeds in any Taxable Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Taxable Investments acquired with (or representing an investment of) Gross Proceeds (or money replaced thereby), whether then held or previously disposed of, to the date of such investment exceeds the Yield of the Certificates. Notwithstanding the foregoing, however, the following Investments shall be excluded from the limitation and calculation described in this Subsection D:

(1) *One-Year Period for Certain Sale Proceeds*: Taxable Investments acquired with (or representing an investment of) income from investment of proceeds from the sale of the Certificates, to the extent such Taxable Investments are held during the first year after receipt of such income and will not be applied to discharge any Certificates or appurtenant coupons;

(2) *Interest and Sinking Fund Deposits*: Taxable Investments acquired with (or representing an investment of) amounts held for the credit of the Interest and Sinking

Fund, to the extent such Taxable Investments are held during the first 13 months after the date of deposit of such amounts to the Interest and Sinking Fund; and

(3) *Other Investments:* any Taxable Investments acquired with (or representing an investment of) Gross Proceeds described in Clause (3) of the definition thereof and allocable to a Bond, to the extent the aggregate Cost of such Taxable Investments, adjusted upward by the amortized portion (calculated on a straight-line basis) of any discount at which such Taxable Investments were acquired, does not exceed the lesser of \$100,000 or 5% of the proceeds from sale of the Certificates.

If the City shall directly or indirectly invest any Gross Proceeds in any Taxable Investment which is not described in the immediately preceding sentence, the City shall not thereafter directly or indirectly invest Gross Proceeds in Investments which are not Taxable Investments if, as a result of such investment, the amount of receipts imputed by section 1.148-5(c) of the Regulations to Taxable Investments theretofore purchased with or representing an investment of Gross Proceeds and not described in such sentence would cause the Yield of all such Taxable Investments not so described to exceed the Yield of the Certificates to Stated Maturity. The City shall not use any money to pay principal of or interest on the , or pledge (or permit to be pledged) or otherwise restrict any money, funds, or Taxable Investments so as to give reasonable assurance of their availability for such purpose, except in each case amounts deposited to the Bond Fund.

No portion of the gross proceeds will be used, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire non-purpose investments which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan ("Source Series Bonds"), other than non-purpose investments acquired with:

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

(5) Amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Internal Revenue Service regulations; and

(6) 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 loan, 125 percent of average annual debt service on the loan, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Loan.

The City, nor a related party, will not acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Certificates to be acquired from such City by the TWDB.

E. *Not Federally Guaranteed.* Except as permitted by Section 149(b), as amended by The American Recovery and Reinvestment Act of 2009 (the "2009 Act"), of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

F. *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 such Secretary may prescribe.

G. *Payment of Rebatable Arbitrage.* Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder, the City shall:

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

(2) calculate the Rebatable Arbitrage with respect to the Certificates, not less frequently than each Computation Date, in accordance with rules set forth in Section 148(f) of the Code, Treas. Reg. § 1.148-3, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date.

(3) as additional consideration for the purchase of the Certificates by the TWDBs thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (2) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and

(4) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (2) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any intent and any penalty required by Treas. Reg. § 1.148-3(h).

To the extent authorized by law, when used herein the term "interest" includes all payments due to the United States of America pursuant to this Subsection. The City shall not invest Gross Proceeds in amounts and for such period of time such that the amounts due to the United States of America pursuant to this Section, when aggregated with other interest payable on the Certificates, shall cause the "net effective interest rate" on the Certificates, to exceed 15% per annum.

H. *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 final stated maturity or final payment of the Certificates 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 Certificates not been relevant to either party.

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

J. *Not to Cause Certificates to Become Hedge Bonds.* The City warrants and represents that:

(1) The City reasonably expects that at least 85% of the Net Sale Proceeds of the certificates will be used to carry out the governmental purposes of the certificates within three (3) years from the Issuance Date; and

(2) not more than 50% of the non-refunding Proceeds of the certificates will be invested in non-purpose investments (as defined in section 148(f)(6)(A) of the Code) having a substantially guaranteed Yield for four (4) years or more.

K. *Qualified Tax-Exempt Obligation.* The City hereby designates the Certificates as "qualified tax-exempt obligations" for purposes of Section 265(b) of the Code. In connection therewith, the City represents (a) that the aggregate amount of tax-exempt obligations issued by the City during calendar year 2010, including the Certificates, which have been designated as "qualified tax-exempt obligations" under section 265(b)(3) of the Code does not exceed \$30,000,000, and (b) that the reasonably anticipated amount of tax-exempt obligations which will be issued by the City during calendar year 2017, including the Certificates, will not exceed \$30,000,000. For purposes of this Section, the term "tax-exempt obligation" does not include "private activity bonds" within the meaning of section 141 of the Code, other than "qualified 501(c)(3) bonds" within the meaning of section 145 of the Code. In addition, for purposes of this Section, the City includes all governmental units which are aggregated with the City under section 265(b) of the Code.

#### SECTION 5.7 *Remedies in Event of Default.*

In addition to all the 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 the payments to be made to the Interest and Sinking Funds, or (b) defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Ordinance, the TWDB shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City 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 remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

SECTION 5.8            *Federal Disadvantaged Business Enterprise*

The Issuer shall comply with Federal Disadvantaged Business Enterprise requirements.

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**ARTICLE SIX**  
**DEFEASANCE**

SECTION 6.1      *Discharge of Obligations.*

Any Certificate is deemed paid and is no longer considered to be Outstanding within the meaning of this Ordinance when payment of the principal of and interest on such Certificate to the Stated Maturity thereof or (if notice of redemption has been duly given, irrevocably provided for, or waived as provided herein) to the Redemption Date has been made or has been provided for by deposit with the Paying Agent for such payment (or with any other bank or trust company which has agreed to hold the same for such purpose) (1) money sufficient to make such payment, (2) Governmental Obligations certified by an independent public accounting firm of national reputation to be of such maturities and interest payment dates and to bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to make such payment, or (3) a combination of money and Governmental Obligations together so certified sufficient to make such payment, provided that all the expenses pertaining to the Certificates with respect to which such deposit is made have been paid or the payment thereof provided for to the satisfaction of the Paying Agent (and to such other bank or trust company).

If such deposit is made with respect to some but not all of the Certificates then Outstanding, the City shall designate the Stated Maturities of Certificates with respect to which such deposit is made. If such deposit is sufficient so to provide for the payment of the principal of and interest on some but not all Outstanding Certificates of a particular Stated Maturity so designated, the Paying Agent shall select the Outstanding Certificates of such Stated Maturity with respect to which such deposit is made by such random method as the Paying Agent deems fair and appropriate and which may provide for the selection of portions (equal to and leaving unredeemed an authorized denomination) of Certificates a denomination larger than \$5,000.

Notwithstanding anything herein to the contrary, no such deposit has the effect described in this Section (a) if made during the subsistence of a default in the payment of any Certificate unless made with respect to all of the Certificates then Outstanding or (b) unless accompanied by an opinion of counsel of recognized standing in the field of federal income taxation to the effect that neither such deposit nor the investment thereof adversely affects the excludability of interest on any Certificate from the gross income of any owner thereof for federal income tax purposes.

The Paying Agent (or other bank or trust company) with which a deposit is made of money and Governmental Obligations for such purpose shall hold the deposit in a segregated account in trust or escrow for the Registered Owners of the Certificates with respect to which such deposit is made and, together with any investment income therefrom, the deposit may be disbursed solely to pay the principal of and interest on such Certificates when due, except that cash receipts may be withdrawn and paid to the City provided the date and amount of such withdrawals are taken into account in the most recent verification of the accounting firm referred to in this Section. No money or Governmental Obligations so deposited may be invested or reinvested unless in Governmental Obligations and unless such money and Governmental Obligations not invested and such new investments are together certified by an independent public accounting firm of national reputation to be of such amounts, maturities, and interest



payment dates and to bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to make such payment.

At such times as a Certificate is deemed to be paid hereunder, as aforesaid, it is no longer entitled to the benefits of this Ordinance, except for the purposes of any such payment from such money or Governmental Obligations and for the provisions of Sections 1.4 and 1.5 and for the continuing compliance of the City with the provisions of Section 5.6.

Upon such deposit as described above, such Certificates shall no longer be regarded to be outstanding or unpaid. Provided, however, the City has reserved the option, to be exercised at the time of the defeasance of the Certificates, to call for redemption at an earlier date those Certificates which have been defeased to their maturity date, if the City (i) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the Certificates for redemption, (ii) gives notice of the reservation of that right to the owners of the Certificates immediately following the making of the firm bank and financial arrangements, and (iii) directs that notice of the reservation be included in any redemption notices that it authorizes.

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**ARTICLE SEVEN**  
**SALE**

**SECTION 7.1**        *Sale of the Certificates.*

The sale of the Certificates to the TWDB at the price of par, less an origination fee of \$31,387.50 pursuant to a loan commitment received from the TWDB, is hereby confirmed. In conformity with resolutions of the TWDB, the loan commitment is being funded from the "Texas Water Development Board Drinking Water State Revolving Fund," and in granting the loan commitment, the TWDB retained the option to pay for the Certificates in separate lots and/or on an installment basis, with payment of the purchase price for each installment to be against delivery of the relevant installment of the Certificates as approved by the Executive Administrator of the TWDB.

The representations and warranties of the City set forth in the Private Placement Memorandum are hereby found, determined, and declared to be true and correct, and the Mayor, any Council Member of the City, the Secretary of the City, or any Assistant or Acting Secretary of the City, or any of them, are hereby authorized and directed to furnish such information, execute such instruments, and take such action as is necessary to comply with the terms, conditions, and agreements specified in such Private Placement Memorandum or to effect the issuance of the Certificates.

Delivery of the Certificates shall be made to the TWDB as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of sale.

**SECTION 7.2**        *Payment of Costs of Issuance.*

The City has in consultation with its financial advisor, Blich Associates, Inc., set aside an amount of the proceeds of the Certificates to pay costs of issuance of the Certificates. The amount of such proceeds will be designated in a closing letter prepared by the financial advisor, and in the absence of contrary written instructions included as part of such closing letter to deposit such proceeds with the City, the Paying Agent will pay such costs of issuance on behalf of the City in accordance with invoices.

The City hereby confirms engagement of Radcliffe Bobbitt Adams Polley PLLC as Bond Counsel ("Bond Counsel") for the City.

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**ARTICLE EIGHT**  
**CONTINUING DISCLOSURE UNDERTAKING**

**SECTION 8.1**        *Definitions.*

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

"EMMA" means the Electronic Municipal Market Access system.

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

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

**SECTION 8.2**        *Updated Information and Data.*

The City shall provide annually to the Municipal Securities Rule Making Board ("MSRB") via the Electronic Municipal Market Access ("EMMA") system, within six (6) months after the end of each fiscal year of the City ending in or after 2017, Annual Financial Information and Operating Data with respect to the City. Any financial statements so provided shall be (1) prepared in accordance with the Accounting Principles described in this Resolution and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide unaudited financial statements for the applicable fiscal year to the MSRB via EMMA within such six (6) month period, and audited financial statements, when the audit report on such statements becomes available.

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

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one (1) or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

**SECTION 8.3**        *Material Event Notices.*

The City shall notify the MSRB's EMMA system, in a timely manner, of any of the following events with respect to the Certificates, if such event is material within the meaning of the federal securities laws:

- A.     Principal and interest payment delinquencies;
- B.     Non-payment related defaults;

- C.     Unscheduled draws on debt service reserves reflecting financial difficulties;
- D.     Unscheduled draws on credit enhancements reflecting financial difficulties;
- E.     Substitution of credit or liquidity providers, or their failure to perform;
- F.     Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- G.     Modifications to rights of holders of the Certificates;
- H.     Certificate of Obligation calls;
- I.     Defeasances;
- J.     Release, substitution, or sale of property securing repayment of the Certificates;
- K.     Rating changes;
- L.     Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- M.     The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- N.     Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The City shall notify the MSRB's EMMA system, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 8.2 by the time required by such Section.

#### SECTION 8.4           *Limitations, Disclaimers, and Amendments.*

The City shall be obligated to observe and perform the covenants specified in this Section with respect to the City and the Certificates while, but only while, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give the notice required by Section 8.3 of any Certificate calls and defeasance that cause the City to be no longer such an "obligated person."

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

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, 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 Article shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

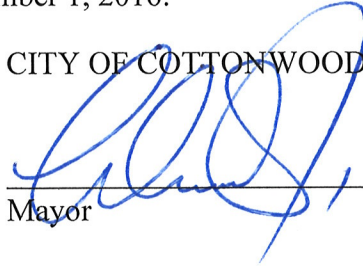
Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Registered Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Registered Owners and beneficial owners of the Certificates. The City may also amend or repeal the provisions of this Article if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but in either case only to the extent that its right to do so would not prevent the TWDB from lawfully purchasing the Certificates in the offering described herein. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 8.2 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

*[The remainder of this page intentionally left blank.]*

PASSED AND ADOPTED on December 1, 2016.

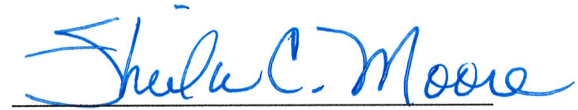
CITY OF COTTONWOOD SHORES, TEXAS



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Mayor

ATTEST:



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City Secretary