

ORDINANCE NO. 2165

AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF BRYAN, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016”; SPECIFYING THE TERMS AND FEATURES OF SAID BONDS; PROVIDING FOR THE PAYMENT OF SAID BONDS BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SAID BONDS, INCLUDING THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bryan, Texas (the “City”), acting through its City Council, has heretofore issued, assumed or undertaken and there remain outstanding the obligations described in Schedule I attached hereto (the “Refunded Obligations”); and

WHEREAS, the City is authorized by Chapter 1207, Texas Government Code, as amended (“Chapter 1207”), to issue refunding bonds for the purpose of refunding the Refunded Obligations; and

WHEREAS, the City desires to refund the Refunded Obligations in advance of their maturities, which will benefit the City by providing net present value debt service savings; and

WHEREAS, the City is authorized by Chapter 1207 to accomplish such refunding by depositing directly with any place of payment for the Refunded Obligations or a trust company or commercial bank proceeds from the sale of such refunding bonds, together with any other lawfully available funds, in an amount sufficient to provide for the payment or redemption of the Refunded Obligations, and pursuant to Chapter 1207 such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Obligations; and

WHEREAS, the City desires to enter into an escrow agreement, as authorized by Chapter 1207, pursuant to which a portion of the proceeds of the refunding bonds herein authorized, and other legally available funds of the City, if any, will be deposited, invested and applied in a manner that will provide for the full and timely payment of all principal of, premium, if any, and interest on the Refunded Obligations; and

WHEREAS, the City desires to authorize the purchase of certain eligible investments with a portion of the proceeds of the refunding bonds herein authorized for deposit into the escrow fund established and maintained pursuant to such escrow agreement; and

WHEREAS, upon the issuance of the refunding bonds herein authorized and the making of the deposits, as provided for in the escrow agreement and as authorized herein, the Refunded Obligations shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such escrow agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

Section 1: Authorization; Designation; Principal Amount; Purpose. The “City of Bryan, Texas, General Obligation Refunding Bonds, Series 2016,” which shall be so designated and bear such title (hereinafter referred to as the “Bonds”), shall be and are hereby authorized to be issued in the aggregate principal amount of \$_____ for the purpose of (a) refunding the Refunded Obligations and (b) paying the costs of refunding the Refunded Obligations and issuing the Bonds, pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Chapter 1207.

It is hereby found and declared that the refunding of the Refunded Obligations will result in a positive gross savings and a net present value savings of \$_____, and that such benefit is in the best interests of the City and constitutes a valid public purpose for the issuance of the Bonds.

Section 2: Fully Registered Obligations; Authorized Denominations; Stated Maturities; Date. The Bonds are issuable in fully registered form only; shall be dated August 15, 2016 (the “Bond Date”) and shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity) and the Bonds shall become due and payable on August 15 in each of the years (the “Stated Maturities”) and in principal amounts and bear interest at the per annum rates in accordance with the following schedule:

<u>Year of</u> <u>Stated Maturity</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2017	\$	%
2018		
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		

The Bonds shall bear interest on the unpaid principal amounts from the date of initial delivery of the Bonds (the “Delivery Date”) at the rates per annum shown above in this Section (calculated on the basis of a 360-day year of twelve 30 day months), and such interest shall be payable on February 15 and August 15 of each year, commencing February 15, 2017, until their Stated Maturity or earlier redemption.

Section 3: Terms of Payment; Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the “Holders”) appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of

America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of Wilmington Trust, National Association, Dallas, Texas, to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, transfer and exchange of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form presented with this Ordinance, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor and City Secretary are authorized to execute and deliver such Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or the redemption thereof only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices, initially in Dallas, Texas, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (which shall be the last business day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

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

Section 4: Redemption. The Bonds are not subject to optional redemption prior to maturity.

Section 5: Registration; Transfer and Exchange of Bonds; Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every owner of the Bonds issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Bond may be transferred or exchanged for Bonds of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Bond (other than the Initial Bond authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bond(s) (other than the Initial Bond authorized in Section 8 hereof) may be exchanged for other Bond(s) of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bond(s) surrendered for exchange, upon surrender of the Bond(s) to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bond is surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bond(s) to the Holder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States mail, first class, postage prepaid to the Holders, 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 Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange. To the extent possible, new Bonds issued in an exchange or transfer of Bonds will be delivered to the Holder or assignee of the Holder in not more than three (3) business days after the receipt of the Bonds to be canceled, and the written instrument of transfer or request for exchange duly executed by the Holder or his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any

mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered and delivered in lieu thereof pursuant to the provisions of Section 20 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

Section 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 3, 4 and 5 hereof relating to the payment, and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of “Book-Entry-Only” securities clearance, settlement and transfer system provided by DTC in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the City and DTC (the “Depository Agreement”).

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the “DTC Participants”). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds 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 purchaser or owner of each Bond (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 Bonds 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 Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

Section 7: Execution; Registration. The Bonds shall be executed on behalf of the City by the Mayor or the Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Bond Date shall be deemed to be duly executed on behalf of the City, notwithstanding that one or more of the individuals executing the same shall cease to be such officer at the time of delivery of the Bonds to the Purchaser and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201, Texas Government Code, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in paragraph (c) of Exhibit A, manually executed by the

Comptroller of Public Accounts of the State of Texas, or his or her duly authorized agent, or a certificate of registration substantially in the form provided in paragraph (d) of Exhibit A, manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

Section 8: Initial Bond. The Bonds herein authorized shall be initially issued as a single fully registered certificate in the total principal amount stated in Section 1 with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1 (hereinafter called the “Initial Bond”) and the Initial Bond shall be registered in the name of the Purchaser or the designee thereof. The Initial Bond shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Purchaser. Any time after the delivery of the Initial Bond, the Paying Agent/Registrar, pursuant to written instructions from the Purchaser, or the designee thereof, shall cancel the Initial Bond delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the Purchaser, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

Section 9: Forms. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds shall be substantially in the forms set forth in Exhibit A hereto with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification, including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association (“CUSIP Numbers”), and such legends and endorsements (including insurance legends in the event the Bonds, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds, as evidenced by their execution; provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality shall be responsible for CUSIP numbers incorrectly printed or typed on the Bonds. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the certificate.

The definitive Bonds and the Initial Bond shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all determined by the officers executing such Bonds as evidenced by their execution.

Section 10: Definitions. For purposes of this Ordinance and for clarity with respect to the issuance of the Bonds herein authorized, capitalized words or terms, whenever the same appear herein without qualifying language, shall have the meaning assigned thereto in Exhibit B hereto.

Section 11: Bond Fund. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption and retirement of the Bonds, there shall be and is hereby created a special account or fund on the books and records of the City known as the “Special Series 2016 General Obligation Refunding Bond Fund” (the “Bond Fund”), and all moneys deposited to the credit of the Bond Fund shall be kept and maintained in a special banking account at the City's depository bank. Authorized officials of the City are hereby authorized and directed to make withdrawals from the Bond Fund sufficient to pay the principal of, premium, if any, and interest on the Bonds, as the same become due and payable, and to cause to be transferred to the Paying Agent/Registrar from moneys on deposit in the Bond Fund an amount sufficient to pay the amount of principal and/or interest falling due on the Bonds, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the last business day next preceding each interest and principal payment date for the Bonds.

Pending the transfer of funds to the Paying Agent/Registrar, money in the Bond Fund may, at the option of the City, be invested in obligations identified in, and in accordance with the provisions of the “Public Funds Investment Act” (Chapter 2256, Texas Government Code, as amended); provided that all such investments shall be made in such a manner that the money required to be expended from said Bond Fund will be available at the proper time or times. All interest and income derived from deposits and investments in said Bond Fund shall be credited to, and any losses debited to, the Bond Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

Section 12: Tax Levy.

(a) To provide for the payment of principal of and interest on the Bonds, there is hereby levied, within the limits prescribed by law, for the current year and each succeeding year thereafter, while the Bonds or any part of the principal thereof and the interest thereon remain outstanding and unpaid, an ad valorem tax upon all taxable property within the City sufficient to pay the interest on the Bonds and to create and provide a sinking fund of not less than 2% of the principal amount of the Bonds or not less than the principal payable out of such tax, whichever is greater, with full allowance being made for tax delinquencies and the costs of tax collection, and such taxes, when collected, shall be applied to the payment of principal of and interest on the Bonds by deposit to the Bond Fund and to no other purpose.

(b) The City hereby declares its purpose and intent to provide and levy a tax legally sufficient to pay the principal of and interest on the Bonds, 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.

(c) To pay the debt service coming due on the Bonds prior to receipt of the taxes levied to pay such debt service, if any, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

Section 13: Security of Funds. All moneys on deposit in the funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds, and moneys on deposit in such funds shall be used only for the purposes permitted by this Ordinance.

Section 14: Mutilated, Destroyed, Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds, notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds. The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

Section 15: Satisfaction of Obligation of City.

(a) If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the limited pledge of taxes levied under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

(b) The City may defease the provisions of this Ordinance and discharge its obligations to pay the principal of and interest on any or all of the Bonds (a "Defeased Bond") by depositing with the Paying Agent/Registrar, a trust company or commercial bank other than the Paying Agent/Registrar, or with the Comptroller of Public Accounts of the State of Texas either:

(1) cash in an amount equal to the principal amount of such Bonds and premium, if any, and interest thereon to the date of maturity or redemption; or

(2) pursuant to an escrow or trust agreement, cash and/or Government Securities, which (in the case of Government Securities) may be in book-entry form and the principal of and interest on which will, when due or redeemable at the option of the holder, without further investment or reinvestment of either the

principal amount thereof or the interest earnings thereon, provide money in an amount which, together with other moneys, if any, held in such escrow at the same time and available for such purpose, shall be sufficient to provide for the timely payment of the principal of, premium, if any, and interest on such Defeased Bond(s) to their respective date(s) of maturity or earlier redemption;

provided, however, that if any of the Bonds are to be redeemed prior to their respective dates of maturity, provision shall have been made for giving notice of redemption as provided in this Ordinance. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Upon such deposit, such Bonds shall no longer be regarded to be Outstanding or unpaid. Any surplus amounts not required to accomplish such defeasance shall be returned to the City.

(c) Any agreement pursuant to which the money and/or Government Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Government Securities or the substitution of other Government Securities that mature in amounts and at times that will satisfy the requirements specified in subsection (b) above. Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Defeased Bonds, or any principal amount(s) thereof or premium or interest thereon with respect to which such moneys have been so deposited, shall be remitted to the City or deposited as directed by the City.

(d) Any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

Section 16: Ordinance a Contract; Amendments. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section and in Section 28 hereof. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders owning a majority in aggregate principal amount of the Bonds then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding

Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

Section 17: Covenants to Maintain Tax-Exempt Status.

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

“Closing Date” means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

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

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

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

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

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

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

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

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

“Yield” of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

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

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

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

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

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

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior

to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

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

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

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

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

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

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

and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148 3(h) of the Regulations.

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

(j) Not Hedge Bonds. The City did not invest more than 50 percent of the Proceeds of the original obligations refunded by the Tax-Exempt Bonds in Nonpurpose Investments having a guaranteed yield for four years or more. On the Issue Date of each series of the original obligations refunded by the Tax-Exempt Bonds, the City reasonably expected that at least 85 percent of the spendable proceeds of such obligations would be used to carry out the governmental purpose of such obligations within three years after the respective Issue Date of such obligations.

(k) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager or Chief Financial Officer, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

Section 18: Sale of Bonds. Pursuant to a public sale for the Bonds, the bid submitted by _____ (herein referred to as the "Purchaser") is declared to be the best bid received producing the lowest true interest cost rate to the City, and the sale of the Bonds to said Purchaser at a price equal to \$ _____ (representing the principal amount of the Bonds, plus a cash premium of \$ _____, with no accrued interest) is hereby approved and confirmed. Delivery of the Bonds to the Purchaser shall occur upon payment being made therefor in accordance with the terms of sale.

Section 19: Official Statement. The use of the Preliminary Official Statement in the offering and sale of the Bonds is hereby ratified, confirmed and approved in all respects, and the City Council hereby finds that the information and data contained in said Preliminary Official Statement pertaining to the City and its financial affairs is true and correct in all material respects and no material facts have been omitted therefrom which are necessary to make the statements

therein, in light of the circumstances under which they were made, not misleading. It is further hereby officially found, determined and declared that, as of the date thereof, the Preliminary Official Statement was an official statement of the City with respect to the Bonds that was deemed “final” by an authorized official of the City except for the omission of no more than the information permitted by subsection (b)(1) of the Rule.

The final Official Statement, which reflects the terms of sale (together with such changes approved by the Mayor, Mayor Pro-Tem, City Manager, Chief Financial Officer, and City Secretary, individually or collectively), shall be and is hereby in all respects approved, and the Purchaser is hereby authorized to use and distribute said final Official Statement in the reoffering, sale and delivery of the Bonds to the public. The Mayor and City Secretary are further authorized and directed to manually execute and deliver for and on behalf of the City copies of said Official Statement in final form as may be required by the Purchaser, and such final Official Statement in the form and content manually executed by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Purchaser.

Section 20: Application of Bond Proceeds.

(a) Proceeds from the sale of the Bonds shall, promptly upon receipt by the City, be applied as follows:

(1) A portion of the proceeds shall be applied to refund the Refunded Obligations and to establish the Escrow Fund for such purpose, as more fully provided below;

(2) To the extent not otherwise paid, a portion of the proceeds shall be applied to pay all expenses arising in connection with the issuance of the Bonds, the establishment of the Escrow Fund and the refunding of the Refunded Obligations; and

(3) Any proceeds from the sale of the Bonds remaining after making all the foregoing deposits and payments shall be deposited into the Bond Fund and used to pay debt service on the Bonds.

(b) From the existing debt service funds for the Refunded Obligations there shall be transferred to the Escrow Fund the amount of \$_____ and to the Bond Fund \$_____.

Section 21: Escrow Agreement. The discharge and defeasance of the Refunded Obligations shall be effectuated pursuant to the terms and provisions of the Escrow Agreement to be entered into by and between the City and the Escrow Agent, which shall be substantially in the form presented with this Ordinance, the terms and provisions of which are hereby approved, subject to such insertions, additions and modifications as shall be necessary (a) to carry out the program designed for the City by the Purchaser and the City’s Financial Advisor, (b) to minimize the City’s costs of refunding, (c) to comply with all applicable laws and regulations relating to the refunding of the Refunded Obligations and (d) to carry out the other intents and purposes of this Ordinance. The Mayor is hereby authorized to execute and deliver such Escrow Agreement on

behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the City's seal.

Section 22: Redemption of Refunded Obligations Prior to Maturity. To minimize the City's costs of refunding, the City hereby authorizes and directs that certain of the Refunded Obligations shall be called for redemption prior to maturity in the amounts, at the dates and at the redemption prices set forth in Schedule I, and the Mayor, Mayor Pro Tem, City Manager, Chief Financial Officer and City Secretary are each hereby authorized and directed to take all necessary and appropriate action to give or cause to be given a notice of redemption and/or a notice of defeasance to the holders or paying agent/ registrars, as appropriate, of such bonds, and, if required, to publish such notices, all in the manner required by the documents authorizing the issuance of such Refunded Obligations.

Section 23: Purchase of Escrowed Securities. To assure the purchase of the Escrowed Securities (if any) referred to in the Escrow Agreement, the Mayor, Mayor Pro Tem, City Manager and Chief Financial Officer and other officers and employees of the City are hereby authorized to subscribe for, agree to purchase and purchase Escrowed Securities, in such amounts and maturities and bearing interest at such rates as may be provided for in the Escrow Agreement, and to execute any and all subscriptions, purchase agreements, investment contracts, commitments, letters of authorization and other documents necessary to effectuate the foregoing. Any actions heretofore taken for such purpose are hereby ratified and approved.

Section 24: Control and Custody of Bonds; Further Procedures. The Mayor shall be and is hereby authorized to take and have charge of all necessary orders and records pending the sale and delivery of the Bonds and the investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Bonds, and the Mayor shall take and have charge and control of the Initial Bond(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchaser.

Furthermore, the Mayor, Mayor Pro Tem, City Manager, Chief Financial Officer, and City Secretary, individually or collectively, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Bonds, including a certification as to facts, estimates, circumstances and reasonable expectations pertaining to the use and expenditure and investment of the proceeds of the Bonds as may be necessary for the approval of the Attorney General and their registration by the Comptroller of Public Accounts. In addition, such officials, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, are authorized and directed to (a) take all other actions that are reasonably necessary to provide for the issuance and delivery of the Bonds and the defeasance, redemption and discharge of the Refunded Obligations, including, without limitation, executing and delivering on behalf of the City all certificates, consents, receipts, requests, notices, and other documents as may be reasonably necessary to satisfy the City's obligations under this Ordinance and the ordinances authorizing the issuance of the Refunded Obligations and to direct the transfer and application of funds of the City consistent with the provisions of this Ordinance and (b) make the necessary arrangements for the delivery of the Initial Bond(s) to the Purchaser and the initial exchange thereof for definitive Bonds.

Section 25: Notices to Holders; Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

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

Section 26: Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be returned to the City.

Section 27: Bond Counsel's Opinion. The Purchaser' obligation to accept delivery of the Bonds is subject to being furnished a final opinion of Andrews Kurth LLP, Austin, Texas, approving the Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds. An executed counterpart of said opinion shall accompany the global certificates deposited with DTC or a reproduction thereof shall be printed on the definitive Bonds in the event the book-entry-only system shall be discontinued.

Section 28: Continuing Disclosure Undertaking.

(a) Annual Reports. The City shall provide annually to the MSRB, (1) within six months after the end of each fiscal year of the City ending in or after 2016, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 19 of this Ordinance, being information of the type described in Exhibit C hereto, and financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit C hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the official statement, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such fiscal year end, then the City

shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

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

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

(b) Event Notices. The City shall notify the MSRB, in a timely manner (not in excess of ten (10) business days after the occurrence of the event), of any of the following events with respect to the Bonds or the City:

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

(12) Bankruptcy, insolvency, receivership or similar event of the City;

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

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

For the purposes of the event identified in clause (12), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section 28 by the time required by such subsection.

(c) Identifying Information. All documents provided to the MSRB shall be accompanied by identifying information, as prescribed by the MSRB.

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

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or

warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

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

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

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

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

Section 29: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

Section 30: Benefits of Ordinance. Nothing in this Ordinance; expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, and this Ordinance and all its provisions is intended to be and shall be for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

Section 31: No Recourse Against City Officials. No recourse shall be had for the payment of principal of or interest on any Bonds or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Bonds.

Section 32: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 33: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 34: Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

Section 35: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

Section 36: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 37: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 38: Effective Date. This Ordinance shall take effect and be in full force immediately from and after its adoption on the date hereof.

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PASSED AND ADOPTED this August 23, 2016.

CITY OF BRYAN, TEXAS

Mayor

ATTEST:

City Secretary

(City Seal)

SCHEDULE I
REFUNDED OBLIGATIONS

Combination Tax and Revenue Certificates of Obligation, Series 2007

<u>Maturity</u>	<u>Interest</u> <u>Rate</u>	<u>Principal</u> <u>Amount</u>
8/15/2017	4.000%	\$665,000
8/15/2018	4.000%	690,000
8/15/2019	4.000%	720,000
8/15/2020	4.000%	745,000
8/15/2021	4.125%	775,000
8/15/2022	4.125%	810,000
8/15/2023	4.125%	840,000
8/15/2024	4.125%	875,000
8/15/2025	4.250%	910,000
8/15/2026	4.250%	950,000

EXHIBIT A
FORM OF BOND

(a) Form of Definitive Bond.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF BRYAN, TEXAS
GENERAL OBLIGATION REFUNDING BOND, SERIES 2016

Bond Date:	Delivery Date:	Interest Rate:	Stated Maturity:	CUSIP NO:
August 15, 2016	September __, 2016	_____	_____	_____

Registered Owner: _____

Principal Amount: _____ DOLLARS

The City of Bryan (hereinafter referred to as the "City"), a body corporate and municipal corporation in the County of Brazos, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid principal amount hereof from the Delivery Date at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, commencing February 15, 2017, until Stated Maturity or earlier redemption. Principal of this Bond is payable at its Stated Maturity or earlier redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or

executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$ _____ (herein referred to as the “Bonds”) for the purpose of refunding certain outstanding obligations of the City, paying costs of such refunding and paying costs of issuance related thereto, under and in strict conformity with the Constitution and laws of the State of Texas, particularly Chapter 1207, Texas Government Code, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the “Ordinance”).

The Bonds are not subject to optional redemption prior to maturity.

The Bonds are payable from the proceeds of a direct annual ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all the provisions of which the Holder by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar, the terms and provisions upon which the tax levy and covenants made in the Ordinance may be discharged at or prior to the maturity of this Bond, and this Bond deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date and for thirty (30) days thereafter, a new

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

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds as aforestated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

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

CITY OF BRYAN, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(SEAL)

(b) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond(s) only.

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

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

(c) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered 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/Registrar.

The designated offices of the Paying Agent/Registrar located in Dallas, Texas, is the "Designated Payment/Transfer Office" for this Bond.

WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Paying Agent/Registrar

Registration Date:

By _____
Authorized Signature

(e) The Initial Bond shall be in the form set forth in paragraph (a) of this Exhibit A, except that the form of a single fully registered Initial Bond shall be modified as follows:

REGISTERED
NO. T-1

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF BRYAN, TEXAS
GENERAL OBLIGATION REFUNDING BOND, SERIES 2016

Bond Date: August 15, 2016

Delivery Date: September __, 2016

Registered Owner: _____

Principal Amount: _____

The City of Bryan (hereinafter referred to as the "City"), a body corporate and municipal corporation in the County of Brazos, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on August 15 in each of the years and in principal installments in accordance with the following schedule:

<u>Year</u>	<u>Principal Installments</u>	<u>Interest Rate</u>
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(Information to be inserted from schedule in Section 2 hereof).

(or so much thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid principal amounts hereof from the Delivery Date at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 of each year, commencing February 15, 2017, until Stated Maturity or earlier redemption. Principal installments of this Bond are payable at its Stated Maturity or on an earlier redemption date to the registered owner hereof by Wilmington Trust, National Association (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices in Dallas, Texas (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the last business day of the month next preceding each interest payment date hereof and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day

which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

EXHIBIT B

DEFINITIONS

Capitalized words or terms, whenever the same appear in the Ordinance without qualifying language, shall have the following meaning:

“Attorney General” shall mean the Attorney General of the State of Texas.

“Bond” or “Bonds” shall mean any or all of the City of Bryan, Texas, General Obligation Refunding Bonds, Series 2016, authorized by the Ordinance.

“Bond Fund” shall mean the special Fund created and established under the provisions of Section 11 of the Ordinance.

“Chapter 1207” shall mean Chapter 1207, Texas Government Code, as amended.

“City” shall mean the City of Bryan, Texas, and, where appropriate, its City Council.

“City Council” shall mean the governing body of the City.

“Comptroller” shall mean the Comptroller of Public Accounts of the State of Texas.

“DTC” shall mean The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, or any successor securities depository.

“DTC Participant” shall mean 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” shall mean Wilmington Trust, National Association, Dallas, Texas and its successors in that capacity.

“Escrow Agreement” shall mean the agreement between the City and the Escrow Agent relating to the escrow of funds and securities to pay the Refunded Obligations.

“Escrow Fund” shall mean the fund or account created pursuant to the Escrow Agreement to be administered by the Escrow Agent pursuant to the provisions of the Escrow Agreement.

“Escrowed Securities” shall have the meaning assigned to such term in the Escrow Agreement.

“Fiscal Year” shall mean the City’s then designated fiscal year, which currently is the twelve-month period beginning on the first day of October of a calendar year and ending

on the last day of September of the next succeeding calendar year and each such period may be designated with the number of the calendar year in which such period ends.

“Government Securities” shall mean (1) direct non-callable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, and (2) non-callable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.

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

“Holder” shall mean the person or entity in whose name any Bond is registered in the Security Register.

“MSRB” shall mean the Municipal Securities Rulemaking Board.

“Ordinance” shall mean Ordinance No. ____ adopted by the City Council on August 23, 2016, authorizing the issuance of the Bonds, and all amendments thereof and supplements thereto.

“Outstanding” when used with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except: (1) those Bonds cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation; (2) those Bonds for which payment has been duly provided by the City in accordance with the provisions of Section 15 of this Ordinance; and (3) those Bonds that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 14 of the Ordinance.

“Paying Agent/Registrar” shall mean Wilmington Trust, National Association, Dallas, Texas, and its successors in that capacity.

“Paying Agent/Registrar Agreement” shall mean the agreement between the City and the Paying Agent/Registrar setting forth the duties and obligations of the Paying Agent/Registrar with respect to the Bonds.

“Record Date” shall mean the close of business on the last business day of the month next preceding the applicable interest payment date.

“Refunded Obligations” shall mean those outstanding obligations of the City described in Schedule I attached hereto, which are being refunded and defeased with the proceeds of the Bonds and other legally available funds of the City, if any.

“Security Register” shall mean the registration books for the Bonds kept by the Paying Agent/Registrar in which is maintained the name and address of, and the principal amounts registered to, each Holder of a Bond.

“Rule” shall mean SEC Rule 15c2-12, as amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

EXHIBIT C

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 28 of the Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

1. The financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.

The information in the Official Statement under Tables 1 and 13.

Accounting Principles

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