

ORDINANCE NO. 113

TOWN OF BAYSIDE, TEXAS
COMBINATION TAX AND REVENUE REFUNDING BONDS
SERIES 2021

BOND ORDINANCE

AN ORDINANCE AUTHORIZING AND ORDERING THE ISSUANCE OF TOWN OF BAYSIDE, TEXAS, COMBINATION TAX AND REVENUE REFUNDING BONDS; ESTABLISHING PARAMETERS WITH RESPECT TO THE SALE OF THE BONDS AND AUTHORIZING THE PRICING OFFICER TO APPROVE THE AMOUNT, INTEREST RATES, PRICE AND TERMS THEREOF; AND ENACTING OTHER PROVISIONS INCIDENT AND RELATED THERETO

ADOPTED: July 13, 2021

TABLE OF CONTENTS

	<u>Page</u>
<u>Article I DEFINITIONS, FINDINGS AND INTERPRETATION</u>	1
<u>Section 1.01</u> <u>Definitions</u>	1
<u>Section 1.02</u> <u>Findings</u>	5
<u>Section 1.03</u> <u>Table of Contents, Titles and Headings</u>	6
<u>Section 1.04</u> <u>Interpretation</u>	6
<u>Article II AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS</u>	6
<u>Section 2.01</u> <u>Authorization; Designation; Principal Amount; Purpose</u>	6
<u>Section 2.02</u> <u>Date; Denomination; Maturities; Numbers and Interest</u>	7
<u>Section 2.03</u> <u>Terms of Payment; Paying Agent/Registrar</u>	7
<u>Section 2.04</u> <u>Registration; Transfer and Exchange of Bonds; Predecessor Bonds</u>	8
<u>Section 2.05</u> <u>Book-Entry-Only Transfers and Transactions</u>	9
<u>Section 2.06</u> <u>Execution; Registration</u>	10
<u>Section 2.07</u> <u>Initial Bond</u>	10
<u>Section 2.08</u> <u>Mutilated, Destroyed, Lost and Stolen Bonds</u>	11
<u>Section 2.09</u> <u>Cancellation</u>	11
<u>Article III REDEMPTION OF BONDS BEFORE MATURITY</u>	11
<u>Section 3.01</u> <u>Limitation on Redemption</u>	11
<u>Section 3.02</u> <u>Optional Redemption</u>	11
<u>Section 3.03</u> <u>Mandatory Redemption</u>	12
<u>Section 3.04</u> <u>Partial Redemption</u>	12
<u>Section 3.05</u> <u>Notice of Redemption to Owners</u>	12
<u>Section 3.06</u> <u>Payment Upon Redemption</u>	13
<u>Section 3.07</u> <u>Effect of Redemption</u>	13
<u>Section 3.08</u> <u>Lapse of Payment</u>	13
<u>Article IV FORM OF BONDS; BOND COUNSEL’S OPINION</u>	13
<u>Section 4.01</u> <u>Forms</u>	13
<u>Section 4.02</u> <u>Bond Counsel’s Opinion</u>	14
<u>Section 4.03</u> <u>Bond Insurance</u>	14
<u>Article V BOND FUND; TAX LEVY; SECURITY OF FUNDS; THE SYSTEM</u>	14
<u>Section 5.01</u> <u>Bond Fund</u>	14
<u>Section 5.02</u> <u>Tax Levy</u>	15
<u>Section 5.03</u> <u>Pledge of Revenues</u>	16
<u>Section 5.04</u> <u>System Fund</u>	16

Section 5.05	<u>Deposits to Bond Fund; Excess Bond Proceeds</u>	17
Section 5.06	<u>Security of Funds</u>	17
Section 5.07	<u>Maintenance of System – Insurance</u>	17
Section 5.08	<u>Rates and Charges</u>	17
Section 5.09	<u>Repair and Replacement Account</u>	18
Section 5.10	<u>Debt Service Reserve Account</u>	19
Section 5.11	<u>Records and Accounts – Annual Audit</u>	19
Section 5.12	<u>Remedies in Event of Default</u>	19
Section 5.13	<u>Issuance of Additional Bonds</u>	19
Section 5.14	<u>Special Covenants. The Town hereby further covenants that:</u>	21
<u>Article VI DEFEASANCE</u>		21
Section 6.01	<u>Satisfaction of Obligation of Town</u>	21
Section 6.02	<u>Defeasance</u>	21
<u>Article VII COVENANTS TO MAINTAIN TAX EXEMPT STATUS</u>		23
Section 7.01	<u>Covenants to Maintain Tax-Exempt Status</u>	23
Section 7.02	<u>Qualified Tax-Exempt Obligations</u>	26
<u>Article VIII SALE OF BONDS; APPLICATION OF PROCEEDS</u>		26
Section 8.01	<u>Terms and Provisions of the Bonds; Sale of the Bonds</u>	26
Section 8.02	<u>Offering Materials</u>	27
Section 8.03	<u>Arrangements for Discharge and Redemption of Refunded Obligations</u>	28
Section 8.04	<u>Control and Custody of Bonds; Further Procedures</u>	28
Section 8.05	<u>Application of Proceeds</u>	29
<u>Article IX CONTINUING DISCLOSURE UNDERTAKING</u>		29
Section 9.01	<u>No Undertaking Required</u>	29
<u>Article X ORDINANCE A CONTRACT; AMENDMENTS</u>		29
Section 10.01	<u>Ordinance a Contract; Amendments</u>	29
Section 10.02	<u>Benefits of Ordinance</u>	30
<u>Article XI MISCELLANEOUS</u>		30
Section 11.01	<u>Notices to Holders; Waiver</u>	30
Section 11.02	<u>No Recourse Against Town Officials</u>	30
Section 11.03	<u>Inconsistent Provisions</u>	30
Section 11.04	<u>Governing Law</u>	30
Section 11.05	<u>Effect of Headings</u>	31
Section 11.06	<u>Severability</u>	31

Section 11.07 Public Meeting31
Section 11.08 Effective Date31
Schedule I – Refunding Candidates I-1
Exhibit A – Form of Bond A-1
Exhibit B – Sale Parameters B-1

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WHEREAS, the Town of Bayside, Texas (the “Town”), acting through its Town Council, has heretofore issued, assumed or undertaken and there remain outstanding the obligations described in Schedule I attached hereto (the “Refunding Candidates”); and

WHEREAS, the Town is authorized by Chapter 1207, Texas Government Code, as amended (“Chapter 1207”), and now desires to issue refunding bonds for the purpose of refunding all or a portion of such Refunding Candidates (such refunded obligations to be hereinafter referred to as the “Refunded Obligations”); and

WHEREAS, the Town Council hereby finds and determines that the refunding contemplated by this Ordinance will benefit the Town by providing present value debt service savings in an amount or amounts to be certified in the Pricing Certificate (hereinafter defined) and that such benefit is sufficient consideration for the issuance of refunding bonds, as provided by this Ordinance, and the refunding of the Refunded Obligations;

WHEREAS, the Town Council desires to delegate, pursuant to Chapter 1207 and the parameters of this Ordinance, to the Pricing Officer (hereinafter defined), the authority to approve the principal amount, the interest rate(s), the price and the terms of the Bonds authorized hereby and to otherwise take such actions as are necessary and appropriate to effect the sale of the Bonds and to select the specific series and maturities of Refunding Candidates to be refunded; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAYSIDE, TEXAS:

ARTICLE I
DEFINITIONS, FINDINGS AND INTERPRETATION

Section 1.01 Definitions. Capitalized words or terms, whenever the same appear in the Ordinance without qualifying language, shall have the following meaning:

“Additional Bonds” means additional bonds or obligations issued on a parity as to the Net Revenues of the System in accordance with the provisions of Section 5.13 of this Ordinance.

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

“Authorized Denomination” shall have the same meaning given said term in Section 2.02 hereof.

“Bonds” shall mean the Combination Tax and Revenue Refunding Bonds authorized by this Ordinance.

“Bond Date” means the date designated in the Pricing Certificate as of the date of the Bonds.

“Bond Fund” shall mean the special Fund created and established under the provisions of Section 5.01 of the Ordinance.

“Business Day” means any day other than a Saturday, Sunday or legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close.

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

“Collection Date” shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the Town become delinquent.

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

“Defeasance Securities,” unless otherwise provided in the Pricing Certificate, shall mean (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of the purchase thereof are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the Town adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.

“DTC” shall mean The Depository Trust Company, New York, 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” means the place of payment for the Refunded Obligations or the trust company, commercial bank or other entity authorized to serve as Escrow Agent identified in the Escrow Agreement, and its successors in such capacity.

“Escrow Agreement” means the document described in Section 8.03 of this Ordinance, relating to the escrow of funds to pay the Refunded Obligations.

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

“Fiscal Year” shall mean the twelve (12) month period ending September 30 of each year, unless otherwise designated by the Town.

“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.

“Gross Revenues” means, for any period, all revenue during such period in respect or on account of the operation or ownership of the System, excluding refundable meter deposits, restricted gifts, and grants in aid of construction, but including earnings and income derived from invest or deposit of money in any special fund or account (except the Bond Fund) created and established for payment or security of the Bonds.

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

“Initial Bond” shall have the meaning assigned in Section 2.07.

“Interest Payment Date” shall mean the date or dates specified in the Pricing Certificate.

“Issuance Date” means the date of the initial delivery of the Bonds to the Purchaser in consideration of receipt of payment therefor.

“MSRB” shall mean the Municipal Securities Rulemaking Board.

“Maintenance and Operating Expenses” shall mean all current expenses of operating and maintaining the System not paid from proceeds of the Bonds, including (1) the cost of all salaries, labor, materials, repairs, and extensions necessary to render efficient service, but only if, in the case of repairs and extensions, they are, in the judgment of the Council (reasonable and fairly exercised), necessary to maintain operation of the System and render adequate service to the Town and the inhabitants thereof, or are necessary to meet some physical accident or condition which would otherwise impair obligations payable from Net Revenues, (2) payments to pension, retirement, health, hospitalization, and other employee benefit funds for employees of the Town engaged in the operation or maintenance of the System, (3) payments under contracts for the purchase of water supply, treatment of sewage, or other materials, goods, or services for the System to the extent authorized by law and the provisions of such contract, (4) payments to auditors, attorneys, and other consultants incurred in complying with the obligations of the Town hereunder, and (5) any legal liability of the Town arising out of the operation, maintenance, or condition of the System, but excluding any allowance for depreciation, property retirement, depletion,

obsolescence, and other items not requiring an outlay of cash and any interest on the Bonds or other bonds, notes, warrants, or similar obligations of the Town payable from Net Revenues.

“Net Revenues” shall mean the Gross Revenues of the System less the Maintenance and Operating Expenses of the System.

“Ordinance” shall mean this Ordinance 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 Town in accordance with the provisions of Section 6.01 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 2.08 of the Ordinance.

“Paying Agent/Registrar” shall mean the commercial bank, trust company, or any other entity or entities duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds, named in the Pricing Certificate and identified in the Paying Agent/Registrar Agreement or any successor thereto as provided in this Ordinance.

“Paying Agent/Registrar Agreement” shall mean the agreement between the Town and the Paying Agent/Registrar.

“Pricing Certificate” shall mean a certificate or certificates or Purchase Contract signed by the Pricing Officer establishing the terms and features of each series of Bonds in accordance with Section 8.01 hereof.

“Pricing Officer” shall mean each of the Mayor, the Mayor Pro Tem, the Town Secretary, or any other individuals authorized by the Council, acting individually.

“Purchase Contract” shall mean any contract, agreement or investment letter pursuant to which the Bonds of each series are sold to the Purchaser thereof.

“Purchaser” shall mean the purchaser or purchasers of the Bonds of each series identified in the Pricing Certificate.

“Record Date” shall mean the date specified in the Pricing Certificate.

“Refunded Obligations” shall mean the Refunding Candidates designated as Refunded Obligations in the Pricing Certificate.

“Refunding Candidates” shall mean the obligations of the Town described in Schedule I attached hereto.

“Registration Books” 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.

“Repair and Replacement Fund” shall mean the special fund created and established under the provisions of Section 5.09 of the Ordinance.

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

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

“Special Facilities Bonds” means special revenue obligations of the Town which are payable from and secured by other liens on and pledges of any revenues, sources or payments, not pledged to the payment of the Bonds, including, but not limited to, special contract revenues or payments received from any other legal entity in connection with such facilities.

“Stated Maturity” shall mean the dates specified in the Pricing Certificate on which the principal of the Bonds is due and payable.

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

“System Fund” shall mean the special fund created and established under the provisions of Section 5.04 of the Ordinance.

“Tax-Exempt Bonds” shall mean Bonds, the interest on which is intended to be excludable from gross income for federal income tax purposes, as determined and set forth in the Pricing Certificate therefor.

“Taxable Bonds” shall mean Bonds the interest on which is not intended to be excludable from gross income for federal income tax purposes, as determined and set forth in the Pricing Certificate therefor.

“Town” shall mean the Town of Bayside, Texas, and, where appropriate, its Town Council.

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

Section 1.02 Findings.

(a) The declarations, determinations recitals and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

(b) Each of the Bonds authorized shall be deemed and construed to be a “Security”, and as such a negotiable instrument, within the meaning of Article 8 of the Texas Uniform Commercial Code.

(c) The provisions of this Ordinance shall constitute a contract between the Town and the holder or holders from time to time of the Bonds and no change, variation or alteration of any kind of the provisions of this Ordinance may be made, unless as herein otherwise provided, until all of the Bonds shall have been paid as to both principal and interest.

Section 1.03 Table of Contents, Titles and Headings. The table of contents, titles and heading of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04 Interpretation.

(a) Unless the content requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Ordinance. The preamble to this Ordinance is hereby incorporated into the body of this Ordinance by reference.

(c) References to any constitutional, statutory or regulatory provision means such provision as it exists on the date this Ordinance is adopted by the Town and any future amendments thereto or successor provisions thereof. Any reference to the payment of principal in this Ordinance shall be deemed to include the payment of any mandatory sinking fund redemption payments as described herein. References in this Ordinance to the “Form of Bond” refer to the form attached to the Pricing Certificate.

(d) Any duty, responsibility, privilege, power or authority conferred by this Ordinance upon an officer shall extend to an individual who occupies such office in an interim, acting or provisional capacity.

ARTICLE II AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 2.01 Authorization; Designation; Principal Amount; Purpose. The “Town of Bayside, Texas, Combination Tax and Revenue Refunding Bonds Series 2021,” or such other designation as set forth in the Pricing Certificate, are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapter 1207. The Bonds may be issued, from time to time, in one or more series in the aggregate principal

amount not to exceed \$600,000 for the purposes of (i) refunding the Refunded Obligations and (ii) paying the costs of issuing the Bonds.

If the Bonds are issued in more than one series, the provisions of this Ordinance shall apply to each such series in the manner, to the extent and subject to such terms and conditions as shall be specified in the Pricing Certificate therefor.

Section 2.02 Date; Denomination; Maturities; Numbers and Interest. Except as otherwise provided by the Pricing Certificate, the Bonds shall (a) be dated, (b) be issued in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof (an "Authorized Denomination") and (c) be numbered separately from R-1 upward; provided, that the Bonds shall be initially issued (i) as a single fully registered bond in the total principal amount of each series and numbered T-1, or (ii) as one bond for each year of maturity in the applicable principal amount and numbered consecutively from T-1 and upward (hereinafter called the "Initial Bond(s)"). The Bonds shall mature on the date(s), in the years and in the principal amounts, and interest shall accrue and be paid on each Bond, respectively, until its maturity or prior redemption, from the Dated Date or the most recent interest payment date to which interest has been paid or provided for at the rate or rates, all as set forth in the Pricing Certificate, and such interest shall be payable semiannually until maturity or prior redemption on each Interest Payment Date, computed on the basis of a 360-day year of twelve 30-day months.

Section 2.03 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.

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 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 Registration Books at the close of business on the Record Date (which shall be date specified in the Pricing Certificate) 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 Registration Books 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 Registration Books at the close of business on the last Business Day next preceding the date of mailing of such notice.

The Pricing Officer is hereby authorized and directed to execute a Paying Agent/Registrar Agreement with the Paying Agent/Registrar, specifying the duties and responsibilities of the Town and the Paying Agent/Registrar. The signature of the Pricing Officer may be attested by the Town Secretary.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

At all times while any Bonds are Outstanding, the Town will maintain a Paying Agent/Registrar that is qualified under this Ordinance. If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the Town will promptly appoint a replacement.

The Town, upon not less than sixty (60) days' notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the Town will cause notice of the change to be sent to each Owner by United States mail, first class postage prepaid, at the address in the Register thereof, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

Section 2.04 Registration; Transfer and Exchange of Bonds; Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Registration Books the name and address of each 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 2.07 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 2.07 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 Town, 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 2.08 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the Town 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 2.05 Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in this Article relating to the payment, and transfer/exchange of the Bonds, the Town 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 Town 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 Registration Books 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 Town determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the Town 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 Registration Books maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of this Article hereof.

The Pricing Officer is authorized and directed to execute and deliver any agreements, certificates, letters and other instruments (including but not limited to an updated representation letter) in such form as such official shall approve and deem appropriate to evidence the Town’s obligations to DTC as securities depository in connection with the delivery of the Bonds and the Town’s other public securities in book-entry only form.

Section 2.06 Execution; Registration. The Bonds shall be executed on behalf of the Town by the Mayor or the Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the Town 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 Town on the Bond Date shall be deemed to be duly executed on behalf of the Town, 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 (as defined in the Pricing Certificate) 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 Exhibit A, manually executed by (or, to the extent allowed by law, bearing a facsimile signature of) 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 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 2.07 Initial Bond. The Initial Bond shall be 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 2.08 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 Town 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 Town 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 2.09 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 Town, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The Town may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the Town 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 Town.

ARTICLE III REDEMPTION OF BONDS BEFORE MATURITY

Section 3.01 Limitation on Redemption. The Bonds shall be subject to redemption before their scheduled maturity only as provided in this Article III.

Section 3.02 Optional Redemption. The Bonds shall be subject to redemption prior to maturity, at the option of the Town, as provided in the Pricing Certificate.

Section 3.03 Mandatory Redemption. The Bonds shall be subject to mandatory redemption prior to their scheduled maturity, as provided in the Pricing Certificate.

Section 3.04 Partial Redemption.

(a) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 2.04 of this Ordinance, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the Town in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

Section 3.05 Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first class postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the Business Day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds Outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) With respect to any optional redemption of the Bonds, unless all prerequisites to such redemption required by this Ordinance have been met, including moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed having been received by the Paying Agent/Registrar prior to the giving of notice of such redemption, such notice shall state that said redemption may, at the option of the Town, be conditional upon the satisfaction of all prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, and if such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the Town shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed and that the notice of redemption previously issued is rescinded.

(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 3.06 Payment Upon Redemption.

(a) Before or on each redemption date, the Town shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the Town and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

Section 3.07 Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 3.05 of this Ordinance and subject to any conditions or rights reserved by the Town under Section 3.05, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the Town defaults in its obligation to make provision for the payment of the principal thereof, or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the Town shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall remain Outstanding and continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the Town.

Section 3.08 Lapse of Payment. Money set aside for the redemption of Bonds and remaining unclaimed by the Owners of such Bonds shall be subject to the provisions of Section 6.02(c) hereof.

ARTICLE IV
FORM OF BONDS; BOND COUNSEL'S OPINION

Section 4.01 Forms. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Authentication Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds (i) shall be substantially in the forms set forth in Exhibit A hereto with such appropriate insertions, omissions, substitutions, and other variations as with such changes as are required by the Pricing Certificate and (ii) 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 Town 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 Town 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 typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

It is expressly 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 Town nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 4.02 Bond Counsel's Opinion. The Purchaser's obligation to accept delivery of the Bonds is subject to being furnished a final opinion of Dorsey & Whitney LLP, Minneapolis, Minnesota, 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 4.03 Bond Insurance. A statement relating to municipal bond insurance, if applicable, provided by a Bond Insurer may be printed on or attached to each Bond.

ARTICLE V BOND FUND; TAX LEVY; SECURITY OF FUNDS; THE SYSTEM

Section 5.01 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 Town known as the "Special Series 2021 Combination Tax and Revenue Refunding Bond Fund" (the "Bond Fund"), and all moneys deposited to the credit of the Bond Fund shall be shall be kept and maintained in a special banking account at the Town's depository bank. Authorized officials of the Town 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 Town, be invested in obligations identified in, and in accordance with the

provisions of Chapter 2256, Texas Government Code, as amended, (the “Public Funds Investment Act”); 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 5.02 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, a sufficient tax on each one hundred dollars valuation of taxable property in the Town, adequate 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 Town 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 Town for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

(c) The amount of taxes to be provided annually for the payment of principal and interest on the Bonds shall be determined and accomplished in the following manner:

(i) Prior to the date the Town Council establishes the annual tax rate and passes an ordinance levy ad valorem taxes each year, the Town Council shall determine:

1. the amount of principal and interest to become due and payable on the Bonds between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year;

2. the amount on deposit in the Bond Fund after (a) deducting therefrom the total amount of principal and interest to become due on the Bonds prior to the Collection Date for the ad valorem taxes to be levied and (b) adding thereto the amount of the Net Revenues, if any, to be appropriated and allocated during such year to pay such principal and interest, if any, prior to the Collection Date for the ad valorem taxes to be levied; and

3. the amount of Net Revenues, if any, to be appropriated and to be set aside for the payment of the principal and interest due on the Bonds between the Collection Date for taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding Fiscal Year.

(ii) The amount of taxes to be levied annually each year to pay the principal and interest on the Bonds shall be 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.

Section 5.03 Pledge of Revenues. (a) The Town hereby covenants and agrees that the Net Revenues are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds and the pledge of Net Revenues herein made for the payment of the Bonds shall constitute a lien on the Net Revenues in accordance with the terms and provisions hereof and be valid and binding without any physical delivery thereof or further act by the Town.

(b) Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of Net Revenues granted by the Town under subsection (a) of this Section, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the Net Revenues granted by the Town is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in this pledge, the Town 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 this pledge to occur.

Section 5.04 System Fund. The Town hereby covenants and agrees that all Gross Revenues derived from the operation of the System shall be kept separate and apart from all other funds, accounts, and money of the Town and shall be deposited as collected into the "TOWN OF BAYSIDE, TEXAS UTILITY SYSTEM FUND" (the "System Fund"). All money deposited in the System Fund shall be pledged and appropriated to the extent required for the following purposes and in order of priority shown:

- First: to the payment of the reasonable and proper Maintenance and Operating Expenses of the System required by statute or ordinances authorizing the issuance of any indebtedness of the Town to be a first charge on and claim against the Gross Revenues of the System; and
- Second: to the payment of the amounts that must be deposited in the special funds and accounts, including any debt serve reserve account, created and established for the payment, security, and benefit of the Bonds, and any Additional Bonds hereafter issued by the Town; and
- Third: to the payment of the amounts that must be deposited in the Repair and Replacement Account.

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

Section 5.05 Deposits to Bond Fund; Excess Bond Proceeds. The Town hereby covenants and agrees to cause to be deposited in the Bond Fund prior to a principal and interest payment date for the Bonds, from the Net Revenues in the System Fund, after the deduction of all payments required to be made to the special funds or accounts created for the payment, security, and benefit of any Additional Bonds hereinafter issued by the Town, any amounts budgeted to be paid therefrom in such Fiscal Year.

Accrued interest, premium, if any, and capitalized interest received from the Purchasers of the Bonds shall be deposited to the Bond Fund and ad valorem taxes levied and collected for the benefit of the Bonds shall be deposited to the Bond Fund. Subject to the provisions of 7 C.F.R. §1780.45(f), any surplus proceeds, including investment income thereon, from the sale of the Bonds not expended for authorized purposes shall be deposited in the Bond Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said fund from ad valorem taxes.

Section 5.06 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 5.07 Maintenance of System – Insurance. The Town covenants and agrees that while the Bonds remain outstanding it will maintain and operate the System with all possible efficiency and maintain casualty and other insurance (including a system of self-insurance) on the properties of the System and its operations of a kind and in such amounts customarily carried by municipal corporations in the State of Texas engaged in a similar type of business (which may include an adequate program of self insurance) all in accordance with the commitment letter between the Town and the United States of America; and that it will faithfully and punctually perform all duties with reference to the System required by the laws of the State of Texas. All money received from losses under such insurance policies, other than public liability policies, are held for the benefit of the holders of the Bonds, until and unless the proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provision for making good such loss or damage must be made within ninety (90) days after the date of loss. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses. Nothing in this Ordinance shall be construed as requiring the Town to expend any funds which are derived from sources other than the operation of the System but nothing herein shall be construed as preventing the Town from doing so

Section 5.08 Rates and Charges. The Town hereby covenants and agrees with the holders of the Bonds that rates and charges for utility services afforded by the System will be established and maintained to provide Gross Revenues sufficient at all times:

- to pay all operating, maintenance, depreciation, replacement, betterment, and other costs incurred in the maintenance and operation of the System, including, but not limited to, Maintenance and Operating Expenses;
- to produce Net Revenues sufficient, together with any other lawfully available funds, to pay (i) the interest on and principal of the Bonds and any Additional Bonds hereafter issued by the Town as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof; or (ii) the amounts that are required to be deposited to the Repair and Replacement Account; or (iii) the amounts that are required to be deposited in any Debt Service Reserve Account; and
- to pay other legally incurred indebtedness payable from the Net Revenues of the System and/or secured by a lien on the System or the Net Revenues thereof.

Section 5.09 Repair and Replacement Account. The Town hereby creates and establishes and covenants to maintain a special fund or account to be known as the “Town of Bayside, Texas Utility System Repair and Replacement Account” (the “Repair and Replacement Account”) and the Repair and Replacement Account shall be maintained at the Depository. Money on deposit in the Repair and Replacement Account shall be used for meeting contingencies of any nature in connection with the operations, maintenance, improvement, replacement, or relocation of properties constituting the System including, but not limited to, the replacement of any equipment relating to the System, as may be determined from time to time by the Board of Alderman.

The Town covenants that the Net Revenues of the System, after making the payments as required by the provisions of Section 5.04 of this Ordinance, should be paid into the Repair and Replacement Account in an annual sum equal to \$1,000. The first annual payment shall be made on or before September 30, 2021 and on each annual anniversary thereof until the amount on deposit in the Repair and Replacement Account equals or exceeds \$3,500 (Required Amount).

When and so long as the cash and investments in the Repair and Replacement Account equal the Required Amount, no deposits need be made to the credit of the Repair and Replacement Account; but, if and when the Repair and Replacement Account at any time contains less than the Required Amount, the Town covenants and agrees to cure the deficiency in the Required Amount by resuming monthly deposits to said Fund from the Net Revenues of the System, or any other lawfully available funds, such monthly deposits to be in amounts equal to not less than 1/60th of the Required Amount covenanted by the Town to be maintained in the Repair and Replacement Account with any such deficiency payments being made on or before the tenth day of each month until the Required Amount has been fully restored. The Town further covenants and agrees that, subject only to the prior payments to be made to the Bond Fund and as required by the ordinances authorizing the issuance of any Additional Bonds hereafter issued, the Net Revenues shall be applied and appropriated and used to establish and maintain the Required Amount and to cure any deficiency in such amounts as required by the terms of this Ordinance and any other ordinance pertaining to the issuance of Additional Bonds.

During such time as the Repair and Replacement Account contains the Required Amount, the Town may, at its option, withdraw all surplus funds in the Repair and Replacement Account in excess of the Required Amount and deposit such surplus in the Bond Fund.

Section 5.10 Debt Service Reserve Account. If required for successful marketing of the Bonds, upon issuance of the Bonds, an amount equal to the Reserve Requirement shall be deposited in a Debt Service Reserve Account for the Bonds, and thereafter, there shall be set aside an amount necessary to maintain the Reserve Requirement. "Reserve Requirement" means an amount, determined as of the date of issuance of the Bonds, equal to the least of (1) the maximum annual principal and interest payable with respect to the Bonds in the then current or any subsequent year, (2) 125 percent of the average annual principal and interest payable with respect to the Bonds, or (3) 10 percent of the proceeds of the Bonds (proceeds for this purpose being equal to the aggregate face amount of the Bonds), in accordance with Treasury Regulation 1.148-2(f)(2)(ii). Amounts on deposit in the Debt Service Reserve Account shall be used only to pay principal and interest due on obligations issued and made payable from the Bond Fund, including the Bonds, when amounts in the Bond Fund are insufficient.

Section 5.11 Records and Accounts – Annual Audit. The Town further covenants and agrees that so long as any of the Bonds remain outstanding it will keep and maintain separate and complete records and accounts pertaining to the operations of the System in which complete and correct entries shall be made of all transactions relating thereto, as provided by Chapter 1502, as amended, Texas Government Code, or other applicable law. The holders of the Bonds or any duly authorized agent or agents of the holders shall have the right to inspect the System and all properties comprising the same. The Town further agrees that, following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. Copies of each annual audit shall be furnished, within 150 days of the close of each Fiscal Year, to the Executive Director of the Municipal Advisory Council of Texas at his office in Austin, Texas, to the Purchaser of the Bonds, and, upon written request, any subsequent holder thereof. Expenses incurred in making the annual audit of the operations of the System are to be regarded as Maintenance and Operating Expenses.

Section 5.12 Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the Town covenants and agrees particularly that in the event the Town (a) defaults in the payments to be made to the Bond Fund, or (b) defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Ordinance, the holders of any of the Bonds shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the Town and other officers of the Town 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 5.13 Issuance of Additional Bonds.

(a) No Additional Bonds will be issued and made payable from the Net Revenues of the System on a parity with the Bonds previously issued, except as expressly authorized in (b) and (c) below. Any bonds or other obligations hereafter issued and made payable from Net Revenues of the System, except as provided in (b) and (c) below, shall be expressly made junior and subordinate to the Bonds, as to their lien or charge upon the System and the Revenues thereof, to the lien and charge in favor of the Bonds, and any such Additional Bonds shall be made payable solely from surplus revenues to be segregated in a special account within the Bond Fund, and the money on hand from time to time in any such account shall be available and shall be used to any extent required to pay principal and interest due on the Bonds.

(b) Any Bonds due or about to become due and payable may be refunded by the issuance of Additional Bonds if and to the extent that money on hand in the Bond Fund, or available for transfer thereto from other funds, are insufficient to pay such matured Bonds in full; provided that the maturities of such refunding bonds shall be subsequent to the maturities of all other Bonds then outstanding.

(c) Bonds may be issued for the payment of the cost of improvements, additions and extensions to or renewals or replacements of the System, or to acquire an interest in or the right to capacity of a facility for the System, or for the refunding of outstanding Bonds before maturity, subject to the following conditions:

1. Provisions shall be made for the satisfaction and discharge of the lien, pledge, appropriation, covenants and agreements contained in this Ordinance with respect to any outstanding Bonds so refunded, in accordance with the provisions of this Ordinance, from the proceeds of refunding bonds or other available funds, at or before the date of delivery of any refunding bonds;
2. The Net Revenues of the System for the last fiscal year immediately preceding the date of issue of the Additional Bonds, as adjusted in accordance with clause (3) of this paragraph and as verified by the opinion of a certified public accountant or of the Town's municipal finance consultant, shall have equaled (i) at least 110% of the maximum amount of principal and interest to become due and payable with respect to the Additional Bonds as well as any Bonds which will remain outstanding and not satisfied and discharged after the issuance thereof, in any subsequent fiscal year of the term of the outstanding Bonds plus (ii) the maximum amount of any deposits to the Debt Service Reserve Account required to be made from Net Revenues in any subsequent fiscal year of the term of the outstanding Bonds; and
3. If the rates and charges for the System have been changed since the beginning of the last fiscal year, the Revenues shall be adjusted to reflect these changes by applying the rates and charges effective upon the issuance of the Additional Bonds to the quantities and types of service provided during said year, and the

Net Revenues shall be determined by deducting therefrom the actual Maintenance and Operating Expenses during that period.

Section 5.14 Special Covenants. The Town hereby further covenants that:

(a) it has the lawful power to pledge the Net Revenues supporting the Bonds and has lawfully exercised said powers under the laws of the State of Texas, including power existing under Chapter 1502, as amended, Texas Government Code, Texas Local Government Code, Section 271.041 through Section 271.063;

(b) other than for the payment of the Refunded Obligations and the Bonds, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the Town or of the System;

(c) as long as any Bonds or any interest thereon remain outstanding, the Town will not sell, lease or encumber (except in the manner provided in Section 5.13 of this Ordinance) 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 has become obsolete or otherwise unsuited to the efficient operation of the System;

(d) no free service of the System shall be allowed, and should the Town or any of its agents or instrumentalities make use of the services and facilities of the System, payment of the reasonable value thereof shall be made by the Town out of funds from sources other than the revenues and income of the System;

(e) to the extent that it legally may, the Town further covenants and agrees that, so long as any of the Bonds, or any interest thereon, are Outstanding, no franchise shall be granted for the installation or operation of any competing utility systems other than those owned by the Town, and the operation of any such systems by anyone other than the Town is hereby prohibited; and

(f) it will require mandatory use of the System by the residents of the Town and that it shall enforce this obligation pursuant to all available remedies pursuant to the then applicable laws of the State of Texas.

ARTICLE VI DEFEASANCE

Section 6.01 Satisfaction of Obligation of Town.

If the Town 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 Town to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Section 6.02 Defeasance.

(a) The Town 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:

(i) 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

(ii) pursuant to an escrow or trust agreement, cash and/or Defeasance Securities, which (in the case of Defeasance 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 Town covenants that no deposit of moneys or Defeasance 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 Town.

(b) Any agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance 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 Defeasance 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 Town or deposited as directed by the Town.

(c) 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 Town be remitted to the Town against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the Town shall be subject to any applicable unclaimed property laws of the State of Texas.

ARTICLE VII
COVENANTS TO MAINTAIN TAX EXEMPT STATUS

Section 7.01 Covenants to Maintain Tax-Exempt Status. For any Bonds for which the Town intends that the interest on the Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and all applicable temporary, proposed and final regulations (the "Regulations") and procedures promulgated thereunder and applicable to the Bonds (collectively, "Tax-Exempt Bonds"), the Town covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Tax-Exempt Bonds (including all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with the proceeds of the Tax-Exempt Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause interest on the Tax-Exempt Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Tax-Exempt Bonds for federal income tax purposes. Without limiting the generality of the foregoing, the Town shall comply with each of the following covenants:

(i) The Town will use all of the proceeds of the Tax-Exempt Bonds to (i) provide funds for the purposes described in Section 2.01 hereof, and (ii) to pay the costs of issuing the Tax-Exempt Bonds. Other than as described in Section 2.01 hereof, the Town will not use any portion of the proceeds of the Tax-Exempt Bonds to pay the principal of or interest or redemption premium on, any other obligation of the Town or a related person.

(ii) All property financed or refinanced with the proceeds of the Tax-Exempt Bonds will be owned and operated by the Town. The Town will not directly or indirectly take any action, or omit to take any action, which action or omission would cause the Tax-Exempt Bonds to constitute "private activity bonds" within the meaning of Section 141(a) of the Code.

(iii) Principal of and interest on the Tax-Exempt Bonds will be paid from ad valorem taxes collected by the Town, Net Revenues of the System, and investment earnings on such collections.

(iv) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Tax-Exempt Bonds are delivered, the Town reasonably expects that the proceeds of the Tax-Exempt Bonds will not be used in a manner that would cause the Tax-Exempt Bonds or any portion thereof to be an "arbitrage bond" within the meaning of Section 148 of the Code.

(v) At all times while the Tax-Exempt Bonds are outstanding, the Town will identify and properly account for all amounts constituting gross proceeds of the Tax- Exempt Bonds in accordance with the Regulations. The Town will monitor the yield on the investments of the proceeds of the Tax-Exempt Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Tax-Exempt Bonds. To the extent necessary to prevent the Tax-Exempt Bonds from constituting “arbitrage bonds,” the Town will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Tax-Exempt Bonds to be less than the yield that is materially higher than the yield on the Tax-Exempt Bonds.

(vi) The Town will not take any action or knowingly omit to take any action that, if taken or omitted, would cause the Tax-Exempt Bonds to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.

(vii) The Town represents that not more than fifty percent (50%) of the proceeds of the obligations be refunded with the proceeds of the Tax-Exempt Bonds were invested in nonpurpose investments (as defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and on the date of issue of the obligations being refunded, the Town reasonably expected that at least eighty-five percent (85%) of the spendable proceeds of the obligations being refunded would be used to carry out the governmental purpose of such obligations within the three-year period beginning on the issue date of such obligations.

(viii) The Town will take all necessary steps to comply with the requirement that certain amounts earned by the Town on the investment of the gross proceeds of the Tax- Exempt Bonds, if any, be rebated to the federal government. Specifically, the Town will (i) maintain records regarding the receipt, investment, and expenditure of the gross proceeds of the Tax-Exempt Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the Town allocable to other obligations of the Town or moneys which do not represent gross proceeds of any obligations of the Town and retain such records for at least six years after the day on which the last outstanding Tax-Exempt Bond is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of any gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Tax-Exempt Bonds and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the Town will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter,

including payment to the federal government of any delinquent amounts owed to it, interest thereon and any penalty.

(ix) The Town will not directly or indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Tax-Exempt Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the Tax-Exempt Bonds not been relevant to either party.

(x) The Town will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Tax-Exempt Bonds on such form and in such place as the Secretary may prescribe.

(xi) The Town will not issue or use the Tax-Exempt Bonds as part of an "abusive arbitrage device" (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Tax-Exempt Bonds are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the Town to exploit the difference between tax- exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(xii) Proper officers of the Town charged with the responsibility for issuing the Tax-Exempt Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the date of issuance of the Tax-Exempt Bonds and stating whether there are facts, estimates or circumstances that would materially change the Town's expectations. On or after the date of issuance of the Tax-Exempt Bonds, the Town will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(xiii) The covenants and representations made or required by this Section are for the benefit of the Tax-Exempt Bond holders and any subsequent Tax-Exempt Bond holder and may be relied upon by the Tax-Exempt Bond holders and any subsequent Tax- Exempt Bond holder and bond counsel to the Town.

(b) In complying with the foregoing covenants, the Town may rely upon an unqualified opinion issued to the Town by nationally recognized bond counsel that any action by the Town or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Tax-Exempt Bonds to be includable in gross income for federal income tax purposes under existing law.

(c) Notwithstanding any other provision of this Ordinance, the Town's representations and obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Tax-Exempt Bonds for as long as such matters are relevant to the exclusion of interest on the Tax-Exempt Bonds from the gross income of the owners for federal income tax purposes.

Section 7.02 Qualified Tax-Exempt Obligations. In the event that the Tax-Exempt Bonds are eligible to be issued as "qualified tax-exempt obligations" as defined in Section 265(b)(3) of the Code, the Pricing Officer is authorized to designate or deem the Tax-Exempt Bonds as "qualified tax-exempt obligations" and, with respect to such designation, the Pricing Officer (acting on behalf of the Board) is authorized to make the following representations, which the Board hereby approves: (a) that during the calendar year in which the Tax-Exempt Bonds are issued, the Town (including all entities which issue obligations on behalf of the Town) shall not have designated and will not designate obligations, which when aggregated with the Tax-Exempt Bonds, will result in more than \$10 million of "qualified tax-exempt obligations" being issued and (b) that the Town has examined its financing needs for the calendar year in which the Tax-Exempt Bonds are issued and reasonably anticipates that the amount of bonds, leases, loans or other obligations, together with the Tax-Exempt Bonds and any other tax-exempt obligations heretofore issued by the Town (plus those of all entities which issue obligations on behalf of the Town) during the calendar year in which the Tax-Exempt Bonds are issued, when the higher of the face amount or the issue price of each such tax-exempt obligations issued for the calendar year in which the Tax-Exempt Bonds are issued by the Town is taken into account, will not exceed \$10 million.

ARTICLE VIII SALE OF BONDS; APPLICATION OF PROCEEDS

Section 8.01 Terms and Provisions of the Bonds; Sale of the Bonds.

(a) The Bonds shall be issued pursuant to this Ordinance and sold and delivered to the Purchaser in accordance with the terms of a Purchase Contract or winning bid; provided that, all conditions set forth in Exhibit B can be satisfied.

(b) As authorized by Chapter 1207, the Pricing Officer is authorized to act on behalf of the Town Council, upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering the Bonds, and carrying out the other procedures specified in this Ordinance, including determining (i) the manner of sale (which may be by private placement, negotiated or competitive sale, limited or public offering or any combination thereof), (ii) the total aggregate principal amount and the number of series of the Bonds (including the aggregate principal amount of each series of Bonds issued to effect the purposes identified in Section 2.01 of this Ordinance), (iii) the date(s) on which the Bonds of each series will be sold and delivered, (iv) whether to acquire bond insurance for the Bonds, (v) the price at which the Bonds will be sold, (vi) the Refunding Candidates to be refunded by the Bonds, and their redemption dates, (vii) the number and title or designation for the Bonds of each series to be issued, (viii) the form in which the Bonds shall be issued, (ix) the dates on which the Bonds will mature (which shall not be later than forty years following the date of their delivery), the principal amount to mature in each

year, the rate of interest to be borne by each such maturity (which shall not exceed the maximum interest rate allowed by law), the Interest Payment Dates, and the initial date from which interest will accrue, (x) the dates, prices and other terms upon and at which the Bonds shall be subject to redemption prior to maturity (including terms for optional and mandatory redemption), (xi) whether the Bonds are to be issued as Tax-Exempt Bonds or Taxable Bonds, and (xii) all other terms and provisions of and details and matters relating to the Bonds of each series and their issuance, sale and delivery and the refunding of the Refunded Obligations, all of which shall be specified in the Pricing Certificate.

The Pricing Officer may approve modifications to this Ordinance to conform to the terms of the Bonds, as approved by the Pricing Officer, and execute any instruments, agreements and other documents as the Pricing Officer shall deem necessary or appropriate in connection with the issuance, sale and delivery of Bonds pursuant to this Ordinance.

The authority granted to the Pricing Officer under this Section 8.01 shall expire at 11:59 p.m. on the 180th day following the date of adoption of this Ordinance (the "Expiration Date"), unless otherwise extended by the Town Council by separate action. Bonds sold pursuant to a Purchase Contract (in the case of a private placement or negotiated sale) or winning bid (in the case of a competitive offering) executed on or before the Expiration Date may be delivered after the Expiration Date.

In satisfaction of Section 1201.022(a)(3), Texas Government Code, the Town Council hereby determines that the delegation of the authority to the Pricing Officer to approve the final terms and conditions of each series of the Bonds as set forth in this Ordinance is, and the decisions made by the Pricing Officer pursuant to such delegated authority and incorporated in a Pricing Certificate will be, in the best interests of the Town and shall have the same force and effect as if such determination were made by the Town Council, and the Pricing Officer is hereby authorized to make and include in a Pricing Certificate an appropriate finding to that effect. Any finding or determination made by the Pricing Officer relating to the issuance and sale of the Bonds and the execution of the Purchase Contract (in the case of a private placement or negotiated sale) or winning bid (in the case of a competitive offering) in connection therewith shall have the same force and effect as a finding or determination made by the Town Council.

(c) The Pricing Officer is hereby authorized and directed to execute and deliver the Purchase Contract (in the case of a private placement or negotiated sale) or winning bid (in the case of a competitive offering) in the form and on the terms approved by the Pricing Officer. All other officers, agents and representatives of the Town are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds.

(d) All officers of the Town are authorized to execute such documents, certificates, receipts and other instruments as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor including, without limitation, the Purchase Contract (in the case of a private placement or negotiated sale) or winning bid (in the case of a competitive offering).

Section 8.02 Offering Materials. The Pricing Officer is hereby authorized to approve, in the name and on behalf of the Town, in connection with the sale of each series of Bonds, the preparation and distribution of (a) a Preliminary Official Statement and a final Official Statement relating to the Bonds of such series to be used by the Purchaser in connection with the marketing and public offering of the Bonds of such series or (b) such other informational materials as shall be determined by the Pricing Officer to be necessary and appropriate in connection with the private placement of the Bonds with one or more qualified institutional buyers, accredited investors or financial institutions. In addition, the Pricing Officer is authorized to deem the Preliminary Official Statement “final” for purposes of the Rule. In the event the Bonds are sold pursuant to a public sale, the Pricing Officer is hereby authorized to approve, in the name and on behalf of the Town, in connection with the sale of the Bonds, the preparation and distribution of a Notice of Sale. The Pricing Officer and other appropriate officials of the Town are hereby authorized to sign such Official Statement and/or to deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Bonds of such series.

Section 8.03 Arrangements for Discharge and Redemption of Refunded Obligations.

(a) The Town hereby calls the Refunded Obligations for redemption prior to maturity on the dates and at the prices set forth in the Pricing Certificate.

(b) The Pricing Officer is hereby authorized and directed to cause a copy of this Ordinance to be delivered to each paying agent/registrar for the Refunded Obligations, together with the Pricing Certificate therefor, the delivery of which shall constitute notice of redemption and notice of defeasance to such paying agent/registrar.

(c) The Pricing Officer is hereby authorized to make necessary arrangements for the purchase of defeasance securities, as may be necessary for the defeasance of the Refunded Obligations and the application for the acquisition of defeasance securities is hereby approved and ratified.

(d) The Pricing Officer may execute and deliver escrow agreements, deposit agreements or similar agreements (each an “Escrow Agreement”), letters of instructions or any other instruments relating to the safekeeping, investment, administration and disposition of moneys deposited to effect the defeasance of the Refunded Obligations in such form and subject to such terms and conditions as the Pricing Officer determines may be necessary or convenient to carry out the intent and purpose of this Ordinance.

(e) The Pricing Officer and the Escrow Agent are authorized (a) to subscribe for, agree to purchase, and purchase securities that are permitted investments for a defeasance escrow established to defease the Refunded Obligations, and to execute any and all subscriptions, purchase agreements, commitments, letters of authorization and other documents necessary to effectuate the foregoing, and any actions heretofore taken for such purpose are hereby ratified and approved, and (b) to direct and provide for such contributions to the escrow fund from lawfully available funds of the Town as are provided in the Pricing Certificate.

(f) Each paying agent/registrars for the Refunded Obligations is hereby authorized and directed to give notice of redemption and deposit with respect to the Refunded Obligations as required under the ordinance pursuant to which the Refunded Obligations were issued.

Section 8.04 Control and Custody of Bonds; Further Procedures. The Pricing Officer 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, and Town Secretary, individually or collectively, are hereby authorized and directed to furnish and execute such documents and certifications relating to the Town 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 Town'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 Town all certificates, consents, receipts, requests, notices, and other documents as may be reasonably necessary to satisfy the Town'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 Town 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 8.05 Application of Proceeds. Proceeds from the sale of the Bonds shall be applied in accordance with the provisions set forth in the Pricing Certificate, which may provide for the creation of any special accounts deemed necessary or appropriate by the Pricing Officer. In addition, in furtherance of the authority conferred by this Ordinance, the Pricing Officer may direct that lawfully available funds of the Town be applied (in such amounts as the Pricing Officer shall direct), deposited and invested to effect the purposes of this Ordinance, including to effect the defeasance and redemption of the Refunded Obligations.

ARTICLE IX CONTINUING DISCLOSURE UNDERTAKING

Section 9.01 No Undertaking Required. The aggregate principal amount of the Bonds shall be less than \$1,000,000, and therefore SEC Rule 15c2-12 is not applicable to the offering of the Bonds. Accordingly, no agreement or undertaking to provide continuing disclosure information after the issuance of the Bonds has been made by the Town.

ARTICLE X
ORDINANCE A CONTRACT; AMENDMENTS

Section 10.01 Ordinance a Contract; Amendments. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the Town, and shall not be amended or repealed by the Town so long as any Bond remains Outstanding except as permitted in this Section and in Section 9.04 hereof. The Town 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 Town 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 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 10.02 Benefits of Ordinance. Nothing in this Ordinance; expressed or implied, is intended or shall be construed to confer upon any person other than the Town, 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 Town, the Paying Agent/Registrar and the Holders.

ARTICLE XI
MISCELLANEOUS

Section 11.01 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 Registration Books 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 11.02 No Recourse Against Town 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 Town or any person executing any Bonds.

Section 11.03 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 11.04 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 11.05 Effect of Headings. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 11.06 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 Town Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 11.07 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 11.08 Effective Date. In accordance with the provisions of Section 1201.028, Texas Government Code, as amended, this Ordinance shall be effective immediately upon its adoption by the Town Council.

[Signature Page Follows]

PASSED, APPROVED AND EFFECTIVE this the 13th day of July 2021.

TOWN OF BAYSIDE, TEXAS

Donna Easton
Mayor

ATTEST:

Connie Cramer
Town Secretary

SCHEDULE I

REFUNDING CANDIDATES

- Town of Bayside, Texas, \$298,000 Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Series 2003-A
- Town of Bayside, Texas, \$344,000 Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Series 2003

EXHIBIT A
FORM OF BOND

Form of Definitive Bond.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
TOWN OF BAYSIDE, TEXAS
COMBINATION TAX AND REVENUE REFUNDING BOND, SERIES 2021

Bond Date: Delivery Date: Interest Rate: Stated Maturity: CUSIP NO:
_____, 20— _____, 20— _____ _____ _____

Registered Owner: CEDE & CO.

Principal Amount: _____ DOLLARS

The Town of Bayside, Texas (hereinafter referred to as the "Town"), a body corporate and municipal corporation in the County of Refugio, 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 _____ and _____ in each year, commencing _____, 20__, 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 "Registration Books" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth 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 Registration Books 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 Town, 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 Town Council of the Town (herein referred to as the "Ordinance").

[The Town has reserved the option to redeem the Bonds maturing on or after _____, 20__, in whole or in part, before their respective scheduled maturity dates, on _____, 20__, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the Town shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.]

Bonds maturing on _____ in each of the years _____ through _____, inclusive (the "Term Bonds"), are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the Town, in part at a redemption price equal to the principal amount thereof, without premium, plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

Term Bonds Maturing _____, 20__

<u>Redemption Date</u>	<u>Principal Amount</u>
_____, 20__	
_____, 20__	
_____, 20__ (maturity)	

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the Town, by the principal amount of any Bonds which, at least forty-five (45) days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the Town at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have

been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. In the Ordinance, the Town reserves the right in the case of an optional redemption to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the Town retains the right to rescind such notice at any time prior to the scheduled redemption date if the Town delivers a certificate of the Town to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the Town to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

The Bonds are payable from the proceeds of an ad valorem tax levied upon all taxable property within the Town, within the limitations prescribed by law, and are further payable from and secured, by lien on and a pledge of the Net Revenues (identified and defined in the Ordinance), derived from the operation of the System. In the Ordinance, the Town reserves and retains the right to issue Additional Bonds (as described in the Ordinance), while the Bonds are outstanding, subject to any terms, conditions, or restrictions as may be applicable thereto under law or otherwise.

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 Town 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 Registration Books 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 Registration Books 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 Town and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Registration Books (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 Town 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 Registration Books at the close of business on the last Business Day next preceding the date of mailing of such notice.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the Town.

It is hereby certified, recited, represented and declared that the Town 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 Town 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 aforesated. 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 Town Council of the Town has caused this Bond to be duly executed under the official seal of the Town as of the Bond Date.

TOWN OF BAYSIDE, TEXAS

Mayor

COUNTERSIGNED:

Town Secretary

(SEAL)

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)

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

AUTHENTICATION 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 _____, _____, is the "Designated Payment/Transfer Office" for this Bond.

_____,
as Paying Agent/Registrar

Registration Date:

By: _____
Authorized Signature

Form of Assignment.

ASSIGNMENT

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

(Social Security or other identifying number) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____

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

DATED: _____

Signature guaranteed:

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

The Initial Bond shall be in the form set forth in paragraph (a) of this Exhibit A, except that the heading and first paragraph of Initial Bond shall be modified as follows:

REGISTERED
NO. T-1

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
TOWN OF BAYSIDE, TEXAS
COMBINATION TAX AND REVENUE REFUNDING BOND, SERIES 2021

Bond Date: _____, 20__

Delivery Date: _____, 20__

Registered Owner: CEDE & CO.

Principal Amount: _____

The Town of Bayside, Texas (hereinafter referred to as the "Town"), a body corporate and municipal corporation in the County of Refugio, 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 _____ in each of the years and in principal installments in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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(Information to be inserted from the Pricing Certificate).

(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 _____ and _____ of each year, commencing _____, 20__, 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 _____ (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices in Chicago, Illinois (the "Designated Payment/Transfer Office"), 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 whose name appears on the "Registration Books" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth 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 Registration Books 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

SALE PARAMETERS

In accordance with Section 8.01 of the Ordinance, the following conditions with respect to the Bonds must be satisfied in order for the Pricing Officer to act on behalf of the Town in selling and delivering the Bonds:

- (a) the price to be paid for the Bonds shall not be less than 90% of the aggregate original principal amount thereof, plus accrued interest, if any, thereon;
- (b) the true interest cost of the Bonds shall not exceed 3.75%, as determined by the Pricing Officer;
- (c) the final maturity date of the Bonds shall not exceed the final maturity date of the Refunded Obligations;
- (d) the aggregate principal amount of the Bonds shall not exceed the amount authorized in Section 2.01 hereof and shall equal, together with any net premium, an amount sufficient to provide for the purposes described in Section 2.01 hereof; and
- (e) the refunding of the Refunded Obligations shall result in (i) positive gross debt service savings and (ii) net present value debt service savings of at least three percent (3.00%) of the principal amount of the Refunded Obligations.