
NOTE PURCHASE AGREEMENT

Dated September 28, 2023,

between

CITY OF AUSTIN, TEXAS

and

WELLS FARGO BANK, NATIONAL ASSOCIATION

NOTE PURCHASE AGREEMENT

(This Table of Contents is not a part of this
Note Purchase Agreement and is only
for convenience of reference)

SECTION	DESCRIPTION	PAGE
Parties		1
ARTICLE ONE	DEFINITIONS	2
Section 1.1.	Definitions	2
ARTICLE TWO	LETTER OF CREDIT	12
Section 2.1.	Issuance of Letter of Credit	12
Section 2.2.	Letter of Credit Drawings	13
Section 2.3.	Notes	14
Section 2.4.	Fee	16
Section 2.5.	Substitute Letter of Credit; Termination	17
Section 2.6.	Computation of Interest and Fees	17
Section 2.7.	Payment Due on Non-Business Day to Be Made on Next Business Day	17
Section 2.8.	Late Payments	17
Section 2.9.	Net of Taxes, Etc	18
Section 2.10	Increased Costs	19
Section 2.11.	Margin Regulations	20
Section 2.12.	Maximum Rate	21
Section 2.13.	Security for Notes	21
Section 2.14.	Method of Payment; Etc	22
ARTICLE THREE	CONDITIONS PRECEDENT	22
Section 3.1.	Conditions Precedent to Issuance of the Letter of Credit	22
ARTICLE FOUR	REPRESENTATIONS AND WARRANTIES	24
Section 4.1.	Representations and Warranties of the City	24
ARTICLE FIVE	COVENANTS	28
Section 5.1.	Covenants of the City	28
ARTICLE SIX	DEFAULTS	35
Section 6.1.	Events of Default and Remedies	35
Section 6.2.	Remedies	39

ARTICLE SEVEN	MISCELLANEOUS	39
Section 7.1.	Amendments, Waivers, Etc.	39
Section 7.2.	Notices.	40
Section 7.3.	Survival of Covenants; Successors and Assigns.	41
Section 7.4.	Unconditional Obligations.....	42
Section 7.5.	Liability of Bank; Indemnification	42
Section 7.6.	Expenses and Taxes.....	43
Section 7.7.	No Waiver; Conflict.	44
Section 7.8.	Modification, Amendment, Waiver, Etc.	44
Section 7.9.	Dealing with the City and/or ERCOT.	44
Section 7.10.	Severability.....	44
Section 7.11.	Counterparts.	44
Section 7.12.	Table of Contents; Headings.	45
Section 7.13.	Entire Agreement.....	45
Section 7.14.	Governing Law; Service of Process; Jurisdiction	45
Section 7.15.	Waiver of Jury Trial	46
Section 7.16.	Governmental Regulations	46
Section 7.17.	USA PATRIOT Act	46
Section 7.18.	Electronic Transmissions.....	46
Section 7.19.	Exemption from Disclosure Form	47
Section 7.20.	Arm's-Length Transaction	47
Section 7.21.	Israel Boycott.....	47
Section 7.22.	Chapter 2252	48
Section 7.23.	EMMA Postings	48
Section 7.24.	US QFC Stay Rules	48
Section 7.25.	Verification Regarding Energy Company Boycotts	49
Section 7.26.	Verification Regarding Discrimination Against Firearm Entity or Trade Association	50
Exhibit A	— Form of Request of [Increase/Decrease]	
Appendix I	— Form of Letter of Credit	

NOTE PURCHASE AGREEMENT

THIS NOTE PURCHASE AGREEMENT dated September 28, 2023 (together with any amendments or supplements hereto, this “*Agreement*”), between CITY OF AUSTIN, TEXAS (the “*City*”) and WELLS FARGO BANK, NATIONAL ASSOCIATION (together with its successors and assigns, the “*Bank*”).

WITNESSETH:

WHEREAS, the City is a “Home Rule City,” acting as such under the Constitution and laws of the State of Texas; and

WHEREAS, acting under the authority of Chapters 1371 and 1502, Texas Government Code (together, the “*Act*”) and pursuant to Ordinance No. [_____] adopted on September 14, 2023 (as further amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the “*Ordinance*”) by the City Council, as the governing body of the City (the “*City Council*”), the City has established a revenue financing structure for the City’s electric utility system pursuant to which the City can issue and enter into obligations secured by and payable from a lien on and pledge of the hereinafter defined Pledged Revenues; and;

WHEREAS, pursuant to the ERCOT Nodal Protocols (the “*Nodal Protocols*”) of the Electric Reliability Council of Texas, Inc. (“*ERCOT*”), the City is required to provide financial security pursuant to the terms of the Nodal Protocols; and

WHEREAS, one form of acceptable financial security under the Nodal Protocols is an unconditional, irrevocable letter of credit issued for the benefit of ERCOT as the beneficiary; and

WHEREAS, the City has requested that the Bank issue the Letter of Credit (as hereinafter defined) to assist the City in satisfying the financial security provisions of the Nodal Protocols and, upon any draw under the Letter of Credit, to purchase the hereinafter defined Authorized Installments; and

WHEREAS, under the laws of the State of Texas the City is not authorized to enter into a reimbursement agreement or credit agreement for the issuance of a letter of credit that does not support a debt issuance and therefore the agreement between the City and the Bank under which the Bank agrees to issue the Letter of Credit shall be in the form of a note purchase agreement in substantially the form of this Agreement; and

WHEREAS, as specifically provided for in the Ordinance, the Obligations (as hereinafter defined) owed hereunder, including, without limitation the Initial Note and the Authorized Installments issued thereunder, are special obligations of the City, secured by a pledge of the Pledged Revenues, which pledge is equal in priority to the pledge of the Pledged Revenues securing Similarly Secured Notes (as hereinafter defined); and

WHEREAS, the Bank is prepared to issue the Letter of Credit and purchase Authorized Installments upon the terms and conditions stated in the Ordinance and this Agreement; and

NOW, THEREFORE, in consideration of the agreements set forth herein and in order to induce the Bank to issue the Letter of Credit, the Bank and the City agree as follows:

ARTICLE ONE DEFINITIONS

Section 1.1. Definitions. As used in this Agreement:

“*Agreement*” - has the meaning set forth in the introductory paragraph hereof.

“*Anti-Corruption Laws*” - means: (a) the U.S. Foreign Corrupt Practices Act of 1977, as amended; (b) the U.K. Bribery Act 2010, as amended; and (c) any other anti-bribery or anti-corruption laws, regulations or ordinances in any jurisdiction in which the City or any member of the Borrowing Group is located or doing business.

“*Anti-Money Laundering Laws*” - means applicable laws or regulations in any jurisdiction in which the City or any member of the Borrowing Group is located or doing business that relates to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.

“*Applicable Letter of Credit Fee Rate*” - means, as of any date, the rate per annum associated with the Rating specified below:

	RATINGS (S&P/MOODY’S/FITCH)			APPLICABLE LETTER OF CREDIT FEE RATE
	Moody’s	S&P	Fitch	
Level 1	Aa3 or higher	AA- or higher	AA- or higher	0.75%
Level 2	A1	A+	A+	0.90%
Level 3	A2	A	A	1.05%
Level 4	A3	A-	A-	1.20%
Level 5	Baa1	BBB+	BBB+	1.45%
Level 6	Baa2	BBB	BBB	1.80%

In the event of a split Rating (i.e., the Rating of one of the foregoing Rating Agencies is at a different level than the Rating of either of the other Rating Agencies), the Applicable Letter of Credit Fee Rate shall be based upon the level in which the lowest rating appears. Any change in the Applicable Letter of Credit Fee Rate resulting from a change in a Rating shall be and become effective as of and on the date of the announcement

of the change in such Rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system by any such Rating Agency including, without limitation, any recalibration of the long-term debt rating of any unenhanced Separate Lien Electric Utility Obligations of the City in connection with the adoption of a “global” rating scale, each of the Ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. The City acknowledges, and the Bank agrees, that as of the Closing Date the Applicable Letter of Credit Fee Rate is that specified above for Level 1. Upon the occurrence and during the continuance of an Event of Default or upon the withdrawal or suspension of any Rating for credit-related reasons, the Applicable Letter of Credit Fee Rate shall automatically increase to the Letter of Credit Fee Rate to that described in Level 6 above plus one hundred basis points (1.00%) per annum.

“*Applicable Unutilized Commitment Fee Rate*” - means, as of any date, the rate per annum associated with the Rating specified below:

	RATINGS (S&P/MOODY’S/FITCH)			APPLICABLE UNUTILIZED COMMITMENT FEE RATE
	Moody’s	S&P	Fitch	
Level 1	Aa3 or higher	AA- or higher	AA- or higher	0.35%
Level 2	A1	A+	A+	0.40%
Level 3	A2	A	A	0.45%
Level 4	A3	A-	A-	0.50%
Level 5	Baa1	BBB+	BBB+	0.65%
Level 6	Baa2	BBB	BBB	0.90%

In the event of a split Rating (i.e., one of the foregoing Rating Agency’s Rating is at a different level than the Rating of either of the other Rating Agencies), the Applicable Unutilized Commitment Fee Rate shall be based upon the level in which the lowest rating appears. Any change in the Applicable Unutilized Commitment Fee Rate resulting from a change in a Rating shall be and become effective as of and on the date of the announcement of the change in such Rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system by any such Rating Agency including, without limitation, any recalibration of the long-term debt rating of any unenhanced Separate Lien Electric Utility Obligations of the City in connection with the adoption of a “global” rating scale, each of the Ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely

approximates the applicable rating category as currently in effect. The City acknowledges, and the Bank agrees, that as of the Closing Date the Applicable Unutilized Commitment Fee Rate is that specified above for Level 1. Upon the occurrence and during the continuance of an Event of Default or upon the withdrawal or suspension of any Rating for credit-related reasons, the Applicable Unutilized Commitment Fee Rate shall automatically increase to the Commitment Fee Rate to that described in Level 6 above plus one hundred basis points (1.00%) per annum.

“Authorized Installment” - means an Authorized Installment, as defined in the Ordinance, which shall be in an amount equal to the amount of the corresponding Drawing under the Letter of Credit, reflecting amounts payable to the Bank as a result of payment by the Bank of the amount of such, and the purchase price of which shall be equal to the principal amount of such Authorized Installment, the payment of such purchase price having been satisfied by the payment of such Drawing; *provided, however*, that the Initial Authorized Installment will be purchased directly by the Bank on the Closing Date pursuant to a prior request of the City and will not be purchased by the Bank pursuant to a Drawing under the Letter of Credit.

“Authorized Representative” – has the meaning set forth in the Ordinance.

“Available Amount” – means, as of any day, the maximum amount that is available to be drawn on the Letter of Credit for such day.

“Bank” - has the meaning set forth in the introductory paragraph hereof.

“Bank Purchase Date” - has the meaning set forth in Section 2.3(c) hereof.

“Base Rate” - means, for any day, the per annum rate of interest equal to the highest of (i) the sum of the Prime Rate *plus* one percent (1.00%), (ii) the sum of the Federal Funds Rate in effect on such day *plus* two percent (2.00%) and (iii) seven percent (7.00%); *provided, however*, that the Base Rate shall never exceed the Maximum Interest Rate.

“Bonds” – has the meaning set forth in the Ordinance.

“Borrowing Group” - means: (a) the City, (b) any affiliate or subsidiary of the City, if any, (c) any guarantor, (d) the owner of any collateral securing any part of the credit, any guaranty, or this Agreement, if any, and (e) any officer, director or agent acting on behalf of any of the parties referred to in items (a) through (d) with respect to the Letter of Credit, this Agreement or any of the other Related Documents.

“Business Day” - means a day other than: (a) a Saturday or Sunday; or (b) a day on which the New York Stock Exchange is closed or on which commercial banks in the State of Texas or the State of New York are authorized or obligated by law or executive order to close; or (c) a day on which the office of the Bank where draws under the Letter of Credit are to be presented is not open for business.

“Change of Law” - means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any Law, including, without limitation, any Risk Based Capital Guidelines, (b) any change in any Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, ruling, guideline, regulation or directive (whether or not having the force of law) by any Governmental Authority; *provided that* notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, ruling, guidelines, regulations or directives thereunder or issued in connection therewith and (ii) all requests, rules, rulings, guidelines, regulations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities shall in each case be deemed to be a “Change of Law”, regardless of the date enacted, adopted or issued.

“City” - has the meaning set forth in the introductory paragraph hereof.

“Closing Date” - means the date on which (i) the Letter of Credit is issued and (ii) the Initial Authorized Installment is delivered to the Bank.

“Code” - means the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

“Commercial Paper Notes” - has the meaning set forth in the Ordinance.

“Confidential Information” - means any sensitive or confidential information regarding the City, the Bank or any affiliate of the Bank including, without limitation, address and account information, e-mail addresses, telephone numbers, facsimile numbers, names and signatures of officers, employees and signatories.

“Debt” - of any Person means, at any date and without duplication, (i) all obligations of such Person for borrowed money, including without limitation, all obligations secured by any of the revenues or assets of such Person and all obligations of such Person evidenced by bonds (including revenue bonds), debentures, notes or other similar instruments, (ii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business (including, without limitation, accounts payable to construction contractors and other professionals for services rendered), (iii) all obligations of such Person as lessee under capital leases, (iv) all indebtedness of others secured by a Lien on any asset of such Person, whether or not such indebtedness is assumed by such Person, (v) all indebtedness of others guaranteed by, or secured by any of the revenues or assets of, such Person, (vi) payment obligations of such Person under any Swap Contract and (vii) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), credit agreements, bankers’ acceptances, bank guaranties, surety bonds and similar instruments.

“Debtor Relief Laws” - means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” - means any condition or event which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

“Default Rate” - means a per annum rate of interest equal to the sum of the Base Rate from time to time in effect plus three percent (3.0%); *provided, however*, that the Default Rate shall never exceed the Maximum Interest Rate.

“Drawing” - is defined in Section 2.3(c) hereof.

“Electric Light and Power System” or *“Electric Utility System”* or *“System”* - has the meaning set forth in the Ordinance.

“EMMA” – Electric Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

“ERCOT” - has the meaning set forth in the recitals hereof.

“Event of Default” - has the meaning set forth in Section 6.1 hereof.

“Excluded Taxes”- means, with respect to the Bank or any Participant, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which the Bank or such Participant is organized or in which its principal office is located, and (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the City is located.

“Extended Maturity Date” has the meaning set forth in Section 2.3(d)(ii) hereof.

“Federal Funds Rate” - means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Bank on such day on such transactions as determined by the Bank.

“Fiscal Year” - means the fiscal year of the City ending September 30.

“Fitch” - means Fitch Ratings, Inc., and its successors and assigns.

“GAAP” - means generally accepted accounting principles in the United States as in effect from time to time, applied by the City on a basis consistent with the City’s most recent financial statements furnished to the Bank.

“Governmental Authority” - means the government of the United States or any other nation or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or European Central Bank), or any arbitrator, mediator or other Person with authority to bind a party at law.

“Gross Revenues” has the meaning set forth in the Ordinance.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Initial Authorized Installment” has the meaning set forth in Section 2.3(b) hereof.

“Initial Note” - means the Note, Number T-1, delivered to and held by the Paying Agent/Registrar on the Closing Date on behalf of the Bank pursuant to Section 2.3 hereof.

“Laws” - means any treaty or any federal, regional, state and local law, statute, rule, ordinance, regulation, code, license, authorization, decision, injunction, interpretation, order or decree of any court or other Governmental Authority.

“Letter of Credit” - means that certain irrevocable and unconditional standby letter of credit issued by the Bank for the account of the City in favor of ERCOT, in the form of Appendix I hereto, with appropriate insertions, as amended and supplemented.

“Lien” - means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. For the purposes of this Agreement, a Person shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

“Master Ordinance (Separate Lien Obligations)” - means Ordinance No. 010118-53A, adopted by the City Council on June 18, 2001, as amended from time to time, relating to the Electric Light and Power System indebtedness.

“Material Adverse Effect” – means a material adverse effect on any of (a) the operations, business, properties, liabilities (actual or contingent) or condition (financial or otherwise) of the City or the System, (b) the ability of the City to perform any of its other obligations under this Agreement or any of the other Related Documents, (c) the legality, validity or enforceability of this Agreement or any of the other Related Documents, (d) the rights, interests, security or remedies of the Bank under this Agreement or any of the other Related Documents, or (e) the creation, perfection or priority of the lien on any Security.

“Maximum Interest Rate” - means the lesser of the (i) maximum net effective interest rate (as defined in and calculated in accordance with the provisions of Chapter 1204, Texas Government Code, as amended) and (ii) maximum non-usurious lawful rate of interest permitted by applicable law.

“Maximum Maturity Date” – means December 27, 2025.

“Maximum Stated Amount” - means \$100,000,000.

“Moody’s” - means Moody’s Investors Service, Inc., and its successors and assigns.

“Net Revenues” - has the meaning set forth in the Ordinance.

“Nodal Protocols” - has the meaning set forth in the recitals hereof.

“Note Counsel” means Norton Rose Fulbright US LLP, or any other firm or firms selected by the City whose opinion concerning bond matters is nationally recognized.

“Note Payment Fund” - means the “Payment Fund” as defined in the Ordinance.

“Notes” - the City of Austin, Texas Electric Utility System Program Notes, Taxable Series.

“Obligations” – means, without limitation or duplication, the Initial Note and all Authorized Installments, all advances to, and debts, liabilities, obligations, covenants and duties of, the City arising under any Related Document or otherwise with respect to this Agreement or any Note, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the City of any proceeding under any Debtor Relief Laws naming the City as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, all other obligations of the City to the Bank arising under or in relation to this Agreement and the other Related Documents.

“Other Taxes” - is defined in Section 2.9(a) hereof.

“Participant” - is defined in Section 7.3(b) hereof.

“Participation” - is defined in Section 7.3(b) hereof.

“Paying Agent/Registrar” or *“Issuing and Paying Agent”* or *“Registrar”* - means U.S. Bank Trust Company, National Association, and its successors and assigns.

“Paying Agent/Registrar Agreement” – means that certain Paying Agent/Registrar Agreement dated as of September 14, 2023, between the City and the Paying Agent/Registrar.

“Payment Account” – means [_____], or such other office as the Bank may designate from time to time.

“Person” - means an individual, a corporation, a partnership, an association, a limited liability company, a trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

“Pledged Revenues” - has the meaning set forth in the Ordinance.

“Prime Rate” – means the rate of interest announced by the Bank from time to time as its prime commercial rate or equivalent, as in effect on such day for United States dollar loans, with any change in the Prime Rate resulting from a change in said prime commercial rate to be effective as of the date of the relevant change in said prime commercial rate.

“Priority Lien Obligations” - means, collectively, the Subordinate Lien Bonds and the Separate Lien Electric Utility Obligations.

“Property” - means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

“Rating” - means the long-term unenhanced rating assigned to the Separate Lien Electric Utility Obligations by any Rating Agency (without regard to any bond insurance or other form of credit enhancement).

“Rating Agency” or *“Rating Agencies”* - means, as context requires, Moody’s, S&P and/or Fitch.

“Related Documents” - means this Agreement, the Letter of Credit, the Ordinance, the Master Ordinance (Separate Lien Obligations), the Initial Note, the Authorized Installments (to the extent issued, purchased and delivered pursuant to the Ordinance and this Agreement), the Paying Agent/Registrar Agreement and any documents related thereto.

“Risk Based Capital Guidelines” - means (i) the risk-based capital guidelines in effect in the United States, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States including transition rules, and any amendments to such regulations.

“*S&P*” - means S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, and any successor thereto.

“*Sanction*” or “*Sanctions*” - means any and all economic or financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes and restrictions and anti-terrorism laws imposed, administered or enforced from time to time by: (a) the United States of America, including those administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC), the U.S. Department of State, the U.S. Department of Commerce, or through any existing or future statute or Executive Order, (b) the United Nations Security Council, (c) the European Union, (d) the United Kingdom, (e) any other governmental authority with jurisdiction over the City or any member of the Borrowing Group.

“*Sanctioned Target*” - means any target of Sanctions, including: (a) Persons on any list of targets identified or designated pursuant to any Sanctions, (b) Persons, countries, or territories that are the target of any territorial or country-based Sanctions program, (c) Persons that are a target of Sanctions due to their ownership or control by any Sanctioned Target(s), or (d) otherwise a target of Sanctions, including vessels and aircraft, that are designated under any Sanctions program.

“*Scheduled Decrease Date*” means each date on which the City has requested the Stated Amount to decrease pursuant to Section 2.1 hereof.

“*Scheduled Expiration Date*” – means the date the parties hereto intend the Letter of Credit to expire on September 28, 2025 (i.e., initially, September 28, 2024, then automatically extended for an additional one-year period under the terms of the Letter of Credit to September 28, 2025), unless terminated in accordance with the terms of the Letter of Credit and this Agreement.

“*Scheduled Increase Date*” means each date on which the City has requested the Stated Amount to increase pursuant to Section 2.1 hereof.

“*Security*” has the meaning set forth in Section 2.13 hereof.

“*Separate Lien Electric Utility Obligations*” - has the meaning set forth in the Ordinance.

“*Similarly Secured Notes*” means the Commercial Paper Notes and any other obligations of the City payable, in part, from and secured by a parity lien on and pledge of the Pledged Revenues.

“*Specified Debt*” means (i) any bonds, notes, certificates, debentures or other evidence of similar indebtedness issued by or on behalf of the City secured by all or any portion of the Pledged Revenues, the payment of which ranks senior to or on parity with the Notes, (ii) the obligations of the City under any Swap Contract (other than any termination payments under any Swap Contract) (the payment of which is secured by all

or any portion of the Pledged Revenues and which ranks senior to or on parity with the Notes) providing interest rate support with respect to any Debt which ranks senior to or on parity with the Notes, (iii) any obligation of the City as lessee under a capital lease the payment of which is secured by all or any portion of the Pledged Revenues and which ranks senior to or on parity with the Notes which is not subject to appropriation or abatement, (iv) any guarantee by the City the payment of which ranks senior to or on parity with the Notes specified (*provided, however*, that the failure to pay any such guarantee as a result of any set-off, recoupment, counterclaim or any other defense of the City shall not constitute a failure to pay Specified Debt for purposes of this Agreement) and (v) direct obligations of the City arising under letters of credit (including standby and commercial), credit agreements, bankers' acceptances, bank guaranties, surety bonds and similar instruments the payment of which ranks senior to or on parity with the Notes.

"State" - means the State of Texas.

"Stated Amount" – means, initially, \$100,000,000, the maximum amount that is available to be drawn on the Letter of Credit on the Closing Date, as adjusted from time to time in accordance with the terms of this Agreement and the Letter of Credit.

"Subordinate Lien Bonds" - has the meaning set forth in the Ordinance.

"Swap Contract" - means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a *"Master Agreement"*), including any such obligations or liabilities under any Master Agreement.

"System" - means the Electric Light and Power System.

"Taxes" - means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, fines, additions to tax or penalties applicable thereto.

"Termination Date" - means the date the Letter of Credit is terminated in accordance with its terms.

“Unutilized Commitment” – means, for any day, an amount equal to the positive difference, if any, between (a) the Maximum Stated Amount and (b) the Stated Amount, in each case as of such day.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms. Any capitalized terms used herein which are not specifically defined herein shall have the same meanings herein as in the Master Ordinance (Separate Lien Obligations) and the Ordinance. All references in this Agreement to times of day shall be references to New York time unless otherwise expressly provided herein. Unless otherwise inconsistent with the terms of this Agreement, all accounting terms shall be interpreted and all accounting determinations hereunder shall be made in accordance with GAAP.

ARTICLE TWO LETTER OF CREDIT

Section 2.1. Issuance of Letter of Credit. (a) Upon the terms, subject to the conditions and relying upon the representations and warranties set forth in this Agreement or incorporated herein by reference, the Bank agrees to issue, on the Closing Date, the Letter of Credit in the initial Stated Amount of \$100,000,000. The Letter of Credit shall be in the form of Appendix I hereto.

(b) *Increase in Stated Amount; Reduction in Stated Amount.* The Bank agrees that, during the period from and including the Closing Date to and including the Scheduled Expiration Date, upon satisfaction of the conditions set forth in this Section 2.1, the Stated Amount of the Letter of Credit may, upon the written request of the City, be increased or decreased in accordance with the terms hereof and as provided in the Letter of Credit; *provided that* the obligation of the Bank to increase the Stated Amount shall be conditioned upon the satisfaction of the conditions set forth in Section 2.1(c) hereof and, in the case of any increase in the Stated Amount, that (i) all representations and warranties of the City contained in Article Four shall be true and correct in all material respects and (ii) no Default or Event of Default has occurred and is continuing, in each case as of the Scheduled Increase Date; *provided further that* in no event shall the Letter of Credit be increased or decreased more frequently than once per calendar month; *provided further that* in no event shall the amount of any increase in the Stated Amount exceed, at any time, the positive difference, if any, between (i) the Maximum Stated Amount and (ii) the sum of (A) the then Stated Amount of the Letter of Credit and (B) the aggregate principal amount of all Authorized Installments previously delivered hereunder (except that once the Initial Authorized Installment has been repaid it shall not be taken into account in the determination of aggregate principal amount of all Authorized Installments previously delivered for the purpose of calculating the maximum amount of an increase to the Stated Amount). Each increase or decrease of the Stated Amount shall be in an amount equal to at least \$10,000,000 and integral multiples of \$100,000 in excess thereof. Anything herein to the contrary notwithstanding, the obligation of the Bank to increase or decrease the Stated Amount of the Letter of Credit shall terminate on the Scheduled Expiration Date.

(c) *Conditions Precedent to any Increase or Decrease in Stated Amount.* The obligation of the Bank to increase or decrease the Stated Amount of the Letter of Credit shall be further subject to the following:

(i) receipt by the Bank, not less than five (5) Business Days prior to the effective date of any increase in the Stated Amount (the “*Scheduled Increase Date*”) or decrease in the Stated Amount (the “*Scheduled Decrease Date*”), as applicable, of written notice from the City, in substantially the form of Exhibit A hereof, of its request to increase or decrease, as applicable, such Stated Amount and the amount so requested, which written notice, in the case of a request to increase the Stated Amount, shall be deemed to include a representation that (i) all representations and warranties of the City contained in Article Four are and shall be true and correct in all material respects, (ii) no Default or Event of Default has occurred and is continuing, and (iii) the amount of the requested increase to the Stated Amount will not exceed the positive difference, if any, between (A) the Maximum Stated Amount and (B) the sum of (x) the then Stated Amount of the Letter of Credit and (y) the aggregate principal amount of all Authorized Installments previously delivered hereunder (except that once the Initial Authorized Installment has been repaid it shall not be taken into account in the determination of aggregate principal amount of all Authorized Installments previously delivered for the purposes of this Section 2.1(c)(i)), in each case as of the Scheduled Increase Date;

(ii) receipt by the Bank, not less than four (4) Business Days prior to the Scheduled Increase Date or Scheduled Decrease Date, as applicable, of a completed Exhibit III (Amendment) to the Letter of Credit (other than the signatures on behalf of the Bank and ERCOT) from an authorized officer of the City, including, in particular, the amount of the increase or decrease in the Stated Amount and the Scheduled Increase Date or Scheduled Decrease Date, as applicable;

(iii) the requested Scheduled Increase Date or Scheduled Decrease Date, as applicable, is a Business Day;

(iv) a determination by the Bank that the delivery of the related Exhibit III (Amendment) will not cause the sum of the Stated Amount, plus the aggregate principal amount of all Authorized Installments previously delivered hereunder, to exceed the Maximum Stated Amount (except that once the Initial Authorized Installment has been repaid it shall not be included in the determination of aggregate principal amount of all Authorized Installments previously delivered hereunder for the purposes of this Section 2.1(c)(iv)); and

(v) a determination by the Bank that, as of the applicable Scheduled Increase Date, the Scheduled Expiration Date has not occurred.

Section 2.2. Letter of Credit Drawings. (a) *General.* ERCOT is authorized to make drawings under the Letter of Credit in accordance with its terms. The City hereby directs the Bank to make payments under the Letter of Credit in the manner therein provided. The City hereby irrevocably approves reductions of the amount of the Letter of Credit as provided therein.

Section 2.3. Notes.

(a) *Issuance of Initial Note.* On the Closing Date, the City shall issue to the Paying Agent/Registrar the Initial Note in accordance with the terms of the Ordinance and this Agreement. The Initial Note shall (i) be dated September 28, 2023, (ii) be issued pursuant to the terms of the Ordinance such that, among other things, Authorized Installments shall be issued by the Paying Agent/Registrar thereunder upon a draw on the Letter of Credit (as set forth more fully below), (iii) bear interest at the Base Rate as provided herein, (iv) be secured by the Pledged Revenues, and (v) be payable (only to the extent of Authorized Installments having been issued, purchased and delivered), as to principal, not later than the Maximum Maturity Date.

(b) *Initial Issuance of an Authorized Installment and the Purchase thereof by the Bank.* On the Closing Date, separate from the Letter of Credit and upon receipt by the Bank of a written request from the City for the Initial Authorized Installment, (i) the Paying Agent/Registrar shall issue an initial Authorized Installment (the "*Initial Authorized Installment*") in a principal amount equal to \$5,000, (ii) the Bank shall purchase the Initial Authorized Installment in an amount equal to \$5,000, (iii) the Paying Agent/Registrar shall register the Bank as the owner of the Initial Authorized Installment in registration books maintained by the Paying Agent/Registrar and (iv) the Paying Agent/Registrar shall record on the Initial Note the principal amount of the Initial Authorized Installment and the payments of the principal of and interest on the Initial Authorized Installment; *provided, however*, that the failure of the Paying Agent/Registrar to register the Bank as owner of the Initial Authorized Installment or to record any such amount shall not, however, limit or otherwise affect the obligations of the City to repay all amounts owed on the Initial Authorized Installment, together with all interest accrued thereon as provided in this Section 2.3 hereof.

(c) *Further Issuances of the Authorized Installments and the Purchase thereof by the Bank.* On each day on which the Bank shall honor a demand for payment under the Letter of Credit (such payment by the Bank being herein referred to as a "*Drawing*"), (i) the Bank shall give notice to the Paying Agent/Registrar of such Drawing, (ii) the Paying Agent/Registrar shall, automatically and without any notice to or consent by the City or any other Person, issue in the principal amount of such Drawing an Authorized Installment (such Authorized Installment to (A) have a final maturity date as set forth in the Ordinance, (B) be subject to prior redemption as set forth herein and in the Ordinance and (C) bear interest as set forth herein and in the Ordinance) pursuant to the Ordinance and this Agreement, (iii) the Bank shall have, on the date such Drawing is honored by the Bank (each a "*Bank Purchase Date*") and concurrently upon payment of such Drawing, and without any further consideration, purchased such Authorized Installment at par (such Authorized Installment to (A) have a final maturity date as set forth in the Ordinance, (B) be subject to prior redemption as set forth herein and in the Ordinance and (C) bear interest as set forth herein and in the Ordinance) in a principal amount equal to the amount of the relating Drawing under the Letter of Credit, (iv) the Paying Agent/Registrar shall register the Bank as the owner of the Authorized Installment in the registration books maintained by the Paying Agent and (v) the Paying Agent/Registrar shall record on the Initial Note the principal amount of such Authorized Installment and the payments of the principal of and interest on such Authorized Installment; *provided, however*, that the failure of the Paying Agent/Registrar to register the Bank as the Holder (as defined in the Ordinance) of the Authorized Installment or record any such

amount shall not, however, limit or otherwise affect the obligations of the City to repay to the Bank all amounts owed on any such Authorized Installment, together with all interest accrued thereon as provided in this Section 2.3. If and to the extent that there has been a Drawing and the related Authorized Installment has not been issued to the Bank pursuant to and in accordance with the terms of the Ordinance and this Agreement, the City shall be unconditionally obligated to reimburse the Bank for such Drawing, such reimbursement obligation to be payable on the date and to bear interest at the rate applicable to such Authorized Installment, assuming for such purpose that such Authorized Installment had been so issued, but only to the extent and so long as such Authorized Installment has not been issued. Upon each Drawing, the Maximum Stated Amount of the Letter of Credit shall be permanently reduced by the amount of such Drawing and shall not be reinstated upon the repayment of such Drawing.

(d) *Payment of Principal of and Interest on an Authorized Installment.*

(i) In the event that the Bank honors a Drawing under the Letter of Credit and shall have purchased the related Authorized Installment as a result of such Drawing and (y) the representations and warranties of the City contained in Article Four of this Agreement are not true and correct in all material respects on the related Bank Purchase Date or (z) a Default or Event of Default has occurred and is continuing on the related Bank Purchase Date, the related Authorized Installment shall be mandatorily redeemed in full on such Bank Purchase Date pursuant to the Ordinance.

(ii) In the event that the Bank honors the Drawing under the Letter of Credit and shall have purchased the related Authorized Installment as a result of such Drawing and (y) the representations and warranties of the City contained in Article Four of this Agreement are true and correct in all material respects on the related Bank Purchase Date and (z) no Default or Event of Default has occurred and is continuing on the related Bank Purchase Date, the related Authorized Installment shall be paid or redeemed in full on the the earlier of (i) the ninetieth (90th) day next following the related Bank Purchase Date and (ii) the Maximum Maturity Date (the “*Extended Maturity Date*”) pursuant to the Ordinance. Unless the City shall have otherwise previously advised the Bank in writing, payment by the Bank of the Drawing under the Letter of Credit shall be deemed to constitute a representation and warranty by the City that on the date of the Drawing (i) the representations and warranties of the City contained in Article Four are true and correct in all material respects on the related Bank Purchase Date and (ii) no Default or Event of Default has occurred and is continuing on the related Bank Purchase Date.

(iii) The Initial Authorized Installment shall be paid or redeemed in full on or before the ninetieth (90th) day next following the Closing Date.

(e) *Interest on Authorized Installments.* The City shall pay interest on the Authorized Installments from the Bank Purchase Date until such Authorized Installment is paid in full at the Base Rate from time to time in effect. The City shall pay interest on the Initial Authorized Installment from the Closing Date until the Initial Authorized Installment is paid in full at the Base Rate from time to time in effect. Interest on each Authorized Installment bearing interest at the Base Rate shall be due and payable, in arrears, on the applicable Extended Maturity Date and upon

redemption of such Authorized Installment. Interest on each Authorized Installment bearing interest at the Default Rate shall be due and payable as provided herein and in the Ordinance.

(f) *Optional Redemption.* Pursuant to the terms of the Ordinance and this Agreement, the City may optionally redeem or cause to be redeemed the amount of any Authorized Installment outstanding in whole or in part with accrued interest to the date of such redemption on the amount prepaid, upon not less than two Business Days' written notice to the Bank. Any prepayment in part under this Section 2.3(f) shall be applied by the Bank against each such Authorized Installment in the order in which each such Authorized Installment was made with the Authorized Installment that has been outstanding the longest period being paid first.

Section 2.4. Fee. (a) *Letter of Credit Fees.* (i) The City hereby agrees to pay to the Bank a non-refundable letter of credit fee (the "*Letter of Credit Fee*") payable quarterly in arrears commencing on December 1, 2023 (for the period beginning on the Closing Date to and including November 30, 2023), and thereafter on the first Business Day of each March, June, September and December to the Termination Date and on the Termination Date, in an amount equal to equal to the product of the Applicable Letter of Credit Fee Rate times the Stated Amount of the Letter of Credit, in each case, for each day during the related fee period that begins on the first day of each related fee period (or the Closing Date for the first quarterly period) and that ends on the last day of such related fee period.

(ii) The City hereby further agrees to pay to the Bank a non-refundable commitment fee (if any) payable quarterly in arrears commencing on December 1, 2023 (for the period beginning on the Closing Date to and including November 30, 2023), and thereafter on the first Business Day of each March, June, September and December to the Termination Date and on the Termination Date, in an amount equal to equal to the product of the Applicable Unutilized Commitment Fee Rate times the Unutilized Commitment for such day during each related period (if any), in each case, for each day during the related fee period that begins on the first day of each related fee period (or the Closing Date for the first quarterly period) and that ends on the last day of such related fee period.

(b) *Drawing Fee.* The City hereby agrees to pay a non-refundable drawing fee of \$300 to the Bank for each Drawing under the Letter of Credit one (1) Business Day after notice thereof to the City from the Bank of such Drawing.

(c) *Amendment and Transfer Fee.* The City agrees to pay, or cause to be paid, to the Bank, (i) on the date of each amendment to the Letter of Credit a non-refundable fee in an amount equal to \$500 and (ii) on the date of each amendment to this Agreement, transfer of the Letter of Credit to a successor beneficiary, or execution of any standard waiver or consent, a non-refundable fee in a minimum amount equal to \$2,500 (or such greater amount reasonably determined by the Bank) plus, in each case, any out-of-pocket expenses and the reasonable fees and expenses of Bank's Counsel.

(d) *Termination and Reduction Fee.* The City hereby agrees to pay to the Bank a Reduction and Termination Fee (as defined below) in connection with any permanent reduction to, or termination of, the Maximum Stated Amount by the City prior to the first (1st) anniversary

of the Closing Date, in an amount equal to the product of (1) the Applicable Letter of Credit Fee Rate, (2) the amount of such permanent reduction or termination of the Maximum Stated Amount, as applicable, and (3) a fraction, the numerator of which is equal to the number of days from and including the date of such termination or reduction to and including the first (1st) anniversary of the Closing Date, and the denominator of which is 360 (the “*Reduction and Termination Fee*”), payable on the date of such termination or replacement.

Section 2.5. Substitute Letter of Credit; Termination. (a) The City agrees not to replace the Letter of Credit (or to direct ERCOT to terminate and surrender the Letter of Credit) or terminate this Agreement except upon (i) the payment to the Bank of all fees, expenses and other Obligations payable hereunder, (ii) the payment to the Bank of all principal and accrued interest owing on all outstanding Authorized Installments, and (iii) providing the Bank notice of its intention to do so at least thirty (30) days prior to the date of such termination or replacement; *provided* that all payments to the Bank referred to in clauses (i) and (ii) above shall be made with immediately available funds.

(b) The Bank shall not be liable for any damages (including, without limitation, special, incidental, consequential or punitive damages) arising from the City’s election to cause the beneficiary of the Letter of Credit to request the termination of the Letter of Credit or replacement of the Letter of Credit or permanent reduction of the Stated Amount for any reason, including, without limitation, any termination or reduction arising from any representation, certification, or verification made by the Bank that it does not and will not boycott energy companies in connection with Texas Government Code Chapter 2274 (Prohibition on Contracts with Companies Boycotting Certain Energy Companies), regardless of whether it is designated as an boycotter of energy companies on any list created pursuant to Texas Government Code Chapter 809 (Prohibition on Investment in Financial Companies that Boycott Certain Energy Companies).

Section 2.6. Computation of Interest and Fees. Fees payable hereunder shall be calculated on the basis of a year of 360 days and the actual number of days elapsed. Interest payable hereunder and under each Authorized Installment shall be calculated on the basis of a year of 365 days and the actual number of days elapsed. Interest shall accrue during each period during which interest is computed from and including the first day thereof to but excluding the last day thereof.

Section 2.7. Payment Due on Non-Business Day to Be Made on Next Business Day. If any sum becomes payable pursuant to this Agreement on a day which is not a Business Day, the date for payment thereof shall be extended, without penalty, to the next succeeding Business Day, and such extended time shall be included in the computation of interest and fees.

Section 2.8. Late Payments. If the principal amount of any Authorized Installment or Obligation is not paid or redeemed when due, such Authorized Installment or Obligation, as applicable, shall bear interest until paid in full at a rate per annum equal to the Default Rate, payable on demand.

Section 2.9. Net of Taxes, Etc.

(a) *Payments Free of Taxes.* All payments to the Bank or any Participant by the City hereunder or under any Authorized Installment shall be made free and clear of and without withholding or deduction for any and all Indemnified Taxes. If the City shall be required by law to withhold or deduct any Indemnified Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder or under any Authorized Installment to the Bank or any Participant, then (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.9), the Bank or such Participant receives an amount equal to the sum it would have received had no such deductions been made, (ii) the City shall make such deductions and (iii) the City shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If the City shall make any payment under this Section 2.9 to or for the benefit of the Bank or any Participant with respect to Indemnified Taxes and if the Bank or such Participant shall claim any credit or deduction for such Indemnified Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States then the Bank or such Participant shall pay to the City an amount equal to the amount by which such other taxes are actually reduced; *provided*, that the aggregate amount payable by the Bank or such Participant pursuant to this sentence shall not exceed the aggregate amount previously paid by the City with respect to such Indemnified Taxes. In addition, the City agrees to pay any present or future stamp, recording or documentary taxes and any other excise or property taxes, charges or similar levies that arise under the laws of the United States of America or any state of the United States from any payment made hereunder or otherwise with respect to this Agreement or the Letter of Credit (hereinafter referred to as “*Other Taxes*”). The Bank or such Participant shall provide to the City within a reasonable time a copy of any written notification it receives with respect to Indemnified Taxes or Other Taxes owing by the City to the Bank or such Participant hereunder; *provided*, that the Bank’s or such Participants failure to send such notice shall not relieve the City of its obligation to pay such amounts hereunder.

(b) *Indemnification by the City.* The City shall, to the fullest extent permitted by law and subject to the provisions hereof, pay the Bank or any Participant for the full amount of Indemnified Taxes and Other Taxes including any Indemnified Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 2.9 paid by the Bank or such Participant or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally asserted; *provided*, that the City shall not be obligated to pay the Bank or such Participant for any penalties, interest or expenses relating to Indemnified Taxes or Other Taxes arising from the Bank’s or such Participant’s negligence or willful misconduct. The Bank and such Participant agrees to give notice to the City of the assertion of any claim against the Bank or such Participant relating to such Indemnified Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; *provided*, that the Bank’s or such Participant’s failure to notify the City promptly of such assertion shall not relieve the City of its obligation under this Section 2.9. Payments by the City pursuant to this subsection (b) shall be made within thirty (30) days from the date the Bank or such Participant makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. The Bank and such Participant agrees to repay to the City any refund (including that portion of any interest that was included as part of such refund)

with respect to Taxes or Other Taxes paid by the City pursuant to this Section 2.9 received by the Bank or such Participant for Indemnified Taxes or Other Taxes that were paid by the City pursuant to this Section 2.9 and to contest, with the cooperation and at the expense of the City, any such Indemnified Taxes or Other Taxes which the Bank or such Participant or the City reasonably believes not to have been properly assessed.

(c) *Evidence of Payments.* Within thirty (30) days after the date of any payment of Indemnified Taxes by the City, the City shall furnish to the Bank or such Participant the original or a certified copy of a receipt evidencing payment thereof. This Section shall not be construed to require the Bank or any Participant to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the City or any other Person.

(d) *Survival.* Without prejudice to the survival of any other agreement of the City hereunder, the agreements and obligations of the City contained in this Section shall survive the termination of this Agreement and the Letter of Credit and the payment in full of the Authorized Installments and the obligations of the City thereunder and hereunder.

Section 2.10. Increased Costs.

(a) *Increased Costs Generally.* If any Change of Law shall:

(i) impose, modify or deem applicable any reserve, liquidity ratio, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in, including without limitation letters of credit, by, the Bank or any Participant;

(ii) subject to the Bank or any Participant to any Tax of any kind whatsoever with respect to this Agreement or the Letter of Credit, or change the basis of taxation of payments to the Bank or such Participant in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 2.9 and the imposition of, or any change in the rate of any Excluded Tax payable by the Bank or any Participant); *provided* that the City shall not be obligated to pay the Bank or any Participant for any penalties, interest or expenses relating to any payments owed pursuant to this Section 2.10(c)(ii) arising from the Bank's or such Participants or their respective holding company's negligence or willful misconduct; or

(iii) impose on the Bank or any Participant any other condition, cost or expense affecting this Agreement or the Letter of Credit;

and the result of any of the foregoing shall be to increase the cost to the Bank or such Participant related to issuing or maintaining this Agreement (including, without limitation, the purchase of Authorized Installments) or the Letter of Credit, or to reduce the amount of any sum received or receivable by the Bank or such Participant hereunder or under an Authorized Installment (whether of principal, interest or any other amount) then, upon written request of the Bank or such Participant, the City shall promptly pay to the Bank or such Participant, as the case may be, to the

extent permitted by law, such additional amount or amounts as will compensate the Bank or such Participant, as the case may be, for such additional costs incurred or reduction suffered.

(b) *Capital or Liquidity Requirements.* If the Bank or any Participant determines that any Change of Law affecting the Bank or such Participant or the Bank's or such Participant's parent or holding company, if any, regarding capital or liquidity requirements, has or would have the effect of reducing the rate of return on the Bank's or such Participant's capital or liquidity or the capital or liquidity of the Bank's or such Participant's parent or holding company, if any, as a consequence of this Agreement, the purchase of any Authorized Installments or the Letter of Credit, or for maintaining this Agreement (including, without limitation, the purchase of Authorized Installments) or the Letter of Credit, to a level below that which the Bank or such Participant or the Bank's or such Participant's parent or holding company could have achieved but for such Change of Law (taking into consideration the Bank's or such Participant's policies and the policies of the Bank's or such Participant's parent or holding company with respect to capital or liquidity adequacy), then from time to time upon written request of the Bank or such Participant the City shall promptly pay to the Bank or such Participant, as the case may be, to the extent permitted by law, such additional amount or amounts as will compensate the Bank or such Participant or the Bank's or such Participant's parent or holding company for any such reduction suffered.

(c) *Certificates for Reimbursement.* A certificate of the Bank or a Participant setting forth in reasonable the amount or amounts necessary to compensate the Bank or any such Participant or the Bank's or any such Participant's parent or holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the City, shall be conclusive absent manifest error. The City shall pay the Bank or any such Participant, as the case may be, the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of the Bank or any such Participant to demand compensation pursuant to this Section shall not constitute a waiver of the Bank's or any such Participant's right to demand such compensation.

(e) *Survival.* The obligations of this Section 2.10 shall survive the termination of this Agreement.

(f) Subject to Section 2.12 hereof, to the extent any increased cost or amount under this Section 2.10 constitutes interest on the Notes, no payment of such shall be made which causes the interest on the Notes to exceed the Maximum Interest Rate.

Section 2.11. Margin Regulations. No portion of the proceeds of any Drawings under the Letter of Credit shall be used by the City (or ERCOT at the direction of the City) for the purpose of "purchasing" or "carrying" any margin stock or used in any manner which might cause the borrowing or the application of such proceeds to violate Regulation U, Regulation T, or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation of said Board of Governors or to violate the Securities Exchange Act of 1934, as amended, in each case as in effect on the date or dates of such Drawings and such use of proceeds.

Section 2.12. Maximum Interest Rate. Anything contained herein to the contrary notwithstanding, if the rate of interest payable hereunder or under any Authorized Installments shall exceed the Maximum Interest Rate for any period for which interest is payable, then (i) interest at the Maximum Interest Rate shall be due and payable with respect to such interest period and (ii) interest at the rate equal to the difference between (A) the rate of interest calculated in accordance with the terms hereof without regard to the Maximum Interest Rate and (B) the Maximum Interest Rate (the “*Excess Interest*”), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed the Maximum Interest Rate, at which time the City shall pay to the Bank, with respect to amounts then payable to the Bank that are required to accrue interest hereunder, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the Bank to equal the Maximum Interest Rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder until all deferred Excess Interest is fully paid to the Bank, not to exceed the Maximum Maturity Date of any Authorized Installment.

Section 2.13. Security for Notes. (a) The City hereby pledges and grants to the Bank, as collateral security for the payment by the City of all Obligations, the due and punctual observance and performance of all other obligations of the City under this Agreement and under the Related Documents, a lien on and security interest in the following:

- (i) the proceeds from the sale of Bonds issued to refund outstanding Notes and the sale of Notes issued pursuant to the Ordinance; and

- (ii) the amounts held in the Note Payment Fund until the amounts deposited therein are used for authorized purposes.

(b) In addition, the City hereby pledges and grants to the Bank, on an equal and ratable basis with the holders any Similarly Secured Notes, as collateral security for the payment by the City of all Obligations and the due and punctual observance and performance of all other obligations, subject only to the provisions of the Ordinance permitting the application thereof for purposes and on the terms and conditions set forth therein, a lien on and security interest in the Pledged Revenues; *provided, however*, that the lien on and security interest in the Pledged Revenues to secure payment of the Notes and other amounts payable under this Agreement and the other Related Documents shall be subordinate only to the lien and pledge of the Pledged Revenues securing the payment of the principal of and interest on Priority Lien Obligations and the debt service and reserve funds relating to the Priority Lien Obligations. The liens and security interests described in Section 2.13(a) and (b) are referred to collectively as the “*Security*.”

(c) Chapter 1208, Texas Government Code provides that no filing, registering, recording or publication of this Agreement or the Fee Letter is required to establish a pledge of Pledged Revenues to perfect, protect or maintain the lien securing the obligations of the City under this Agreement or the Fee Letter. In the event Chapter 1208, Texas Government Code is amended at any time while any obligations of the City remain outstanding under this Agreement, or the Fee Letter, such that the lien on the Pledged Revenues is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, the City agrees to take such action to comply with

the applicable provisions of Chapter 9, Texas Business & Commerce Code, to maintain perfection of the lien on the Pledged Revenues.

(d) The pecuniary obligations of the City under this Agreement are not payable from funds raised or to be raised from taxation.

Section 2.14. Method of Payment; Etc. All payments to be made by the City under this Agreement and on Authorized Installments shall be made at the Payment Account not later than 2:00 p.m. (New York time) on the date when due and shall be made in lawful money of the United States of America in freely transferable and immediately available funds.

ARTICLE THREE CONDITIONS PRECEDENT

Section 3.1. Conditions Precedent to Issuance of the Letter of Credit. As conditions precedent to the obligation of the Bank to issue the Letter of Credit, the City shall provide to the Bank on the Closing Date, each in form and substance satisfactory to the Bank and its counsel, Chapman and Cutler LLP (hereinafter, "*Bank's Counsel*"):

(i) *Approvals.* The Bank shall have received a counterpart of this Agreement duly executed by the City and the Bank and copies of all action taken by the City approving the execution and delivery by the City of this Agreement, a copy of the Initial Note held by the Paying Agent/Registrar, the Initial Authorized Installment (and any Authorized Installments that may be issued in the future) and the other Related Documents, in each case certified by an authorized official of the City as complete and correct as of the date hereof.

(ii) *Incumbency of Officials.* The Bank shall have received an incumbency certificate of the City in respect of each of the officials who is authorized to (i) sign this Agreement, the Initial Note, the Authorized Installments and the other Related Documents on behalf of the City and (ii) take actions for the City under this Agreement and the other Related Documents.

(iii) *Opinion of Note Counsel.* (A) an opinion of Note Counsel covering such matters relating to the transactions contemplated by the Related Documents as the Bank shall reasonably request, including without limitation, that all necessary action on the part of the City shall have been taken to pledge the Pledged Revenues for the benefit of the Bank, the Notes and the obligations of the City under this Agreement, and such pledge is valid, binding and enforceable against the City, and (B) the written opinion of Note Counsel addressed to the Bank, dated the Closing Date, to the effect that this Agreement and the Notes have been duly authorized, executed and delivered, and are valid and binding obligations of the City, enforceable against the City in accordance with their respective terms.

(iv) *Master Ordinance and Ordinance.* The Bank shall have received certified copies of the Master Ordinance (Separate Lien Obligations) and the Ordinance which have

been adopted prior to the Closing Date, and approving and authorizing this Agreement and the issuance of the Initial Note, the periodic issuance and purchase of Authorized Installments and the other Related Documents in form and substance satisfactory to the Bank, all certified by an authorized officer of the City as being in full force and effect.

(v) *No Default, Etc.* (i) No Default or Event of Default shall have occurred and be continuing as of the date hereof or will result from the execution and delivery by the City of this Agreement, the Initial Note, the Initial Authorized Installment or the other Related Documents, (ii) the representations and warranties and covenants made by the City in Article Four hereof shall be true and correct in all material respects on and as of the Closing Date, as if made on and as of such date, (iii) the City has not entered into and will not enter into a contract related to the issuance of the Notes with a counterparty that is a company identified on a list prepared and published by the Comptroller of the State pursuant to sections 2270.0201 and 2252.153 of the Texas Government Code and (iv) the Bank shall have received a certificate, given and made as of the Closing Date, from the City to the foregoing effect.

(vi) *Financial Information.* The Bank shall have received copies of the investment policy of the City, and such other financial information of the City that the Bank may reasonably request.

(vii) *Legality; Material Adverse Change.* The Bank shall have determined (in its sole discretion) that (i) neither the making of any Drawings, the purchasing of Authorized Installments nor the consummation of any of the transactions contemplated by the Master Ordinance (Separate Lien Obligations), the Ordinance, the Initial Note, the Authorized Installments, the Letter of Credit or this Agreement will violate any law, rule, guideline or regulation applicable to the City, the Bank or this Agreement and (ii) no material adverse change in the ratings, financial condition, business, assets or liabilities of the City shall have occurred since September 30, 2022, except as disclosed in writing to the Bank prior to the Closing Date, which would be reasonably likely to result in a Material Adverse Effect.

(viii) *Fees, Etc.* The Bank shall have received payment of the fees, costs and expenses referred to in Section 2.4 and Section 7.6 hereof.

(ix) *Underlying Rating.* Evidence that the long-term, unenhanced rating on any Similarly Secured Notes is at least “AA-,” “Aa3” and “AA-” by Fitch, Moody’s and S&P, respectively.

(xi) *Initial Note and Initial Note Rating.* The Bank shall have received evidence that the Initial Note shall have been issued to the Paying Agent/Registrar and, as required by Chapter 1371, Texas Government Code, as amended, the unenhanced rating on the Notes is at least “F1” by Fitch.

(xii) *Other Documents.* The Bank shall have received such other documents, certificates, and opinions as the Bank or the Bank's counsel shall have reasonably requested.

ARTICLE FOUR REPRESENTATIONS AND WARRANTIES

Section 4.1. Representations and Warranties of the City. In order to induce the Bank to issue the Letter of Credit, the City represents and warrants to the Bank as follows:

(a) *Organization and Powers.* The City is a "Home Rule City," acting as such under the Constitution and laws of the State, and has full legal right, power and authority to (i) own, operate and maintain the System, (ii) adopt the Ordinance, (iii) execute and deliver this Agreement and the Related Documents, (iv) issue and deliver the Notes, (v) pledge the Security, and (vi) perform fully and completely all its obligations and liabilities under the Ordinance and this Agreement and under the Related Documents.

(b) *Authorization; Contravention.* The adoption and performance of the Ordinance and the issuance of the Notes thereunder, the pledge of the Pledged Revenues as security for the Notes and for its other Obligations, and the execution, delivery and performance of this Agreement and the Related Documents on the terms and conditions hereof and thereof have been duly authorized by all necessary action on the part of the City and will not violate or contravene any constitutional provisions or any existing law or regulation, or any order or decree of any Governmental Authority, or violate or cause a default under any ordinance previously adopted by the City, or any indenture, contract or other agreement to which the City is a party or that is binding upon it or any of its property.

(c) *Governmental Consent or Approval.* No consent of any Person and no license, approval or authorization of, nor notice to or registration, filing or declaration with, any Governmental Authority (other than any action that may be required under any state securities or blue sky laws) is required in connection with the adoption, performance, validity or enforceability of the Ordinance, the issuance, validity or enforceability of the Notes or the execution, delivery, performance, validity or enforceability of this Agreement or the Related Documents or, if required, the same has been obtained and is in full force and effect or, if not yet obtained, will be obtained on or before the Closing Date and will be in full force and effect on such date, and true copies thereof have been, or will be, delivered to the Bank on or before the Closing Date.

(d) *Litigation.* There are no actions, suits or proceedings pending or, to the knowledge of the City, threatened against or affecting it or its properties before any Governmental Authority in which there is reasonable possibility of an adverse decision which could materially and adversely affect the business, financial position or results of operations of either of the City or the System or which in any manner questions the validity of the Ordinance or this Agreement or any of the Related Documents or the City's ability to carry out the transactions contemplated hereby and thereby.

(e) *No Default.* The City has not taken any action, or omitted to take any action, which constitutes a default, or which with the passage of time or the giving of notice, or both, would constitute a default, under any ordinance, indenture, agreement or other instrument pursuant to which any outstanding Priority Lien Obligations or Similarly Secured Notes have been issued. No Default or Event of Default has occurred or is continuing hereunder.

(f) *Financial Statements.* The audited financial statements of the City for the Fiscal Year ended September 30, 2022, and the related consolidated statement of activities and changes in net assets and the consolidated statement of cash flows for the Fiscal Year then ended, and accompanying notes thereto, which financial statements, accompanied by the audit report, heretofore furnished to the Bank, fairly present the financial condition of the City in all material respects as of such dates and the results of its operations for the periods then ended in conformity with GAAP. Since September 30, 2022, there has been no material adverse change in the financial condition or operations of the City that could reasonably be expected to result in a Material Adverse Effect.

(g) *Margin Regulations.* No portion of the proceeds of any Drawing under the Letter of Credit shall be used by the City (or ERCOT upon the direction of the City) for the purpose of “purchasing” or “carrying” any margin stock or used in any manner which might cause the borrowing or the application of such proceeds to violate Regulation G, Regulation U, Regulation T, or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation of the Board or to violate the Securities Exchange Act of 1934, as amended, in each case as in effect on the date or dates of such Drawings and such use of proceeds.

(h) *Complete and Correct Information.* No written information furnished by the City to the Bank prior to the Closing Date in connection with the Ordinance or this Agreement or any Related Documents contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statement made therein, considering the circumstances in which they were made, not misleading in any material respect.

(i) *Mandamus; Sovereign Immunity.* To the extent authorized by the Texas Government Code Section 1371.059(c), the City has, in this Agreement, waived sovereign immunity from suit and liability for the purposes of adjudicating a claim to enforce this Agreement, the Notes or the Ordinance or for damages for breach of this Agreement, the Notes or the Ordinance. The City further represents that to the extent its obligations hereunder and under the other Related Documents to which it is a party represent the legal obligations of the City, its non-discretionary duties are subject to enforcement in Texas courts by writ of mandamus, and that it is not immune to an equitable mandamus action.

(j) *Legal, Valid, and Binding Obligations.* The Ordinance, this Agreement, the Initial Note and the Authorized Installments (to the extent of their purchase, issuance and delivery pursuant to the Ordinance and this Agreement) and the other Related Documents constitute legal, valid and binding agreements or obligations, as the case may be, of the City enforceable in accordance with their respective terms except as (i) the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application affecting creditors’ rights generally, (ii) the availability of equitable remedies may be

limited by equitable principles of general applicability and (iii) the indemnification provisions therein may be limited by applicable securities laws and public policy.

(k) *Incorporation of Representations and Warranties.* The City hereby makes to the Bank the same representations and warranties as are made by the City in, or are incorporated by the City in, the Ordinance or any of the Related Documents, which representations and warranties, as well as the related defined terms contained therein, are hereby incorporated by reference with the same effect as if each and every such representation and warranty and defined term was set forth herein in its entirety. No amendment to any such representation and warranty or defined term made pursuant to the Ordinance or any Related Document shall be effective to amend such representation and warranty or such defined term as incorporated by reference herein without the prior consent of the Bank.

(l) *Security.* (i) The Ordinance, together with this Agreement, creates a valid lien on, pledge of, and security interest in the Security as security for the Initial Note and the Authorized Installments (to the extent of their purchase, issuance and delivery pursuant to the Ordinance and this Agreement) and for the repayment of the City's obligations under this Agreement and the other Related Documents, and all action necessary to perfect the lien on, pledge of, and security interest of the Bank in the Security has been duly and validly taken; and

(ii) There are no obligations of the City payable from or secured by Net Revenues on a basis senior to the Notes and the other Obligations other than the Priority Lien Obligations.

(iii) Other than the Priority Lien Obligations, there is no other Debt of the City payable from or secured by Net Revenues which ranks in priority of payment or Lien to the Notes or the other Obligations, and hereafter the City cannot issue any Debt which is payable from or secured by Net Revenues of the System which ranks in priority of payment or Lien to the Notes or the other Obligations other than Separate Lien Electric Utility Obligations.

(m) *No Proposed Legal Changes.* There is no amendment or proposed amendment certified for placement on a ballot or referendum, or, to the knowledge of the City, to any law, ordinance, or regulation of the City, or any legislation that has passed either house of the legislature of the State, or any published judicial decision interpreting any of the foregoing, the effect of which is to materially adversely affect this Agreement, the Notes, the Initial Note and the Authorized Installments or the security therefor or any of the Related Documents or any Pledged Revenues.

(n) *Proceeds.* The proceeds of the Drawings made under this Agreement will be applied by ERCOT on behalf of the City for purposes authorized under State law and the Nodal Protocols, and none of the proceeds of the Notes will be used in any manner or for any purpose except in the manner and for the purposes authorized by State law.

(o) *Third Party Beneficiary.* The City agrees that the Bank is an express third-party beneficiary to the Ordinance.

(p) *Usury.* The terms of this Agreement and the Related Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws.

(q) *Anti-Terrorism Laws.* The City is not in violation of any Laws relating to terrorism or money laundering (“*Anti-Terrorism Laws*”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “*Executive Order*”), and the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “*Patriot Act*”);

(i) The City is not any of the following:

(A) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(B) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(C) a Person with which the Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(D) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(E) a Person that is named as a “specially designated national and blocked person” on the most current list published by the Office of Foreign Asset Control (“*OFAC*”) or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list;

(ii) The City does not (A) conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (i)(B) above, (B) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (C) engage in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(r) *Investment Company.* The City is not an “*investment company*” or a company “*controlled*” by an “*investment company*,” as such terms are defined in the Investment Company Act of 1940, as amended.

(s) *Sanctions.* The City represents and warrants continuously throughout the term of this Agreement that: (i) no member of the Borrowing Group is a Sanctioned Target; (ii) no member of the Borrowing Group is owned or controlled by, or is acting or purporting to act for or on behalf of, directly or indirectly, a Sanctioned Target; (iii) each member of the Borrowing Group has instituted, maintains and complies with policies, procedures and controls reasonably designed to assure compliance with Sanctions; and (iv) to the best of the City’s knowledge, after due care and inquiry, no member of the Borrowing Group is under investigation for an alleged violation of Sanction(s) by a governmental authority that enforces Sanctions. The City shall notify the Bank

in writing not more than one (1) business day after first becoming aware of any breach of this section.

(t) *Anti-Money Laundering and Anti-Corruption Laws.* The City represents and warrants continuously throughout the term of this Agreement that: (i) each member of the Borrowing Group has instituted, maintains and complies with policies, procedures and controls reasonably designed to assure compliance with Anti-Money Laundering Laws and Anti-Corruption Laws; and (ii) to the best of the City's knowledge, after due care and inquiry, no member of the Borrowing Group is under investigation for an alleged violation of Anti-Money Laundering Laws or Anti-Corruption Laws by a governmental authority that enforces such laws.

ARTICLE FIVE COVENANTS

Section 5.1. Covenants of the City. The City will do the following so long as any amounts may be drawn under the Letter of Credit or any Obligations remain outstanding under this Agreement, unless the Bank shall otherwise consent in writing:

(a) *Information.* The City will deliver to the Bank:

(i) as soon as available and in any event within one hundred eighty (180) days of the end of each Fiscal Year of the City, an audited financial statement of the City as of the end of such Fiscal Year and the related statement of changes in the funds and in fund balances for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all audited by an independent public accountant of nationally recognized standing;

(ii) as soon as available and in any event within sixty (60) days after the end of each calendar quarter, unaudited financial statements of the System for such calendar quarter (which shall include an income statement, balance sheet and statement of cash flows), provided that such quarterly statements shall only be required if the rating on any Priority Lien Obligation is downgraded below "A" by S&P or "A2" by Moody's;

(iii) in connection with the delivery of the financial statements set forth in paragraph (i) and (ii) of this Section 5.1(a), a certificate of an Authorized Representative (i) to the effect that as of the date of such certificate no Default or Event of Default has occurred, or (ii) if a Default or Event of Default has occurred specifying the nature of such Default or Event of Default, the period of its existence, and the action which the City is taking or proposes to take with respect thereto unless such Default or Event of Default has previously been reported pursuant to Section 5.1(a)(iv) below, and no change in the status of such Default or Event of Default has occurred;

(iv) promptly, and in any event within five (5) Business Days, notify the Bank of the occurrence of any "Event of Default" under the Ordinance or of a default under this Agreement, any Related Document or any ordinance, indenture, agreement or other instrument pursuant to which any Similarly Secured Notes or any Priority Lien Obligations

are issued, specifying the details thereof and the action that the City proposes to take with respect thereto;

(v) as soon as available and in any event within ninety (90) days after the end of each Fiscal Year of the City, the approved budget of the City for the then current Fiscal Year (including therein detailed budget information relating to the System), together with a certificate from an Authorized Representative (as defined in the Ordinance) of the City certifying that (A) the rates and charges for the System set forth in such approved budget are sufficient to allow the City to comply with the provisions of Section 5.1(r) at all times during such Fiscal Year, and (B) containing the City's calculation of its compliance for the preceding Fiscal Year of the covenant set forth in Section 5.1(r) of this Agreement;

(vi) as soon as practical after (i) the sale or transfer of 15% or more of the total value of all assets of the City that contribute to the generation of Pledged Revenues to an entity where such assets will no longer contribute to Pledged Revenues or (ii) the sale or transfer of asset of the City when the aggregate amount of the revenue of such assets produce on an annual basis 15% or more of the Pledged Revenues to an entity the revenue of such assets will no longer be considered Pledged Revenues, a certificate of an Authorized Representative setting forth the material details of such sale or transfer; and

(vii) upon written request of the Bank any other financial information reasonably requested.

It shall be sufficient for delivery of any of the forgoing pursuant to this Section 5.1(a) if such information is made publicly available on EMMA or the public website of the City, *provided* that the City shall notify the Bank in writing upon such availability.

(b) *Access to Records.* The City will permit, at any reasonable time and from time to time during the City's regular business hours and upon reasonable notice, the Bank or any of its agents or representatives to examine and make copies of and abstracts from the records and books of accounts of the City relating to the System, and to discuss the affairs, finances and accounts of the System with City officials.

(c) *Proceeds of Drawings and Notes.* (i) None of the proceeds of any Drawings (which constitute proceeds of the particular related Authorized Installment) will be used by the City or at its direction in any manner or for any purpose except in the manner and for the purposes authorized by Texas law, this Agreement and the other Related Documents. The City shall not use the proceeds of any Drawings, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case in violation of, or for a purpose which violates, or would be inconsistent with, Regulation T, U or X of the Board of Governors of the Federal Reserve System.

(ii) *Sanctions.* The City shall not, and shall ensure that each member of the Borrowing Group will not, directly or indirectly use any of the proceeds of any Drawing

to fund, finance or facilitate any activities, business or transactions: (a) that are prohibited by Sanctions, (b) that would be prohibited by U.S. Sanctions if conducted by a U.S. Person, or (c) that would be prohibited by Sanctions if conducted by the Bank, or any other party hereto. The City shall notify the Bank in writing not more than one (1) business day after first becoming aware of any breach of this Section 5.1(c)(ii).

(iii) *Anti-Money Laundering/Anti-Corruption Laws.* The City shall not, and shall ensure that each member of the Borrowing Group will not, directly or indirectly use any of the proceeds of any Drawing to fund, finance or facilitate any activities, business or transactions that would be prohibited by Anti-Money Laundering Laws or Anti-Corruption Laws.

(d) *No Amendment of Related Documents.* The City will not, without the prior written consent of the Bank, enter into or consent to any amendments of or supplements to the Ordinance or any Related Document or any waiver of the requirements thereof and no such amendment or supplement shall be effective without the prior written consent of the Bank, which consent shall not be unreasonably withheld.

(e) *Additional Priority Lien or Similarly Secured Notes.* (i) The City will issue Separate Lien Electric Utility Obligations only upon satisfaction of the provisions authorizing the issuance of such Separate Lien Electric Utility Obligations in the Master Ordinance (Separate Lien Obligations); *provided, however*, that without the prior written consent of the Bank, the City shall not issue any Separate Lien Electric Utility Obligations at any time the principal amount of any outstanding Authorized Installment(s) remains unpaid (other than the Initial Authorized Installment) except for Separate Lien Electric Utility Obligations that were authorized by the City pursuant to an official action of the City (other than the Master Ordinance (Separate Lien Obligations)) taken prior to the date such Authorized Installments(s) were issued.

(ii) Without the prior written consent of the Bank, the City will not issue any Similarly Secured Obligations, excluding Commercial Paper Notes, at any time the principal amount of any outstanding Authorized Installment(s) remains unpaid (other than the Initial Authorized Installment).

(f) *Taxes and Liabilities.* The City will pay all of its indebtedness and obligations promptly and in accordance with its terms and pay and discharge or cause to be paid and discharged promptly all taxes, assessments, and governmental charges or levies imposed upon it or upon its income and profits, or upon any of its property, real, personal, or mixed, or upon any part thereof, before the same shall become in default except for those matters which are reasonably being contested in good faith by appropriate action or proceedings or for which the City has established adequate reserves in accordance with GAAP.

(g) *Further Assurances.* The City will, from time to time, at its expense, promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Bank may reasonably request, in order to (i) perfect and protect any lien, pledge, or security interest or other right or interest given, or purported to be given to the

Bank under or in connection with this Agreement or (ii) enable the Bank to exercise or enforce its rights or remedies under or in connection with this Agreement.

(h) *Performance and Compliance with Other Covenants.* The City will perform and comply with each and every obligation, covenant and Agreement required to be performed or observed by it in or pursuant to the Related Documents, as well as the related defined terms contained in such Related Documents, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety. To the extent that any such incorporated provision permits any Person or Persons to waive compliance with such provision or requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to any Person or Persons, for purposes of this Agreement, such provision shall be complied with only if it is waived by the Bank and such document, opinion or other instrument and such event or condition shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Bank. No amendment to such obligations, covenants and agreements or defined terms made pursuant to any of the Related Documents shall be effective to amend such obligations, covenants and agreements and defined terms as incorporated by reference herein without the consent of the Bank.

(i) *Compliance with Rules and Regulations.* The City will comply with and observe all other obligations, covenants, agreements and requirements set forth in the Ordinance and in the Constitution of the State and in all statutes, laws and regulations binding upon it relating to the Notes, this Agreement and the other Related Documents. The City shall, and the City shall ensure that each member of the Borrowing Group will, comply with Sanctions, Anti-Money Laundering Laws, and Anti-Corruption Laws.

(j) *Sources of Payment.* The City will maintain the Note Payment Fund with the Paying Agent/Registrar as required by the Ordinance.

(l) *Litigation and Other Actions.* The City will promptly, and in any event within five (5) Business Days, notify the Bank in writing of (i) the occurrence of any material litigation or proceeding affecting the City or the System and of any proceeding or threatened proceeding between the City and any Governmental Authority or any other Person which, in each such case, might substantially interfere with the normal operation of the System, or (ii) any amendment to the Act or any other governing instrument of the City, which would have a material adverse effect on the System or the Notes.

(l) *Credit Facilities.* To the extent permitted by State law, in the event that the City shall, directly or indirectly, be party to or otherwise consent to any credit agreement, bond purchase agreement, reimbursement agreement, liquidity agreement or other agreement or instrument (or any amendment, supplement or modification thereto) under which, directly or indirectly, any Person or Persons undertakes to make or provide funds to make payment of, or to purchase, any Priority Lien Obligations or Similarly Secured Notes or provide credit liquidity enhancement with respect thereto, which such agreement (or amendment, modification, or supplement thereto) provides such Person with more restrictive covenants and/or greater rights and remedies than are provided to the Bank in this Agreement, the City shall promptly provide the Bank with a copy of each such agreement (or amendment, modification, or supplement thereto) and such more

restrictive covenants and/or greater rights and remedies shall automatically be deemed to be incorporated into this Agreement, and the Bank shall have the benefits of such more restrictive covenants and/or such greater rights and remedies as if specifically set forth herein. The City shall promptly enter into an amendment to this Agreement to include such more restrictive covenants and/or greater rights or remedies (provided that the Bank shall maintain the benefit of such more restrictive covenants and/or greater rights and remedies even if the City fails to provide such amendment). Notwithstanding any termination or expiration of any such document, the City shall continue to observe the covenants incorporated herein as provided in this Section 5.1(l) for the benefit of the Bank until the later of the Scheduled Expiration Date and the payment in full of all amounts due and owing to the Bank under this Agreement. Each covenant incorporated herein by virtue of this Section 5.1(l) shall be in addition to the express covenants contained herein and shall not limit, or be limited by, the express covenants contained herein.

(m) *Swap Contracts.* After the Closing Date, the City will not enter into any new Swap Contract or amend any existing Swap Contract with respect to any Pledged Revenues (i) wherein any termination payments or settlement amounts are senior to or on parity with the payment of the Notes or the Obligations hereunder or (ii) which requires the City to post cash collateral to secure its obligations thereunder, in each case, without the prior written consent of the Bank.

(n) *Security.* The City will not create, incur, assume or suffer to exist any pledge of, Lien on or other security interest in the Pledged Revenues that is senior to the Lien on and pledge of the Pledged Revenues securing the Notes and the other Obligations other than the respective liens on and pledges of the Pledged Revenues securing the Priority Lien Obligations.

(o) *Accuracy of Information.* All data, certificates, reports, documents and other information furnished to the Bank, whether pursuant to this Agreement, or in connection with or pursuant to an amendment or modification of, or waiver under, this Agreement shall, at the time the same are so furnished, (i) be complete and correct in all material respects to the extent necessary to give the Bank true and accurate knowledge of the subject matter thereof, and (ii) not contain any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements contained therein not misleading, and the furnishing of the same to the Bank shall constitute a representation and warranty by the City to that effect. Each financial statement furnished to the Bank, whether pursuant to this Agreement, or in connection with or pursuant to an amendment or modification of, or waiver under, this Agreement, shall, at the time the same is so furnished, fairly present the financial condition and results of operations of the City.

(p) *Consolidation, Merger, etc.* (i) The City will not, with respect to the System, dissolve nor will it sell, lease, assign, transfer or otherwise dispose of all or substantially all of any component of the System's assets (including, without limitation, by sale and leaseback) if such event could reasonably be expected to result in a material adverse effect upon the operations, business, properties, assets, liabilities (actual or contingent), ratings, credit, condition (financial or otherwise) or prospects of the Pledged Revenues or the System; and

(ii) The City will not consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it or acquire all or substantially all of the property and assets of any other Person if such event could reasonably be expected to result in a material

adverse effect upon the operations, business, properties, assets, liabilities (actual or contingent), ratings, credit, condition (financial or otherwise) or prospects of the City. The City will not consolidate any component of the System with or merge into another Person or permit one or more other Persons to consolidate with or merge into any component of the System if such event could reasonably be expected to result in a material adverse effect upon the operations, business, properties, assets, liabilities (actual or contingent), ratings, credit, condition (financial or otherwise) or prospects of the Pledged Revenues or the System

(q) *Notices.* The City shall forthwith notify the Bank in writing of: (a) any filing by the City of a petition in bankruptcy under the United States Bankruptcy Code, 11 U.S.C. §101, *et seq.*, or any successor or similar provisions hereafter in effect; (b) any withdrawal, reduction or suspension in the unenhanced ratings assigned by Fitch, Moody's or S&P to any Similarly Secured Notes; (c) any written notice delivered to the City by the Internal Revenue Service, Securities and Exchange Commission, the Municipal Securities Rulemaking Board or any other federal agency having jurisdiction over the City if such notice, in the reasonable judgment of the City, is likely to have a Material Adverse Effect; (d) as soon as available, copies of all legislation which, in the reasonable judgment of the City, could reasonably be expected to have a Material Adverse Effect upon this Agreement, the Notes or any Authorized Installments, the other Related Documents or the ability of the City to perform its obligations in connection herewith or therewith; and (e) as soon as practicable but in any event within thirty (30) calendar days after the adoption of any amendment, supplement or other modification to the Master Ordinance (Separate Lien Obligations) or the Ordinance, a copy thereof.

(r) *Rates and Charges and Reimbursement.* The City will at all times maintain rates and charges for the services furnished, provided and supplied by the System (as defined in the Ordinance) which shall comply with the provisions of the ordinances authorizing the issuance of the Priority Lien Obligations, and produce Gross Revenues in each Fiscal Year from the System sufficient:

(i) to pay the Maintenance and Operating Expenses (as defined in the Ordinance);

(ii) to produce Net Revenues of the Electric Light and Power System sufficient (i) to pay the amounts required to be deposited in any reserve or contingency fund and interest and sinking fund maintained for the payment and security of the Priority Lien Obligations and (ii) to satisfy any annual debt service coverage requirement specified in the ordinances authorizing the issuance of Priority Lien Obligations;

(iii) to produce Net Revenues of the System, collectively or, in the case of Separate Lien Electric Utility Obligations, individually with respect to the System (after satisfaction of the amounts required to be paid in (ii) above), equal to at least the sum of (A) 1.25 times the annual principal and interest requirements (or other similar payments) for the then outstanding Separate Lien Electric Utility Obligations and (B) 1.10 times the total annual principal and interest requirements (or other similar payments) for the then outstanding Subordinate Lien Bonds and all other indebtedness payable only from and

secured solely by a Lien on and pledge of the Net Revenues of the System, either or both, as applicable;

(iv) (A) to pay all amounts payable to the Bank under this Agreement, as and when the same shall become due, and (B) to the extent the same are reasonably anticipated to be paid from Pledged Revenues, to pay the principal of and interest on the Notes, as and when the same shall become due; *provided*, that in no event shall the amount described in clause (B) of this subsection (iv), to the extent the same is reasonably anticipated to be paid from Pledged Revenues, be less than an amount equal to 1.10 times the product of (i) the Maximum Stated Amount multiplied by (ii) the sum of (a) the average daily yield on 30-day taxable commercial paper rated A-1/P-1 during the preceding twelve-month period ending on the last day of July of such year (as calculated by a Dealer and set forth in a written notice to the City and the Bank on or before August 31 of each year), plus (b) two percent (2%); and

(vi) to pay any other legal debt or obligation of the Electric Light and Power System, as and when the same shall become due.

(s) *Paying Agent/Registrar.* The City will, at all times, maintain a reputable Paying Agent/Registrar of recognized national standing. The Paying Agent/Registrar must be rated at least "A2" (or its equivalent) by Moody's or "A" (or its equivalent) by S&P and have a minimum capitalization of at least \$500,000,000.

(t) *Sovereign Immunity.* To the extent authorized by Texas Government Code Section 1371.059(c), the City, in this Agreement, waives sovereign immunity from suit and liability for the purposes of adjudicating a claim to enforce this Agreement or the Ordinance or for damages for breach of this Agreement or the Ordinance. The City further covenants that to the extent its obligations hereunder and under the other Related Documents to which it is a party represent the legal obligations of the City, it will not claim any immunity with regard to non-discretionary duties which are subject to enforcement in Texas courts by writ of mandamus, and that it will not claim immunity with regard to an equitable mandamus action

(u) *Maintenance of Ratings.* The City shall at all times (i) maintain, or cause to be maintained, long-term credit ratings on the City's Separate Lien Electric Utility Obligations from any two of Moody's, Fitch or S&P. The City shall give written notice to the Bank as soon as practicable of the increase, decrease, withdrawal or suspension of any rating maintained by Moody's, Fitch or S&P, to the extent such Rating Agency is then maintaining a rating on the any of the City's Separate Lien Electric Utility Obligations. The City covenants and agrees that it shall not at any time withdraw any long-term unenhanced rating on the City's Separate Lien Electric Utility Obligations from any of Fitch, Moody's or S&P if the effect of such withdrawal would be to cure a Default or an Event of Default under this Agreement or reduce the Applicable Letter of Credit Fee Rate or Applicable Unutilized Commitment Fee Rate.

(v) *Maintain Properties.* The City will maintain and preserve all of its properties relating to the System that are material to the conduct of its utility business in good working order and condition, ordinary wear and tear excepted, it being understood that this paragraph relates only to

the good working order and condition of such properties and shall not be construed as a covenant not to encumber or dispose of such properties by sale, lease, transfer or otherwise in the ordinary course of business or within the provisions of the ordinances authorizing the Priority Lien Obligations.

(w) *Appropriations.* The City shall, in good faith and with due diligence, endeavor to sell a sufficient principal amount of Separate Lien Electric Utility Obligations or Bonds in order to have funds available, together with other moneys available therefore, to pay all amounts payable to the Bank hereunder.

(x) *Issuance of Bonds.* The City shall at all times maintain the ability to issue Separate Lien Electric Utility Obligations or Bonds in an amount at least equal to the sum of any Obligations owing to the Bank hereunder.

(y) *Source of Repayment.* The City shall not fund any repayment of any Obligations with proceeds, or provide as collateral any property, that is directly or indirectly derived from any transaction or activity that is prohibited by Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws, or that could otherwise cause the Bank or any other party to this Agreement to be in violation of Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws.

ARTICLE SIX DEFAULTS

Section 6.1. Events of Default and Remedies. If any of the following events shall occur, each such event shall be an “Event of Default”:

(a) the City shall fail to pay, or cause to be paid, as and when due, (i) principal of or interest on any Authorized Installment or (ii) any other Obligation owed to the Bank hereunder;

(b) any representation, warranty, certification, or statement made by the City (or incorporated by reference) in this Agreement, any other Related Document or in any certificate, financial statement, or other document delivered pursuant to this Agreement or any Related Documents shall have been incorrect or untrue or misleading in any material respect when made or deemed to have been made;

(c) the City shall fail to perform or observe any covenant, agreement or condition contained in Article Five hereof;

(d) the City shall fail to perform or observe any other covenant, agreement, or condition (other than those referred to or contained in clause (a), (b), or (c) above) contained in this Agreement or any other Related Document and such failure, if capable of being remedied, shall remain unremedied for sixty (60) days after the earlier to occur of (i) written notice thereof shall have been given to the City by the Bank or (ii) the date on which such failure shall first become known to the City;

(e) (i) one or more final unappealable judgments or orders, issued or rendered by a Governmental Authority of competent jurisdiction, for the payment of money in excess of \$15,000,000, individually or in the aggregate, shall be issued or rendered against the City, and such judgment or order shall continue unsatisfied, unbonded, undismissed and unstayed for a period of sixty (60) days; or (ii) one or more final unappealable judgments or orders or writ or writs or warrant or warrants of attachment, or any similar process or processes issued or rendered by a Governmental Authority of competent jurisdiction, for the payment of money in excess of \$15,000,000, individually or in the aggregate, shall be issued or rendered against the City (but only with respect to writ or writs or warrant or warrants of attachment, or any similar process or processes) or any of the City's Property and remain unpaid, unvacated, unbonded or unstayed for a period of thirty (30) days;

(f) (i)(A) the City shall fail to pay when due and payable any principal of or interest on any Specified Debt (including, in each case, without limitation, any principal or sinking fund installments, but excluding, in each case, (i) payments due on Specified Debt owing to a liquidity provider under a liquidity facility solely as a result of acceleration caused by such liquidity provider with respect to such Specified Debt and (ii) any Specified Debt which is in the form of commercial paper notes which are supported as to the payment of principal and/or interest thereof by a credit enhancement or liquidity facility if such failure to make such payment is due solely to the failure of the related credit enhancement or liquidity facility provider to make such payment), and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation of or concerning such Specified Debt; or (B) any other default under any indenture, contract or instrument providing for the creation of or concerning such Specified Debt, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to cause such Debt to become due, or permit the holder of such Debt to cause such Debt to become due, prior to its stated maturity; (ii) the City shall fail to pay when due and payable any principal of or interest on any of the City's Priority Lien Obligations or Similarly Secured Notes other than as described in the foregoing clause (i) (including, in each case, without limitation, any principal or sinking fund installments), and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation of or concerning such Priority Lien Obligations or Similarly Secured Notes; or any other default under any indenture, contract or instrument providing for the creation of or concerning Priority Lien Obligations or Similarly Secured Notes, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to cause such Priority Lien Obligations or Similarly Secured Notes to become due, or permit the holder of such Priority Lien Obligations or Similarly Secured Notes to cause such Priority Lien Obligations or Similarly Secured Notes to become due, prior to its stated maturity; or (iii) (A) the City shall fail to pay when due and payable any principal of or interest on any Debt of the City other than as described in clause (i) and (ii) above having a principal amount in excess of \$15,000,000 and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation thereof, or (B) any other default under any indenture,

contract or instrument providing for the creation of or concerning such other Debt, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to cause such Debt to become due, or permit the holder of such Debt to cause such Debt to become due, prior to its stated maturity;

(g) (i) the City shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, marshaling of assets, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts or (B) seeking appointment of a receiver, trustee, examiner, liquidator, custodian or other similar official for it or for all or any substantial part of its assets, or the City shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the City any case, proceeding or other action of a nature referred to in clause (i) above which (x) results in an order for such relief or in the appointment of a receiver, trustee, examiner, liquidator, custodian or similar official or (y) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced against the City, any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) the City shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above or fail to contest in good faith any such appointment or proceeding; or (v) the City shall admit in writing its inability to pay its debts generally as they become due, or shall become insolvent within the meaning of Section 101(32) of the United States Bankruptcy Code;

(h) (i) any provision of applicable law or this Agreement, the Notes, the Paying Agent/Registrar Agreement, the Ordinance or any other Related Document related to the payment of principal or interest on the Notes or the pledge of and Lien on the Pledged Revenues or the Security shall at any time for any reason cease to be valid and binding or fully enforceable on the City or shall be declared to be null and void, invalid or unenforceable as determined by any Governmental Authority of competent jurisdiction in a final nonappealable judgment or as a result of any legislative or administrative action by any Governmental Authority having jurisdiction over the City, or (ii)(a) the validity or enforceability of any provision of applicable law or this Agreement, the Notes, the Paying Agent/Registrar Agreement, the Ordinance or any other Related Document related to the payment of principal or interest on Notes or the pledge of and Lien on the Pledged Revenues or the Security shall be publicly repudiated or repudiated in writing or publicly contested or contested in writing by the City or (b) any Governmental Authority having appropriate jurisdiction over the City shall make a finding or ruling or shall enact or adopt legislation or issue an executive order or enter a judgment or decree which contests the validity or enforceability of any material provision of this Agreement, the Notes, the Paying Agent/Registrar Agreement, the Ordinance or any other Related Document related to the

payment of principal or interest on the Notes or the pledge of and Lien on the Pledged Revenues or the Security, or (c) the City shall publicly deny or deny in writing that it has any or further liability or obligation under this Agreement, Notes, the Paying Agent/Registrar Agreement, the Ordinance or any other Related Document (other than any exhibit or schedule to any of the Related Documents), or (iii) any material provision of this Agreement, Notes, the Paying Agent/Registrar Agreement, the Ordinance or any other Related Document other than a provision described in clause (i) and (ii) of this Section 7.01(h) shall at any time for any reason cease to be valid and binding on the City, or shall be declared in a final nonappealable judgment by any court having jurisdiction over the City to be null and void, invalid, or unenforceable, or the validity or enforceability thereof shall be denied or contested by the City;

(i) (i) the City shall impose, declare or announce (whether or not in writing) a debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on the repayment when due and payable of the principal of or interest on any Specified Debt (including, without limitation, the Notes or (ii) any Governmental Authority having appropriate jurisdiction over the City shall impose, declare or announce (whether or not in writing) as a result of a finding, ruling or other determination or shall enact or adopt legislation or issue an executive order or enter a judgment or decree which results in a debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on the repayment when due and payable of the principal of or interest on (A) the Notes, (B) all of the City's Similarly Secured Notes, or (C) all of the City's Debt;

(j) (i) the long-term unenhanced rating by any of Fitch, Moody's or S&P (in each case to the extent such Rating Agency is then providing a rating) on any Separate Lien Electric Utility Obligations shall be withdrawn or suspended (for credit related reasons) or reduced below "A3" (or its equivalent), "A-" (or its equivalent) or "A-" (or its equivalent) respectively, or (ii) the long-term unenhanced ratings by Fitch, Moody's and S&P (in each case to the extent such Rating Agency is then providing a rating) on (A) the Prior Lien Bonds, (B) the Subordinate Lien Bonds, (C) the Separate Lien Electric Utility Obligations or (D) any Similarly Secured Notes (to the extent then rated by Fitch, Moody's and/or S&P), shall be withdrawn or suspended (for credit related reasons) or reduced below "Baa2" (or its equivalent), "BBB" (or its equivalent) or "BBB" (or its equivalent);

(k) an "*Event of Default*" as defined in the Ordinance or the Paying Agent/Registrar Agreement shall occur and be continuing or the City shall default in the due performance or observance of any material term, covenant or agreement contained in any other Related Document and the same shall not have been cured within any applicable cure period;

(l) (A) (i) the City or any Governmental Authority shall impose, declare or announce (whether or not in writing) a debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on the repayment when due and payable of the principal of or interest on any indebtedness of the City other than as set forth in Section 7.01(i); or (ii) there shall be appointed or designated with respect to the City an

entity such as an organization, board, commission, authority, agency or body to monitor or declare a financial emergency or similar state of financial distress with respect to the City, or there shall be declared by the City or by any legislative or regulatory body with competent jurisdiction over the City, the existence of a state of financial emergency or similar state of financial distress in respect of the City; or (B) the City shall not pay, or be unable to pay, its debts generally as they become due;

(m) dissolution or termination of the existence of the City; or

(n) a court of competent jurisdiction has found any of the Priority Lien Obligations or Similarly Secured Notes to have been issued illegally or in violation of the additional debt test in the related ordinance.

Section 6.2. Remedies. Upon the occurrence of any Event of Default the Bank may exercise any one or more of the following rights and remedies in addition to any other remedies herein or by law provided:

(a) by notice to the City require that the City immediately prepay to the Bank in immediately available funds an amount equal to the then current Available Amount of the Letter of Credit (such amounts to be held by the Bank as collateral security for the Authorized Installments and the Obligations), *provided, however*, that in the case of an Event of Default described in Section 6.1(g) hereof, such prepayment obligation shall automatically become immediately due and payable without any notice (unless such automatic prepayment obligation is waived by the Bank in writing);

(b) by its declaration of an Event of Default, cause all Authorized Installments to be immediately due and payable in accordance with the redemption provisions of the Ordinance and otherwise declare Obligations to be immediately due and payable, whereupon the same shall be immediately due and payable without any further notice of any kind, which notice is hereby waived by the City; *provided, however*, that in the case of an Event of Default described in Section 6.1(g) hereof, such redemption and declaration shall automatically occur (unless such redemption and declaration acceleration is waived by the Bank in writing);

(c) terminate the Letter of Credit in accordance with its terms;

(d) pursue any rights and remedies it may have under the Related Documents;
and/or

(e) pursue any other action available at law or in equity.

ARTICLE SEVEN MISCELLANEOUS

Section 7.1. Amendments, Waivers, Etc. No amendment or waiver of any provision of this Agreement, or consent to any departure therefrom, shall in any event be effective unless the

same shall be in writing and signed by the parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 7.2. Notices. All notices and other communications provided for hereunder shall be in writing (including required copies) and sent by receipted hand delivery (including Federal Express or other receipted courier service), facsimile transmission, or regular mail, as follows:

(a) if to the City:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

with a copy to:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

with a copy to:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(b) if to the Bank:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

With a copy to:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(c) if to ERCOT

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(d) if to the Paying Agent/Registrar

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

or, as to each Person named above, at such other address as shall be designated by such Person in a written notice to the parties hereto. All such notices and other communications shall, when delivered, sent by facsimile transmission or mailed, be effective when deposited with the courier, sent by facsimile transmission or mailed respectively, addressed as aforesaid, except that requests for Drawings submitted to the Bank shall not be effective until received by the Bank.

Section 7.3. Survival of Covenants; Successors and Assigns. (a) All covenants, agreements, representations, and warranties made herein and in the certificates delivered pursuant hereto shall survive the making of any Drawing hereunder and shall continue in full force and effect until the Letter of Credit shall have expired and all of the Authorized Installments and the Obligations hereunder shall have been paid in full. Whenever in this Agreement any of the parties hereto is referred to, such reference shall, subject to the last sentence of this Section, be deemed to include the successors and assigns of such party, and all covenants, promises and agreements by or on behalf of the City which are contained in this Agreement shall inure to the benefit of the successors and assigns of the Bank. The City may not transfer its rights or obligations under this Agreement without the prior written consent of the Bank. The Bank may transfer or assign some or all of its rights and obligations under this Agreement and the Letter of Credit with the prior written consent of the City (which consent shall not be withheld unreasonably). This Agreement is made solely for the benefit of the City and the Bank, and no other Person shall have any right,

benefit or interest under or because of the existence of this Agreement; *provided further* that the City's liability to any Participant shall not in any event exceed that liability which the City would owe to the Bank but for such participation.

(b) Notwithstanding the foregoing, the Bank shall be permitted to grant to one or more financial institutions (each a "*Participant*") a participation or participations in all or any part of the Bank's rights and benefits and obligations under this Agreement and the Letter of Credit on a participating basis but not as a party to this Agreement (a "*Participation*") without the consent of the City. In the event of any such grant by the Bank of a Participation to a Participant, the Bank shall remain responsible for the performance of its obligations hereunder and under the Letter of Credit, and the City shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement. The City agrees that each Participant shall, to the extent of its Participation, be entitled to the benefits of this Agreement as if such Participant were the Bank, *provided* that no Participant shall have the right to declare, or to take actions in response to, an Event of Default under Section 6.1 hereof.

Section 7.4. Unconditional Obligations. To the fullest extent permitted by Law, the obligations of the City under this Agreement shall be absolute, unconditional and irrevocable and shall be paid or performed strictly in accordance with the terms of this Agreement, under all circumstances whatsoever, including, without limitation, the following circumstances: (i) any lack of validity, legality or enforceability of this Agreement, any Note or any other Related Document, or any other instrument, Agreement or other document executed and delivered by the City in connection with any of the foregoing; (ii) any amendment or waiver of or any consent to departure from all or any of the Related Documents, or any other instrument, Agreement or other document executed and delivered by the City in connection with any of the foregoing; (iii) any statement or other document presented under this Agreement proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever; (iv) the purchasing of a Note after the delivery of a Demand for Payment (as defined in the Letter of Credit) that does not comply with the terms of this Agreement; (v) the existence of any claim, set-off, defense or other rights which the City may have at any time against the Paying Agent/Registrar (or any Person for whom the Paying Agent/Registrar may be acting), any Holder, the Bank or any other Person, whether in connection with this Agreement, the transactions contemplated herein or in the Related Documents or any unrelated transaction; (vi) the use to which proceeds of any Notes may be put; or (vii) any other circumstance which might constitute a legal or equitable discharge of any obligations hereunder (whether or not similar to any of the foregoing), it being agreed that the obligations hereunder shall not be discharged except by the performance thereof strictly in accordance with the terms of this Agreement including, without limitation, the payment in full as herein provided of all amounts owing hereunder.

SECTION 7.5. LIABILITY OF BANK; INDEMNIFICATION. (a) THE CITY ASSUMES ALL RISKS OF THE ACTS OR OMISSIONS OF ERCOT WITH RESPECT TO THE USE OF THE LETTER OF CREDIT AND THE USE OF PROCEEDS THEREUNDER; *PROVIDED* THAT THIS ASSUMPTION WITH RESPECT TO THE BANK IS NOT INTENDED TO AND SHALL NOT PRECLUDE THE CITY FROM PURSUING SUCH RIGHTS AND REMEDIES AS IT MAY HAVE AGAINST ERCOT UNDER ANY OTHER AGREEMENTS. NEITHER THE BANK NOR ANY OF ITS RESPECTIVE OFFICERS OR DIRECTORS SHALL BE LIABLE OR RESPONSIBLE FOR (i) THE USE OF THE LETTER OF CREDIT, THE DRAWINGS THEREUNDER OR THE TRANSACTIONS

CONTEMPLATED HEREBY AND BY THE RELATED DOCUMENTS OR FOR ANY ACTS OR OMISSIONS OF ERCOT, (ii) THE VALIDITY, SUFFICIENCY, OR GENUINENESS OF ANY DOCUMENTS DETERMINED IN GOOD FAITH BY THE BANK TO BE VALID, SUFFICIENT OR GENUINE, EVEN IF SUCH DOCUMENTS SHALL, IN FACT, PROVE TO BE IN ANY OR ALL RESPECTS INVALID, FRAUDULENT, FORGED OR INSUFFICIENT, (iii) PAYMENTS BY THE BANK AGAINST PRESENTATION OF REQUESTS FOR DRAWINGS OR REQUESTS FOR WHICH THE BANK IN GOOD FAITH HAS DETERMINED TO BE VALID, SUFFICIENT OR GENUINE AND WHICH SUBSEQUENTLY ARE FOUND NOT TO COMPLY WITH THE TERMS OF THIS AGREEMENT, OR (IV) ANY OTHER CIRCUMSTANCES WHATSOEVER IN MAKING OR FAILING TO MAKE PAYMENT HEREUNDER; *PROVIDED* THAT THE CITY SHALL NOT BE REQUIRED TO INDEMNIFY THE BANK FOR ANY CLAIMS, LOSSES, LIABILITIES, COSTS OR EXPENSES TO THE EXTENT, BUT ONLY TO THE EXTENT, CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE BANK.

(b) TO THE FURTHEST EXTENT PERMITTED BY THE LAWS OF THE STATE, THE CITY HEREBY INDEMNIFIES AND HOLDS HARMLESS THE BANK FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS OR EXPENSES (INCLUDING SPECIFICALLY REASONABLE ATTORNEYS' FEES) WHICH THE BANK MAY INCUR (OR WHICH MAY BE CLAIMED AGAINST THE BANK BY ANY PERSON WHATSOEVER) BY REASON OF OR IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THIS AGREEMENT, THE LETTER OF CREDIT AND THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (INCLUDING, WITHOUT LIMITATION, THE PURCHASE OF AUTHORIZED INSTALLMENTS); *PROVIDED* THAT THE CITY SHALL NOT BE REQUIRED TO INDEMNIFY THE BANK, TO THE EXTENT, BUT ONLY TO THE EXTENT, ANY SUCH CLAIM, DAMAGE, LOSS, LIABILITY, COST OR EXPENSE IS CAUSED BY THE BANK'S WILLFUL MISCONDUCT OR NEGLIGENCE. THE BANK IS HEREBY EXPRESSLY AUTHORIZED AND DIRECTED TO HONOR ANY DEMAND FOR PAYMENT WHICH IS MADE UNDER THE LETTER OF CREDIT WITHOUT REGARD TO, AND WITHOUT ANY DUTY ON ITS PART TO INQUIRE INTO THE EXISTENCE OF, ANY DISPUTES OR CONTROVERSIES BETWEEN THE CITY, ERCOT OR ANY OTHER PERSON OR THE RESPECTIVE RIGHTS, DUTIES OR LIABILITIES OF ANY OF THEM, OR WHETHER ANY FACTS OR OCCURRENCES REPRESENTED IN ANY OF THE DOCUMENTS PRESENTED UNDER THE LETTER OF CREDIT ARE TRUE AND CORRECT.

(c) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CITY SHALL NOT ASSERT, AND HEREBY WAIVES, ANY CLAIM AGAINST THE BANK, ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS AGREEMENT, THE LETTER OF CREDIT, ANY OTHER RELATED DOCUMENT OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY OR THEREBY, THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY OR THE USE OF THE PROCEEDS THEREOF.

(d) THE OBLIGATIONS OF THE CITY UNDER THIS SECTION 7.5 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Section 7.6. Expenses and Taxes. The City will promptly pay (i) the reasonable fees and expenses of Bank's Counsel incurred in connection with the preparation, execution and delivery of this Agreement; the Letter of Credit and the other Related Documents, (ii) the reasonable out-of-pocket expenses of the Bank incurred in connection with the preparation, execution and delivery of this Agreement and the other Related Documents, (iii) the reasonable fees and disbursements of Bank's Counsel with respect to advising the Bank as to the rights and

responsibilities under this Agreement after the occurrence of an Event of Default, (iv) the Bank's normal transaction charges, including wire charges and service charges, on any account established with the Bank in order to perform this Agreement, and (v) all reasonable costs and expenses, if any, in connection with the administration and enforcement of this Agreement and any other documents which may be delivered in connection herewith or therewith, including in each case the fees and disbursements of Bank's Counsel. In addition, the City shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of this Agreement and the security contemplated by the Related Documents and any related documents and agrees to hold the Bank harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees. In addition, the City agrees to pay, after the occurrence of an Event of Default, all reasonable costs and expenses (including attorneys' fees and costs of settlement) incurred by the Bank in enforcing any obligations or in collecting any payments due from the City hereunder by reason of such Event of Default or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "workout" or of any insolvency or bankruptcy proceedings. The obligations of the City under this Section 7.6 shall survive the termination of this Agreement.

Section 7.7. No Waiver; Conflict. No failure by the Bank to exercise, and no delay by the Bank in exercising any right, power or privilege hereunder, nor any course of dealing with respect to any of the same, shall operate as a waiver thereof, preclude any other or further exercise thereof nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The rights, remedies, powers and privileges herein provided and provided under each other Related Document are cumulative, and not exclusive of any rights, remedies, powers and privileges provided by law.

Section 7.8. Modification, Amendment, Waiver, Etc. No modification, amendment or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed in accordance with Section 7.1 hereof.

Section 7.9. Dealing with the City and/or ERCOT. The Bank and its affiliates may accept deposits from, extend credit to and generally engage in any kind of banking, trust or other business with the City and/or the ERCOT regardless of the capacity of the Bank hereunder.

Section 7.10. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction, and all other remaining provisions hereof will be construed to render them enforceable to the fullest extent permitted by law.

Section 7.11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but when taken together shall constitute but one agreement and any of the parties hereto may execute this Agreement by signing any such counterpart. This Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy or other replicating image attached, and any

printed or copied version of any signature page so delivered will have the same force and effect as an originally signed version of such signature page. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or “printouts,” if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, “electronic signature” means a manually signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a “pdf” (portable document format) or other replicating image attached to an e mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 7.12. Table of Contents; Headings. The table of contents and the section and subsection headings used herein have been inserted for convenience of reference only and do not constitute matters to be considered in interpreting this Agreement.

SECTION 7.13. ENTIRE AGREEMENT. THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES HERETO WITH RESPECT TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES HERETO AS TO SUCH SUBJECT MATTER.

Section 7.14. Governing Law; Service of Process; Jurisdiction. (a) This Agreement shall be governed by and construed in accordance with the laws of the State; *provided* that the duties and obligations of the Bank hereunder shall be governed by and construed in accordance with the laws of the State of New York without regard to choice of law rules other than New York General Obligation Law §5-1401.

(b) *SERVICE OF PROCESS.* THE BANK IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 7.2. THE CITY HEREBY IRREVOCABLY CONSENTS TO SERVICE TO PROCESS IN THE MANNER PROVIDED FOR PURSUANT TO LAWS OF THE STATE OF TEXAS. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

(c) *SUBMISSION TO JURISDICTION.* EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF ANY COURT OF THE STATE OF TEXAS OR ANY FEDERAL COURT OF THE STATE OF TEXAS, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT

OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH STATE COURT OR FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER RELATED DOCUMENT SHALL AFFECT ANY RIGHT THAT THE BANK MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT AGAINST THE CITY OR ANY OTHER PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

Section 7.15. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER RELATED DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 7.16. Governmental Regulations. The City shall (a) ensure that no person who owns a controlling interest in or otherwise controls the City is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the OFAC, the Department of the Treasury or included in any Executive Orders, that prohibits or limits Bank from making any advance or extension of credit to the City or from otherwise conducting business with the City and (b) ensure that the proceeds of the draws under the Letter of Credit shall not be used to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto. Further, the City shall comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act (“BSA”) laws and regulations, as amended. The City agrees to provide documentary and other evidence of the City’s identity as may be requested by Bank at any time to enable Bank to verify the City’s identity or to comply with any applicable law or regulation, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.

Section 7.17. USA PATRIOT Act. The Bank hereby notifies the City that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that will allow the Bank to identify the City in accordance with the Act.

Section 7.18. Electronic Transmissions. The Bank is authorized to accept and process any amendments, transfers, assignments of proceeds, Drawings, consents, waivers and all documents relating to the Letter of Credit which are sent to Bank by electronic transmission, including electronic mail, telex, telecopy, telefax, courier, mail or other computer generated telecommunications and such electronic communication shall have the same legal effect as if written and shall be binding upon and enforceable against the City. The Bank may, but shall not

be obligated to, require authentication of such electronic transmission or that the Bank receives original documents prior to acting on such electronic transmission.

Section 7.19. Exemption from Disclosure Form. The Bank represents and warrants that the Bank is a publicly traded business entity. The City and the Bank agree that the Bank is not required to file a Certificate of Interested Parties Form 1295 otherwise prescribed under Section 2252.908 of the Texas Government Code, as amended.

Section 7.20. Arm's-Length Transaction. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), the City acknowledges and agrees that: (a) (i) the services regarding this Agreement and the Letter of Credit provided by the Bank and any affiliate thereof are arm's-length commercial transactions between the City, on the one hand, and the Bank and its affiliates, on the other hand, (ii) the City has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the City is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Related Documents; (b) (i) the Bank and its affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor (including, without limitation, as an advisor (either as a financial or municipal advisor (as defined in Section 15B of the Securities Exchange Act of 1934, as amended, and the related final rules) or otherwise), or agent or fiduciary, for the City, or any other Person, (ii) the Bank has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934, as amended, or otherwise to the City with respect to this transaction and the discussions, undertakings and procedures leading thereto (irrespective of whether the Bank or any of its affiliates has provided other services or is currently providing other services to the City on other matters) and (iii) neither the Bank nor any of its affiliates has any obligation to the City with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Related Documents; (c) the Bank and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the City, and neither the Bank nor any of its affiliates has any obligation to disclose any of such interests to the City and (d) the Bank has not provided any advice or assumed any advisory or fiduciary responsibility in favor of the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (whether or not the Bank, or any affiliate of the Bank, has provided other services or advised, or is currently providing other services or advising the City on other matters) and the Bank is not recommending that the City take an action with respect to the transaction described in this Agreement and the other Related Documents.

Section 7.21. Israel Boycott. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2271.002, Texas Government Code, the Bank hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification, "boycott Israel," a term defined in Section 2271.001, Texas Government Code, by reference to Section 808.001(1), Texas Government Code, means refusing to deal with, terminating business activities with, or otherwise taking any action that is

intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Section 7.22. Chapter 2252. The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/publications/divestment.php>. The foregoing representation is made solely to enable the City to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal or Texas law and excludes the Bank and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization

Section 7.23. EMMA Postings. In the event the City files with EMMA, this Agreement, any Related Documents or any description of the material terms thereof or notice of any agreement to covenants, events of default, remedies, priority rights or other similar terms, either voluntarily or as required pursuant a continuing disclosure agreement or Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule") (each such posting, an "EMMA Posting"), the City shall (i) provide the Bank with a copy of each EMMA Posting prior to submitting or posting on EMMA and (ii) shall not file or permit the filing of any EMMA Posting that includes Confidential Information. The City acknowledges and agrees that although the Bank may request and review, edit or redact such materials prior to filing, the Bank is not responsible for the City's or any other entity's (including, but not limited to, any broker-dealer's) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with any continuing disclosure agreement or any applicable securities or other laws, including, but not limited to, those relating to the Rule.

Section 7.24. US QFC Stay Rules.

(a) *Recognition of U.S. Resolution Regimes.* In the event that any party that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of this Agreement or any other Related Document (and any interest and obligation in or under this Agreement or any other Related Document and any property securing this Agreement) from such Covered Entity will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement or any other Related Document (and any such interest, obligation and property) were governed by the laws of the United States or a state of the United States. In the event that any party that is a Covered Entity or a BHC Act Affiliate of such party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights against such party with respect to this Agreement or any Related Document are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement or such Related Document were governed by the

laws of the United States or a state of the United States. The requirements of this paragraph (a) apply notwithstanding the provisions of paragraph (b).

(b) *Limitation on the Exercise of Certain Rights Related to Affiliate Insolvency Proceedings.* Notwithstanding anything to the contrary in this Agreement or any other Related Document, but subject to the requirements of paragraph (a), no party to this Agreement shall be permitted to exercise any Default Right against a party that is a Covered Entity with respect to this Agreement or any other Related Document that is related, directly or indirectly, to a BHC Act Affiliate of such Covered Entity becoming subject to Insolvency Proceedings, except to the extent the exercise of such Default Right would be permitted under 12 C.F.R. § 252.84, 12 C.F.R. § 47.5, or 12 C.F.R. § 382.4, as applicable. After a BHC Act Affiliate of a party that is a Covered Entity has become subject to Insolvency Proceedings, any party that seeks to exercise a Default Right against such Covered Entity with respect to this Agreement shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted hereunder.

(c) *Defined Terms.* As used in this Section 10.16:

“*BHC Act Affiliate*” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“*Covered Entity*” means any of the following:

(a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“*Default Right*” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“*Insolvency Proceeding*” means a receivership, insolvency, liquidation, resolution, or similar proceeding.

“*U.S. Special Resolution Regime*” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

Section 7.25. Verification Regarding Energy Company Boycotts. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular

Session), Texas Government Code, as amended, the Bank hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification, “boycott energy companies,” a term defined in Section 2274.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above.”

Section 7.26. Verification Regarding Discrimination Against Firearm Entity or Trade Association. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Bank hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Federal or Texas law.

As used in the foregoing verification and the following definitions,

(a) “discriminate against a firearm entity or firearm trade association,” a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association,

(b) “firearm entity,” a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting), and

(c) “firearm trade association,” a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the City and the Bank have duly executed this Agreement as of the date first above written.

CITY OF AUSTIN, TEXAS

By: _____
Name: _____
Title: _____

DRAFT

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: _____

Name:

Title:

DRAFT

EXHIBIT A

FORM OF REQUEST OF [INCREASE/DECREASE]

To: Wells Fargo Bank (the “Bank”)

Ladies and Gentlemen:

The undersigned, City of Austin, Texas (together with its successors and assigns, the “City”), hereby refers to the Note Purchase Agreement dated as of September 28, 2023 (the “Agreement”), between the City and the Bank, the terms defined therein being used herein as therein defined, and hereby gives you notice irrevocably, pursuant to Section 2.1(b) and 2.1(c) of the Agreement:

1. The City hereby requests that the Stated Amount of the Letter of Credit [increase/decrease] by an amount equal to \$_____ to a new Stated Amount of \$_____.
2. The Scheduled [Increase/Decrease] Date will be _____, 202__

[The undersigned hereby certifies on behalf of the City that the following statements are true on the date hereof, and will be true on the date of the proposed Scheduled Increase Date, before and after giving effect thereto:

- (a) all representations and warranties of the City contained in Article Four of the Agreement are and shall be true and correct in all material respects;
- (b) no Default or Event of Default has occurred and is continuing under the Agreement; and
- (c) the amount of the requested increase to the Stated Amount will not exceed the positive difference, if any, between (i) the Maximum Stated Amount and (ii) the sum of (A) the then Stated Amount of the Letter of Credit and (B) the aggregate principal amount of all Authorized Installments previously delivered hereunder (except that once the Initial Authorized Installment has been repaid it shall not be taken into account in the determination of aggregate principal amount of all Authorized Installments previously delivered for the purposes of this Section 2.1(c)(i)), as demonstrated by the following calculation:

A) Maximum Stated Amount	\$100,000,000
B) the Stated Amount of the Letter of Credit before giving effect to the requested increase	\$ _____
C) aggregate principal amount of all Authorized Installments previously delivered (except for the Initial Authorized Installment if it has been repaid)	\$ _____

D) **Sum of Lines B and C** \$ _____

E) **Line D subtracted from Line A** \$ _____

F) **amount of the requested increase, which is less than**
less than the amount on Line E. \$ _____]

The Person executing this notice and making the certifications herein shall not be liable personally or subject to any personal liability or accountability by reason of the certifications herein. Any action brought as a result of delivery of this notice or the certifications made herein shall be brought against the City.

CITY OF AUSTIN, TEXAS

By _____
Name _____
Title: _____

APPENDIX I

FORM OF LETTER OF CREDIT

DRAFT



**IRREVOCABLE AND UNCONDITIONAL
STANDBY LETTER OF CREDIT**

Irrevocable and Unconditional Standby
Letter of Credit No. []

“Amount”: \$100,000,000.00 U.S. Dollars

“Date of Issuance”: [], 2023

**“Expiration of Initial Term (subject to automatic extension
and renewal as provided herein)”:** [], 2024

“Market Participant Applicant”:

[REDACTED]

[REDACTED]

“Issuer”:

[REDACTED]

“Beneficiary”:

[REDACTED]

To Beneficiary:

At the request of and on behalf of Market Participant Applicant, the undersigned Issuer hereby establishes and issues in your favor, effective immediately, an Irrevocable and Unconditional Standby Letter of Credit No. [] (**“Letter of Credit”**) in the amount of \$100,000,000.00 U.S. Dollars.

This Letter of Credit is available for payment upon your demand at sight presented at our counters by hand delivery of courier located at Wells Fargo Bank, N.A., [REDACTED], or upon demand by fax at [REDACTED] against presentation to us of the following: (i) your written demand for payment containing the text of Exhibit I attached hereto, and (ii) your statement containing the text of

Exhibit II, Exhibit IV, Exhibit V, or Exhibit VI attached hereto. If presentation is made by facsimile, original documents will be delivered to us at the address stated above.

Funds may be drawn under this Letter of Credit, from time to time, in one or more drawings, in amounts not exceeding in the aggregate the Amount specified above. Partial drawings shall reduce the Amount thereafter available for drawing under this Letter of Credit.

Upon presentation to us in conformity with the foregoing, we will, not later than the close of business on our next local banking day after presentation, but without any other delay whatsoever, irrevocably and without reserve or condition issue payment instructions to the Federal Reserve wire transfer system in proper form to transfer to the account at the bank designated by you in the demand, the full amount demanded by you in the same-day funds which are immediately available to you up to the Amount of this Letter of Credit.

Payment hereunder shall be made regardless of: (a) any written or oral direction, request, notice or other communication now or hereafter received by us from the Market Participant Applicant or any other person except you, including without limitation any communication regarding fraud, forgery, lack of authority or other defect not apparent on the face of the documents presented by you, but excluding solely an effective written order issued, other than at our instance, by a court of competent jurisdiction which order is legally binding upon us and specifically orders us not to make such payment; (b) the solvency, existence or condition, financial or other, of the Market Participant Applicant or any other person or property from whom or which we may be entitled to reimbursement for such payment; and (c) without limiting clause (b) above, whether we are in receipt of or expect to receive funds or other property as reimbursement in whole or in part for such payment. We agree that we will not take any action to cause the issuance of an order described in clause (a) of the preceding sentence.

We further agree that the time set forth herein for payment of any demand(s) for payment is sufficient to enable us to examine such demand(s) and the related documents(s) referred to above with care so as to ascertain that on their face they appear to comply with the terms of this Letter of Credit and that if such demand(s) and document(s) on their face appear to so comply, failure to make any such payment within such time shall constitute dishonor of such demand(s) and this Letter of Credit.

Except as stated herein, payment is not subject to any condition or qualification. The only documents required to be presented for payment are Exhibit I and one of the following: Exhibit II, Exhibit IV, Exhibit V, or Exhibit VI. Our obligation under this Letter of Credit shall be our individual obligation and in no way is contingent upon reimbursement with respect thereto.

The stated Amount of this Letter of Credit may be increased or decreased by an amendment to this Letter of Credit in the form of Exhibit III executed by you and us. This Letter of Credit may not otherwise be amended or modified without your written agreement. Any such amendment shall become effective only upon acceptance by your signature on a hard copy amendment.

You shall not be bound by any written or oral agreement of any type between us and the Market Participant Applicant or any other person relating to this Letter of Credit, whether now or hereafter existing.

We hereby agree, warrant, and represent that your demand(s) for payment in conformity with the terms of this Letter of Credit will be duly honored as set forth above. All fees, charges, and/or other costs associated with the issuance of and any drawing(s) against this Letter of Credit shall be for the account of and paid by the Market Participant Applicant. All of the rights of Beneficiary set forth herein shall inure to the benefit of Beneficiary's successors and assigns. In this connection, in the event of a drawing made by a party other than Beneficiary, such drawing must be accompanied by the following signed certification:

The undersigned does hereby certify that _____ **[Drawer]** _____ is the successor by operation of law to ERCOT, a beneficiary named in Wells Fargo Bank, N.A. Letter of Credit No. [_____] and we attach herewith copies of official documents proving our legal status as successor.

[Name and Title]

The initial term of this Letter of Credit shall be one year from the Date of Issuance. It is a condition of this Letter of Credit that it shall be automatically extended without amendment for one (1) additional calendar year after the initial term, or one (1) additional calendar year after any extended term, unless at least sixty (60) days prior to the expiration of the initial term or sixty (60) days prior to the expiration of any extended term we notify Beneficiary by certified mail, return receipt requested (receipt effective upon scheduled weekday delivery day) or facsimile (receipt effective upon receipt of evidence, including facsimile evidence, that the facsimile was actually received) or overnight courier to the address/facsimile number for Beneficiary set forth above that we elect not to extend this Letter of Credit which notice shall contain the following statement:

Wells Fargo Bank, N.A. hereby notifies you that Irrevocable and Unconditional Standby Letter of Credit No. [_____] (“Letter of Credit”) in the remaining amount of \$100,000,000.00 U.S. Dollars dated [____], 2023 issued by Wells Fargo Bank, N.A. in your favor for the account of City of Austin, Texas (the “City”) will not be extended and will expire on _____.

In the event that we timely send notice to you in writing that we elect not to extend this Letter of Credit, you may at any time within the thirty (30) days before the expiration date demand payment of the remaining balance of this Letter of Credit upon presentation of (a) your written demand for payment containing the text of Exhibit I attached hereto, and (b) your statement containing the text of Exhibit IV attached hereto. The demand rights in this paragraph are in addition to any other rights under this Letter of Credit.

It is a condition of this Letter of Credit that we shall maintain a corporate debt rating not less than that required by the ERCOT Protocols. In the event that we do not maintain the minimum corporate debt rating required by the ERCOT Protocols, you may demand payment of the remaining balance of this Letter of Credit upon presentation of (a) your written demand for payment containing the text of Exhibit I attached hereto, and (b) your statement containing the text of Exhibit V attached hereto. The demand rights in this paragraph are in addition to any other rights under this Letter of Credit.

This Letter of Credit may be terminated by us on sixty (60) days written notice by sending Beneficiary notification by certified mail, return receipt requested (receipt effective upon scheduled weekday delivery day) or facsimile (receipt effective upon receipt of evidence, including facsimile evidence, that the facsimile was actually received) or courier to the address/facsimile number for Beneficiary set forth above that we elect to terminate this Letter of Credit which notice shall contain the following statement:

Wells Fargo Bank, N.A. hereby notifies you that Irrevocable and Unconditional Standby Letter of Credit No. [_____] (“**Letter of Credit**”) in the remaining amount of U.S. Dollars \$100,000,000.00 dated [____], 2023 issued by Wells Fargo Bank, N.A. in your favor for the account of City of Austin, Texas will terminate sixty (60) days following our sending this Notice of Termination.

In the event that we send notice to you in writing that we elect to terminate this Letter of Credit, you may at any time within the thirty (30) days before the termination date demand payment of the remaining balance under this Letter of Credit upon presentation of (a) your written demand for payment containing the text of Exhibit I attached hereto, and (b) your statement containing the text of Exhibit VI attached hereto. The demand rights in this paragraph are in addition to any other rights under this Letter of Credit.

Notwithstanding our ability to terminate this Letter of Credit on the terms set forth above, this Letter of Credit is otherwise irrevocable and unconditional.

This Letter of Credit may not be assigned or transferred by us.

The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit, unless the Beneficiary shall have signed a written waiver. No such waiver, unless expressly so stated therein, shall be effective as to any transaction that occurs subsequent to the date of the waiver, nor as to any continuance of a breach after the waiver.

We agree that if, on the expiration or termination date of this Letter of Credit, our counters specified above are not open for business for any reason whatsoever (including without limitation an event under Rule 3.14 of the ISP), drawings under this Letter of Credit will be duly honored if the specified complying documents are presented by you within thirty (30) full banking days after such counters are reopened for business.

Except so far as otherwise stated herein, this Letter of Credit shall be subject to and governed by the International Standby Practices Publication No. 590 of the International Chamber of Commerce, including any amendments, modifications or revisions thereof (the "ISP"), in effect on the date of issuance of this Letter of Credit. This Letter of Credit shall also be governed by the laws of the State of Texas to the extent that the terms of the ISP are not applicable; provided that, in the event of any conflict between the ISP and Texas law, the ISP shall control. To the extent the terms of this Letter of Credit are inconsistent with the provisions of the ISP and/or Texas law, the terms of this Letter of Credit shall govern.

Yours faithfully,

ISSUING BANK

Wells Fargo Bank, N.A.

By: _____

Title: _____

THE ORIGINAL OF THE LETTER OF CREDIT CONTAINS AN EMBOSSED SEAL OVER THE AUTHORIZED SIGNATURE.

PLEASE DIRECT ANY WRITTEN CORRESPONDENCE OR INQUIRIES REGARDING THIS LETTER OF CREDIT, ALWAYS QUOTING OUR REFERENCE NUMBER, TO WELLS FARGO BANK, NATIONAL ASSOCIATION, ATTN: U.S. STANDBY TRADE SERVICES

AT EITHER



OR



PHONE INQUIRIES REGARDING THIS CREDIT SHOULD BE DIRECTED TO OUR STANDBY CUSTOMER CARE CONNECTION PROFESSIONALS



(HOURS OF OPERATION: 8:00A.M. PT TO 5:00P.M. PT) (HOURS OF OPERATION: 8:00A.M. EST TO 5:30P.M. EST)

DRAFT

EXHIBIT I

DEMAND FOR PAYMENT

Re: Irrevocable and Unconditional Standby Letter of Credit

No. [_____] Dated: [____], 2023

To Whom It May Concern:

Demand is hereby made upon you for payment to us of \$_____ by deposit to our account no. _____ at Wells Fargo Bank, N.A. This demand is made under, and is subject to and governed by, your Irrevocable and Unconditional Standby Letter of Credit No. [_____] dated [____], 2023 in the amount of \$100,000,000.00 established by you in our favor for the account of City of Austin, Texas, as the Market Participant Applicant.

Wiring instructions for our account are as follows:

DATED: _____.

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____

EXHIBIT II

STATEMENT OF AMOUNT DUE

Re: Irrevocable and Unconditional Standby Letter of Credit
No. [] Dated: [], 2023

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit No. [] dated [], 2023 in the amount of \$100,000,000.00 established by you in our favor for the account of City of Austin, Texas.

We hereby certify to you that \$_____ is due and owing to us by the Market Participant Applicant, under and in accordance with the ERCOT Protocols.

DATED: _____, _____.

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____

EXHIBIT III

AMENDMENT

Re: Irrevocable and Unconditional Standby Letter of Credit

No. [] Dated: [], 2023

Beneficiary:

Electric Reliability Council of Texas, Inc. (ERCOT)
7620 Metro Center Drive
Austin, Texas 78744
Attn: Credit

Market Participant Applicant:

City of Austin, Texas

Austin, Texas

To Whom It May Concern:

The above referenced Irrevocable and Unconditional Standby Letter of Credit is hereby amended as follows: by increasing / decreasing / leaving unchanged (*strike two*) the stated amount by \$ _____ to a new stated amount of \$ _____. All other terms and conditions of the Irrevocable and Unconditional Letter of Credit remain unchanged.

This amendment is effective only when accepted by Beneficiary, which acceptance may only be valid by a signature of an authorized representative.

Dated: _____

Yours faithfully,

Wells Fargo Bank, N.A.

By: _____

Title: _____

ACCEPTED:

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____

Date: _____

EXHIBIT IV

STATEMENT REGARDING ISSUER'S NONRENEWAL

Re: Irrevocable and Unconditional Standby Letter of Credit
No. [_____]

Dated: [____], 2023

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit No. [_____] dated [____], 2023 in the amount of \$100,000,000.00 established by you in our favor for the account of City of Austin, Texas.

We hereby certify to you that Beneficiary has not received an extension or replacement of said Letter of Credit and/or other acceptable replacement collateral from Market Participant Applicant in accordance with the ERCOT Protocols.

DATED: _____, _____.

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____

EXHIBIT V

STATEMENT REGARDING ISSUER RATING

Re: Irrevocable and Unconditional Standby Letter of Credit
No. [_____]

Dated: [____], 2023

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit No. [_____] dated [____], 2023 in the amount of \$100,000,000.00 established by you in our favor for the account of City of Austin, Texas.

We hereby certify to you that the Issuer has not maintained a corporate debt rating required by the ERCOT Protocols and Market Participant Applicant has failed to replace the Letter of Credit in a manner acceptable to Beneficiary and/or provide other acceptable replacement collateral from Market Participant Applicant in accordance with the ERCOT Protocols.

DATED: _____, _____.

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____

EXHIBIT VI

STATEMENT REGARDING TERMINATION

Re: Irrevocable and Unconditional Standby Letter of Credit
No. [_____]

Dated: [____], 2023

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Standby Letter of Credit No. [_____] dated [____], 2023 in the amount of \$100,000,000.00 established by you in our favor for the account of City of Austin, Texas.

We hereby certify to you that Beneficiary received notice that the Letter of Credit will be terminated. We further certify that Market Participant Applicant has failed to replace the Letter of Credit in a manner acceptable to Beneficiary and/or provide Beneficiary with other acceptable replacement collateral in accordance with the ERCOT Protocols.

DATED: _____, _____.

Electric Reliability Council of Texas, Inc.

By: _____

Title: _____