

ORDINANCE NO. \_\_\_\_\_

BOND ORDINANCE

\$2,345,000  
CITY OF BRYAN, TEXAS  
WATERWORKS AND SEWER SYSTEM REVENUE BONDS  
NEW SERIES 2016B

ADOPTED: October 11, 2016

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND ORDERING THE ISSUANCE OF  
“CITY OF BRYAN, TEXAS, WATERWORKS AND SEWER SYSTEM  
REVENUE BONDS, NEW SERIES 2016B”; AND ENACTING OTHER  
PROVISIONS INCIDENT AND RELATED THERETO**

WHEREAS, the City of Bryan, Texas (the “City” or the “Issuer”) is a “home-rule municipality” operating under a home-rule charter adopted pursuant to Section 5 of Article XI of the Texas Constitution; and

WHEREAS, the City has heretofore issued the Previously Issued Parity Bonds (as hereinafter defined); and

WHEREAS, the Previously Issued Parity Bonds are payable from a first lien on and pledge of the net revenues of the City’s combined waterworks and sewer systems (the “Waterworks and Sewer System”); and

WHEREAS, in the ordinances authorizing the issuance of the Previously Issued Parity Bonds, the City reserved the right to issue revenue bonds on a parity with the Previously Issued Parity Bonds; and

WHEREAS, the City has determined to issue the bonds hereinafter authorized (the “Bonds”) secured by a first lien on and pledge of the “Net Revenues” (hereinafter defined) of the Waterworks and Sewer System on a parity with the Previously Issued Parity Bonds; and

WHEREAS, the bonds hereinafter authorized are to be issued and delivered pursuant to the laws of the State of Texas, including specifically Chapter 1502, Texas Government Code, as amended for the purpose of financing improvements to the Waterworks and Sewer System, including the development and implementation of the City of Bryan Aquifer Storage and Recovery Project; and

WHEREAS, the City has determined that the use of its existing permitted groundwater wells in conjunction with the City of Bryan Aquifer Storage and Recovery Project (hereinafter defined) is a legal, valid, and recommended strategy for increasing both the peak and long term supply of the City’s municipal water supply system at a reasonable cost.

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

ARTICLE I  
DEFINITIONS, FINDINGS AND INTERPRETATION

Section 1.01: Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise, in this Ordinance, the following terms shall have meanings specified below:

“Account” means any account created within a Fund established pursuant to the terms of this Ordinance or an ordinance authorizing the issuance of Parity Obligations.

“Additional Bonds” means the additional bonds the City reserves the right to issue in accordance with Section 10.01 hereof.

“Annual Debt Service Requirements” means, for any Fiscal Year, the principal of and interest on all Parity Bonds coming due at Maturity or Stated Maturity (or that could come due on demand of the owner thereof other than by acceleration or other demand conditioned upon default by the City on such Debt, or be payable in respect of any required purchase of such Debt by the City) in such Fiscal Year, and, for such purposes, any one or more of the following rules shall apply at the election of the City:

(1) Committed Take Out. If the City has entered into a Credit Agreement constituting a binding commitment within normal commercial practice to discharge any of its Funded Debt at its Stated Maturity (or, if due on demand, at any date on which demand may be made) or to purchase any of its Funded Debt at any date on which such Debt is subject to required purchase, all under arrangements whereby the City’s obligation to repay the amounts advanced for such discharge or purchase constitutes Funded Debt, then the portion of the Funded Debt committed to be discharged or purchased shall be excluded from such calculation and the principal of and interest on the Funded Debt incurred for such discharging or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the Stated Maturity or purchase date of the Funded Debt to be discharged or purchased, shall be added;

(2) Balloon Debt. If the principal (including the accretion of interest resulting from original issue discount or compounding of interest) of any series or issue of Funded Debt due (or payable in respect of any required purchase of such Funded Debt by the City) in any Fiscal Year either is equal to at least 25% of the total principal (including the accretion of interest resulting from original issue discount or compounding of interest) of such Funded Debt or exceeds by more than 50% the greatest amount of principal of such series or issue of Funded Debt due in any preceding or succeeding Fiscal Year (such principal due in such Fiscal Year for such series or issue of Funded Debt being referred to herein as “Balloon Debt), the amount of principal of such Balloon Debt taken into account during any Fiscal Year shall be equal to the debt service calculated using the original principal amount of such Balloon Debt amortized over the Term of Issue on a level debt service basis at an assumed interest rate equal to the rate borne by such Balloon Debt on the date of calculation;

(3) Consent Sinking Fund. In the case of Balloon Debt (as defined in clause (2) above), if a Designated Financial Officer shall deliver to the City an Officer’s Certificate providing for the retirement of (and the instrument creating such Balloon Debt shall permit the retirement of), or for the accumulation of a sinking fund for (and the instrument creating such Balloon Debt shall permit the accumulation of a sinking fund for), such Balloon Debt according to a fixed schedule stated in such Officer’s Certificate ending on or before the Fiscal Year in which such principal (and premium, if any) is due, then the principal of (and, in the case of retirement, or to the extent provided for by the

sinking fund accumulation, the premium, if any, and interest and other debt service charges on) such Balloon Debt shall be computed as if the same were due in accordance with such schedule, provided that this clause (3) shall apply only to Balloon Debt for which the installments previously scheduled have been paid or deposited to the sinking fund established with respect to such Debt on or before the times required by such schedule; and provided further that this clause (3) shall not apply where the City has elected to apply the rule set forth in clause (2) above;

(4) Prepaid Debt. Principal of and interest on Parity Bonds, or portions thereof, shall not be included in the computation of the Annual Debt Service Requirements for any Fiscal Year for which such principal or interest are payable from funds on deposit or set aside in trust for the payment thereof at the time of such calculations (including without limitation capitalized interest and accrued interest so deposited or set aside in trust) with a financial institution acting as fiduciary with respect to the payment of such Debt;

(5) Variable Rate.

(A) Except as hereinafter provided in this subparagraph, the rate of interest on Variable Rate Obligations then proposed to be issued shall be deemed to be the average for the then immediately preceding five (5) years of the SIFMA Index, plus twenty (20) basis points; provided, however, that (i) if, after the issuance of the Variable Rate Obligations then proposed to be issued, more than 20% of the aggregate of the Parity Obligations Outstanding will bear interest at a variable rate and (ii) any Parity Obligation is then insured by a Bond Insurer, the rate of interest on Variable Rate Obligations then proposed to be issued shall be deemed to be the greater of (x) the most recently announced 30-year Revenue Bond Index published by The Bond Buyer, a financial journal published, as of the date the Ordinance was adopted, in The City of New York, New York, (y) the rate of interest then borne by any Variable Rate Obligations then Outstanding, and (z) 1.25 times the average variable rate borne by any Variable Rate Obligations then Outstanding during the then immediately preceding twelve-month period, or if no Variable Rate Obligations are then Outstanding, 1.25 times the average variable rate for similarly rated obligations with comparable maturities during the then immediately preceding twelve-month period, and

(B) Except as hereinafter provided in this subparagraph, the rate of interest on Variable Rate Obligations outstanding at the time of such calculation shall be deemed to be the lesser of (i) the then current per annum rate of interest borne by such Variable Rate Obligations or (ii) the average per annum rate of interest borne by such Variable Rate Obligations during the then immediately preceding twelve-month period; provided, however, that for any period during which (a) more than 20% of the aggregate of the Parity Obligations then Outstanding bear interest at a variable rate and (b) any Parity Obligation is then insured by a Bond Insurer, the rate of interest on such Variable Rate Obligations shall be the greater of (x) the most recently announced 30-year Revenue Bond Index published by The Bond Buyer, a financial journal published, as of the date

the Ordinance was adopted, in The City of New York, New York, (y) the rate of interest then in effect with respect to such Variable Rate Obligations in accordance with their terms, and (z) 1.25 times the average variable rate borne by such Variable Rate Obligations during the then immediately preceding twelve-month period;

(6) Guarantee. In the case of any guarantee, as described in clause (2) of the definition of Debt, no obligation will be counted if the City does not anticipate in its annual budget that it will make any payments on the guarantee. If however, the City is making payments on a guarantee or anticipates doing so in its annual budget, such obligation shall be treated as Parity Bonds and calculations of annual debt service requirements with respect to such guarantee shall be made assuming that the City will make all additional payments due under the guaranteed obligation. If the entity whose obligation is guaranteed cures all defaults and the City no longer anticipates making payments under the guarantee, the guaranteed obligations shall not be included in the calculation of Annual Debt Service Requirements;

(7) Commercial Paper. With respect to any Parity Obligations issued in the form of commercial paper with maturities not exceeding 270 days, the interest on such Parity Obligations shall be calculated in the manner provided in clause (5) of this definition and the maturity schedule shall be calculated in the manner provided in clause (2) of this definition; and

(8) Credit Agreement Payments. If the City has entered into a Credit Agreement in connection with an issue of Debt, payments due under the Credit Agreement (other than payments made by the City in connection with the termination or unwinding of a Credit Agreement), from either the City or the Credit Provider, shall be included in such calculation except to the extent that the payments are already taken into account under (1) through (7) above and any payments otherwise included above under (1) through (7) which are to be replaced by payments under a Credit Agreement, from either the City or the Credit Provider, shall be excluded from such calculation.

With respect to any calculation of historic data, only those payments actually made in the subject period shall be taken into account in making such calculation and, with respect to prospective calculations, only those payments reasonably expected to be made in the subject period shall be taken into account in making the calculation.

“Authentication Certificate” shall have the same meaning given said term in Section 3.03(d) hereof.

“Authorized Denomination” shall have the same meaning given said term in Section 3.02(a) hereof.

“Authorized Investments” means any and all of the authorized investments described in the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended, provided that such investments are, at the time made, included in and authorized by the City’s official investment policy approved from time to time by the City Council.

“Bondholder” or “Holder” or “Owner” or “Registered Owner” means the person who is the registered owner of a Bond or Bonds.

“Bond Insurer” means any insurance company insuring payment of municipal bonds and other similar obligations if such bond or obligations so insured by it are eligible for a rating by a Rating Agency, at the time of the delivery of a municipal bond insurance policy, in one of its two highest rating categories.

“Bonds” means the waterworks and sewer system revenue bonds authorized to be issued by Section 3.01 of this Ordinance, which Bonds constitute the ninth series of Parity Obligations.

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

“City” means the City of Bryan, Texas.

“City of Bryan Aquifer Storage and Recovery Project” means the recommended water management strategy in the 2016 Brazos G Regional Water Plan and the 2017 State Water Plan through which the City would improve the efficiency and increase the delivery capacity of its municipal water supply system by constructing facilities that allow the City to more fully utilize the production capacity of its existing permitted groundwater wells, which are the City’s only source of water supply, through pumping water in excess of current demand for storage in a geologic formation and subsequent recovery and use in supplying water for municipal purposes.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, including the regulations and published rulings thereunder.

“Credit Agreement” means, collectively, a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase Parity Bonds, purchase or sale agreements, interest rate swap agreements, currency exchange agreements, interest rate floor or cap agreements, or commitments or other contracts or agreements authorized, recognized and approved by the City as a Credit Agreement in connection with the authorization, issuance, security, or payment of Parity Bonds and on a parity therewith.

“Credit Facility” means (i) a policy of insurance or a surety bond, issued by an issuer of policies of insurance insuring the timely payment of debt service on governmental obligations, provided that a Rating Agency having an outstanding rating on Parity Bonds would rate the Parity Bonds fully insured by a standard policy issued by the issuer in its two highest generic rating categories for such obligations; and (ii) a letter or line of credit issued by any financial institution, provided that a Rating Agency having an outstanding rating on the Parity Bonds would rate the parity obligations in its two highest generic rating categories for such obligations if the letter or line of credit proposed to be issued by such financial institution secured the timely payment of the entire principal amount of the Parity Bonds and the interest thereon; and, in any case, no lower than the rating assigned by a Rating Agency to the Parity Bonds.

“Credit Provider” means any bank, financial institution, insurance company, surety bond provider, or other entity which provides, executes, issues, or otherwise is a party to or provider of a Credit Agreement.

“Dated Date” means November 10, 2016.

“Debt” means all:

(1) indebtedness incurred or assumed by the City for borrowed money (including indebtedness arising under Credit Agreements) and all other financing obligations of the City that, in accordance with generally accepted accounting principles, are shown on the liability side of a balance sheet;

(2) all other indebtedness (other than indebtedness otherwise treated as Debt hereunder) for borrowed money or for the acquisition, construction, or improvement of property or capitalized lease obligations that is guaranteed, directly or indirectly, in any manner by the City, or that is in effect guaranteed, directly or indirectly, by the City through an agreement, contingent or otherwise, to purchase any such indebtedness or to advance or supply funds for the payment or purchase of any such indebtedness or to purchase property or services primarily for the purpose of enabling the debtor or seller to make payment of such indebtedness, or to assure the owner of the indebtedness against loss, or to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered), or otherwise; and

(3) all indebtedness secured by any mortgage, lien, charge, encumbrance, pledge or other security interest upon property owned by the City whether or not the City has assumed or become liable for the payment thereof.

For the purpose of determining the “Debt” of the City, there shall be excluded any particular Debt if, upon or prior to the Maturity thereof, there shall have been deposited with the proper depository (a) in trust the necessary funds (or investments that will provide sufficient funds, if permitted by the instrument creating such Debt) for the payment, redemption, or satisfaction of such Debt or (b) evidence of such Debt deposited for cancellation; and thereafter it shall not be considered Debt. No item shall be considered Debt unless such item constitutes indebtedness under generally accepted accounting principles applied on a basis consistent with the financial statements prepared by or for the benefit of the City in prior Fiscal Years.

“Debt Service Fund” means the interest and sinking fund described in Section 8.02 of this Ordinance.

“Defeasance Securities” means (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of the purchase thereof are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political

subdivision of a state that have been refunded and that, on the date the governing body of the City adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.

“Designated Financial Officer” shall mean each of the City Manager and the Chief Financial Officer of the City.

“Designated Trust Office” shall mean the corporate trust office of the Paying Agent/Registrar in Dallas, Texas.

“DTC” shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

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

“Fiscal Year” means the twelve month period ending September 30 of each year, unless otherwise designated by the City.

“Fund” means any fund established pursuant to the terms of this Ordinance or an ordinance authorizing the issuance of Parity Obligations.

“Funded Debt” means all Parity Bonds that mature by their terms (in the absence of the exercise of any earlier right of demand), or are renewable at the option of the City to a date, more than one year after the original creation, assumption, or guarantee of such Debt by the City.

“Interest Payment Date” means the date or dates upon which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being January 1 and July 1 of each year, commencing July 1, 2017.

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

“Maturity” when used with respect to any Debt means the date on which the principal of such Debt or any installment thereof becomes due and payable as therein provided, whether at the Stated Maturity thereof or by declaration of acceleration, call for redemption, or otherwise.

“Maturity Date” means the dates specified in Section 3.02 hereof on which the principal of the Bonds is due and payable.

“MSRB” means the Municipal Securities Rulemaking Board.

“Net Earnings” means all income, receipts and revenues derived from the operation of the Waterworks and Sewer System, including interest earned on invested moneys in the special Funds created herein for the payment and security of obligations payable from the Net Revenues, after deduction of maintenance and operating expenses (but not deducting depreciation) and

other expenditures which, under standard accounting practice, should be classified as capital expenditures. Revenues and receipts resulting solely from the ownership of the Waterworks and Sewer System (grants, meter deposits and gifts) and interest earned on Bond proceeds shall not be treated or included as income, revenues or receipts from the operation of the Waterworks and Sewer System for purposes of determining “Net Earnings”.

“Net Revenues” means all income, revenues and receipts of every nature derived from and received by virtue of the operation of the Waterworks and Sewer System including interest income and earnings received from the investment of moneys in the special Funds created by this Ordinance or ordinances authorizing Parity Obligations, after deducting and paying, and making provisions for the payment of, current expenses of maintenance and operation thereof, including all salaries, materials, repairs and extensions necessary to render efficient service; provided, however, only such expenses for repairs and extensions as in the judgment of the City Council reasonably and fairly exercised, are necessary to keep the Waterworks and Sewer System in operation and to render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair any obligations payable from Net Revenues of the Waterworks and Sewer System, shall be deducted in determining “Net Revenues”. Contractual payments for the purchase of water or the treatment of sewage shall be a maintenance and operating expense of the Waterworks and Sewer System to the extent provided in the contract incurred therefor and as may be authorized by law. Depreciation shall never be considered as an expense of operation and maintenance.

“Non-Recourse Debt” means any Debt secured by a lien (other than a lien on Net Revenues), liability for which is effectively limited to the property subject to such lien with no recourse, directly or indirectly, to any other property of the City attributable to the Waterworks and Sewer System; provided, however, that such Debt is being incurred in connection with the acquisition of property only, which property is not, at the time of such occurrence, owned by the City and being used in the operations of the City.

“Officer’s Certificate” means a certificate executed by a Designated Financial Officer.

“Ordinance” means this Ordinance, under which the Bonds are authorized.

“Parity Bonds” means the Previously Issued Parity Bonds and the bonds authorized to be issued under the terms of this Ordinance secured by a first lien on and pledge of the Net Revenues of the Waterworks and Sewer System.

“Parity Obligations” means all Parity Bonds, as well as any other obligations issued or incurred by the City that are determined and declared by the City Council of the City to be on a parity with the Parity Bonds, including obligations of the City issued or incurred under the terms of a Credit Agreement.

“Paying Agent Agreement” means the Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar in substantially the form presented to the City Council with this Ordinance.

“Paying Agent/Registrar” shall have the same meaning given said term in Section 3.03(a) hereof.

“Person” means any natural person, firm, partnership, association, corporation, or public body.

“Previously Issued Parity Bonds” means, collectively, the following obligations: (i) City of Bryan, Texas Waterworks and Sewer System Revenue Refunding and Improvement Bonds, New Series 2007, (ii) City of Bryan, Texas Waterworks and Sewer System Revenue Bonds, New Series 2009A, (iii) City of Bryan, Texas Waterworks and Sewer System Revenue Bonds, New Series 2009B, (iv) City of Bryan, Texas Waterworks and Sewer System Revenue Bonds, New Series 2010A, and (v) City of Bryan, Texas Waterworks and Sewer System Revenue Bonds, New Series 2011.

“Rating Agency” means Moody’s Investors Service and S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, and their respective successors.

“Record Date” means the fifteenth day of the month next preceding an Interest Payment Date.

“Registration Books” means the bond registration books specified in Section 3.03(a) of this Ordinance.

“Required Reserve Amount” means an amount equal to the lesser of (a) 1.25 times the average Annual Debt Service Requirements of the Parity Bonds then Outstanding, or (b) 1.00 times the Annual Debt Service Requirements of the Parity Bonds to be Outstanding in the Fiscal Year during which such Annual Debt Service Requirements are scheduled to be the greatest; provided, however, that the Required Reserve Amount shall not exceed ten percent (10%) of the aggregate proceeds (within the meaning of Section 148(d)(2) of the Code) of the Parity Bonds.

“Reserve Fund” means the reserve fund defined in Section 8.03 of this Ordinance.

“Reserve Fund Obligations” means cash, Authorized Investments, and any Credit Facility (one or more), or any combination of any of the foregoing.

“Revenue Fund” means the revenue fund described in Section 8.01 of this Ordinance.

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

“SEC” means the United States Securities and Exchange Commission.

“SIFMA Index” means the “high grade” seven-day index (formerly known as “The Bond Market Association/PSA Municipal Swap Index” or “BMA Index”) made available by The Securities Industry and Financial Markets Association (formerly, The Bond Market Association of New York, New York), or any successor thereto, based upon 30-day yield evaluation at par of bonds, the interest income on which is excludable from gross income of the recipients thereof for federal income tax purposes. In the event that neither The Securities Industry and Financial Markets Association nor any successor thereto makes available an index conforming to the requirements of the preceding sentence, the term “SIFMA Index” shall mean an index determined by the City based upon the rate for bonds rated in the highest short-term rating

category by a Rating Agency, the interest income on which is excludable from gross income of the recipients thereof for federal income tax purposes, in respect of issuers most closely resembling the “high grade” component issuers selected by “SIFMA Index”.

“Stated Maturity” when used with respect to any Debt or any installment of interest thereon means any date specified in the instrument evidencing or authorizing such Debt or such installment of interest as a fixed date on which the principal of such Debt or any installment thereof or the fixed date on which such installment of interest is due and payable.

“Subordinated Debt” or “Subordinate Obligations” means any Debt which expressly provides that all payments thereon shall be subordinated to the timely payment of all Parity Bonds then outstanding or subsequently issued.

“Term of Issue” means with respect to any Balloon Debt, a period of time equal to the greater of (i) the period of time commencing on the date of issuance of such Balloon Debt and ending on the final maturity date of such Balloon Debt or (ii) twenty-five (25) years.

“TWDB” shall mean Texas Water Development Board.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal, redemption premium, if any, or interest on the Bonds as the same come due and payable or money set aside for the payment of Bonds duly called for redemption prior to maturity.

“Value of Investment Securities” and words of like import shall mean valuation at their market value, excluding accrued interest, in accordance with the City’s official investment policy approved from time to time by the City Council.

“Variable Rate Obligations” means Parity Obligations that bear interest at a rate per annum which is subject to adjustment so that the actual rate of interest is not ascertainable at the time such Parity Obligations are issued; provided, however, that upon the conversion of the rate of interest on a Variable Rate Obligation to a fixed rate of interest (whether or not the interest rate thereon is subject to conversion back to a variable rate of interest), such Parity Obligation shall not be treated as a “Variable Rate Obligation” for so long as such Parity Obligation bears interest at a fixed rate.

“Waterworks and Sewer System” means the waterworks and wastewater system components of the City, including all properties and interests in properties (real, personal or mixed and tangible or intangible, including contract rights, water rights and permits) owned, operated, maintained, and vested in, the City for the supply, storage, treatment and distribution of treated water for municipal, domestic, commercial, industrial and other uses and the collection and treatment of watered wastes, together with all future additions, extensions, replacements and improvements thereto; provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term Waterworks and Sewer System shall not include any waterworks or sewer facilities which are declared not to be a part of the Waterworks and Sewer System and which are acquired or constructed by the City with the proceeds from the issuance of “Special Facilities Bonds”, which are hereby defined as being special revenue obligations of the City which are not secured by or payable from the Net Revenues as defined

herein, but which are secured by and payable solely from special contract revenues or payments received from any other legal entity in connection with such facilities, and thus constitute Non-Recourse Debt; and such revenues or payments shall not be considered as or constitute gross revenues of the Waterworks and Sewer System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such “Special Facilities Bonds”.

Section 1.02: Findings.

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

(b) The Bonds are payable from and secured by a first lien on and pledge of the Net Revenues of the Waterworks and Sewer System.

(c) The following conditions precedent to the issuance of the Bonds have been satisfied, to-wit:

(i) The City is not in default as to any covenant, condition or obligation prescribed by the ordinances authorizing the issuance of any Previously Issued Parity Bonds or this Ordinance;

(ii) Each of the special Funds created for the payment and security of the Previously Issued Parity Bonds contains the amount of money then required to be on deposit therein;

(iii) The City has secured (or will secure prior to the delivery of the Bonds) from a Certified Public Accountant a certificate showing that the Net Earnings of the Waterworks and Sewer System for either the completed Fiscal Year next preceding the date of the Bonds or a consecutive twelve-month period out of the last fifteen months next preceding the date of the Bonds is equal to at least 1.25 times the average Annual Debt Service Requirements (calculated on a Fiscal Year basis) of all Parity Bonds which will be outstanding after the issuance of the Bonds; and

(iv) Each of the special Funds created for the payment and security of the Parity Bonds contains the amount of money then required to be on deposit therein.

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

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

Section 1.03: Table of Contents, Titles and Headings.

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

Section 1.04: Interpretation.

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

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

(b) References to any constitutional, statutory or regulatory provision means such provision as it exists on the date this Ordinance is adopted by the City and any future amendments thereto or successor provisions thereof. Any reference to the payment of principal in this Ordinance shall be deemed to include the payment of any mandatory sinking fund redemption payments as described herein. The calculation of average Annual Debt Service Requirements as may be required by this Ordinance shall be made annually at the beginning of each Fiscal Year and shall be the sum of the Annual Debt Service Requirements due for the current and each subsequent Fiscal Year in which Parity Obligations are outstanding divided by the number of such Fiscal Years, or partial Fiscal Years, if applicable. References in this Ordinance to the "Form of Bond" refer to the form attached to this Ordinance as Exhibit A.

ARTICLE II  
SECURITY FOR THE BONDS

Section 2.01: Security for the Bonds.

The Bonds are and shall be equally and ratably secured by and payable from a first lien on and pledge of the Net Revenues.

Section 2.02: Limited Obligations.

(a) The Bonds are special obligations of the City, payable solely from the Net Revenues, and do not constitute a prohibited indebtedness of the City; and the Bonds shall never be paid out of funds raised or to be raised by taxation.

(b) The City has the lawful power to pledge the revenues supporting the Bonds (and has lawfully exercised said power under the Constitution and laws of the

State of Texas), and the Bonds shall be ratably secured in such manner that no Bond shall have preference over any other Bond or Bonds.

(c) The Net Revenues shall not in any manner be pledged to the payment of any debt or obligation of the City or the Waterworks and Sewer System, other than Parity Obligations, except on a subordinate lien basis.

**ARTICLE III  
AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS**

Section 3.01: Authorization.

The Bonds, to be designated the “City of Bryan, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2016B”, are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, particularly Chapter 1502, Texas Government Code, as amended, and the Charter of the City. The Bonds shall be issued in the aggregate principal amount of \$2,345,000 for the purpose of (i) constructing, improving, repairing, renovating, enlarging, extending and equipping the Waterworks and Sewer System, including the City of Bryan Aquifer Storage and Recovery Project, (ii) funding a debt service reserve fund and (iii) paying the costs of issuing the Bonds.

Section 3.02: Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall be dated the Dated Date. The Bonds shall be issued in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof (an “Authorized Denomination”). The Bonds shall be numbered separately from R-1 upward.

(b) The Bonds shall mature on July 1 in the years and in the principal amounts and shall bear interest at the rates set forth in the following schedule:

<u>Year</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>	<u>Year</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>
2017	\$95,000	0.610%	2030	90,000	2.100%
2018	80,000	0.630%	2031	95,000	2.200%
2019	80,000	0.730%	2032	95,000	2.250%
2020	80,000	0.810%	2033	95,000	2.300%
2021	80,000	0.870%	2034	100,000	2.430%
2022	80,000	0.960%	2035	100,000	2.400%
2023	85,000	1.050%	2036	105,000	2.440%
2024	85,000	1.160%	2037	105,000	2.610%
2025	85,000	1.240%	2038	110,000	2.610%
2026	85,000	1.320%	2039	115,000	2.610%
2027	85,000	1.510%	2040	115,000	2.610%
2028	90,000	1.620%	2041	120,000	2.610%
2029	90,000	1.930%			

(c) Interest shall accrue and be paid each Bond respectively until its maturity or prior redemption, from the Issuance Date or the most recent interest payment date to which interest has been paid or provided for at the rates set forth above. Such interest shall be payable semiannually until maturity or prior redemption on each Interest Payment Date, computed on the basis of a 360-day year of twelve 30-day months.

Section 3.03: Registration of Bonds - Paying Agent/Registrar.

(a) The selection and appointment of Wilmington Trust, N.A., Dallas, Texas, or its assigns to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, exchange and transfer of the Bonds (the "Registration Books") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of the Paying Agent/Registrar Agreement and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor and City Secretary are authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Bonds.

(b) It shall be the duty of the Paying Agent/Registrar to obtain from the registered owner and record in the Registration Books the address of such registered owner of each bond to which payments with respect to the Bonds shall be mailed, as herein provided. The Paying Agent/Registrar shall provide to the City, by electronic means or otherwise, within fifteen (15) Business Days of the delivery of the Bonds to the TWDB, and thereafter no less often than once every three (3) months, a true and correct copy of the Registration Books, which copy shall be maintained at the City by the Designated Financial Officer. The Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any entity other than the City. Registration of each Bond may be transferred in the Registration Books only upon presentation and surrender of such bond for transfer of registration and cancellation to the Paying Agent/Registrar at its Designated Trust Office during normal business hours, together with proper written instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing the assignment of the Bond, or any portion thereof in any Authorized Denomination, to the assignee or assignees thereof, and the right of such assignee or assignees to have the Bond or any such portion thereof registered in the name of such assignee or assignees. Upon the assignment and transfer of any Bond or any portion thereof, a new substitute bond or bonds shall be issued in exchange therefor in the manner herein provided.

(c) The entity in whose name any Bond shall be registered in the Registration Books at any time shall be treated as the absolute owner thereof for all purposes of this Ordinance, whether such Bond shall be overdue, and the City and the Paying Agent/Registrar shall not be affected by any notice to the contrary unless otherwise required by law; and payment of, or on account of, the principal of, premium, if any, and interest on any such Bond shall be made only to such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(d) Each Bond may be exchanged for fully registered bonds in the manner set forth herein. Each Bond issued and delivered pursuant to this Ordinance, to the extent of the unpaid or unredeemed principal amount thereof, may, upon surrender thereof at the Designated Trust Office of the Paying Agent/Registrar, together with a written request therefor duly executed by the registered owner or the assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantee of signatures satisfactory to the Paying Agent/Registrar, at the option of the registered owner or such assignee or assignees, as appropriate, be exchanged for fully registered bonds, without interest coupons, in the form prescribed in the Form of Bond, in an Authorized Denomination (subject to the requirement hereinafter stated that each substitute Bond shall have a single stated maturity date), as requested in writing by such registered owner or such assignee or assignees, in an aggregate principal amount equal to the unpaid or unredeemed principal amount of any Bond or Bonds so surrendered, and payable to the appropriate registered owner, assignee, or assignees, as the case may be. If a portion of any Bond shall be redeemed prior to its scheduled maturity as provided herein, at the request of the registered owner a substitute bond or bonds having the same maturity date, bearing interest at the same rate, in an Authorized Denomination, and in an aggregate principal amount equal to the unpaid or unredeemed portion thereof, will be issued to the registered owner upon surrender thereof for cancellation. If any Bond or portion thereof is assigned and transferred, each bond issued in exchange therefor shall have the same principal maturity date and bear interest at the same rate as the bond for which it is being exchanged. Each substitute bond shall bear a letter and/or number to distinguish it from each other bond. The Paying Agent/Registrar shall exchange or replace Bonds as provided herein, and each fully registered bond delivered in exchange for or replacement of any bond or portion thereof as permitted or required by any provision of this Ordinance shall constitute one of the Bonds for all purposes of this Ordinance, and may again be exchanged or replaced. On each substitute bond issued in exchange for or replacement of any bond or bonds issued under this Ordinance there shall be printed thereon a Paying Agent/Registrar's Authentication Certificate (the "Authentication Certificate"), in the form set forth in the Form of Bond. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such bond, manually sign and date the Authentication Certificate, and no such bond shall be deemed to be issued or outstanding unless the Authentication Certificate is so executed and dated. The Paying Agent/Registrar promptly shall cancel all Bonds surrendered for exchange or replacement. No additional ordinances, orders, or resolutions need be passed or adopted by the City Council or any other body or person so as to accomplish the foregoing exchange or replacement of any Bond or portion thereof; and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute bonds in the manner prescribed herein, pursuant to Chapter 1206, Texas Government Code. The duty of such exchange or replacement of bonds as described in the preceding sentence is hereby imposed upon the Paying Agent/Registrar, and upon the execution of the Authentication Certificate, the exchanged or replaced Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which originally were delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts. Neither the City nor the Paying Agent/Registrar shall be required (1) to make any transfer or exchange during a period

beginning at the opening of business fifteen (15) days before the day of the first mailing of a notice of redemption of Bonds and ending at the close of business on the day of such mailing, or (2) to transfer or exchange any Bond after it is selected for redemption, in whole or in part when such redemption is scheduled to occur within thirty (30) calendar days; provided, however, such limitation shall not be applicable to an exchange by the owner of the uncalled principal balance of a Bond.

(e) All Bonds issued in exchange or replacement of any other Bond or portion thereof, (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the registered owners thereof; (ii) may be redeemed prior to their scheduled maturities, (iii) may be transferred and assigned, (iv) may be exchanged for other Bonds, (v) shall have the characteristics, (vi) shall be signed and sealed, and (vii) the principal of and interest on the Bonds shall be payable, all as provided, and in the manner required or indicated, in the Form of Bond.

(f) The City shall pay all of the Paying Agent/Registrar's reasonable and customary fees and charges for making transfers, conversions and exchanges of the Bonds in accordance with an agreement between the City and the Paying Agent/Registrar, but the registered owner of any Bond requesting such transfer shall pay any taxes or other governmental charges required to be paid with respect thereto. In addition, the City hereby covenants with the registered owners of the Bonds that it will pay the reasonable standard or customary fees and charges of the Paying Agent/Registrar for its services with respect to the payment of the principal of and interest on the Bonds, when due.

(g) The City covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other entity duly qualified and legally authorized to serve as and perform the duties and services of Paying Agent/Registrar, to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than sixty (60) days written notice to the Paying Agent/Registrar. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified national or state banking institution, which shall be a corporation organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise trust powers, subject to supervision or examination by federal or state Authority, and whose qualifications substantially are similar to the previous Paying Agent/Registrar, to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the City and to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class

postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(h) Unclaimed Payments shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three (3) years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains three (3) years after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar, nor any other Person shall be liable or responsible to any holders of such Bonds for thither payment of such Unclaimed Payments or on account of any such Bonds.

#### ARTICLE IV REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01: Limitation on Redemption.

The Bonds shall be subject to redemption before their scheduled maturity only as provided in this Article IV.

Section 4.02: Mandatory Redemption.

The Bonds shall not be subject to mandatory redemption prior to their scheduled maturity.

Section 4.03: Optional Redemption.

The City reserves the right and option to redeem Bonds maturing on and after July 1, 2028, in inverse order of maturity, in whole or in part before their respective scheduled maturity dates, on July 1, 2027, or on any date thereafter (such redemption date or dates to be fixed by the City), at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the date fixed for redemption. The City, at least forty-five (45) days before the redemption date, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

Section 4.04: Partial Redemption.

(a) If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds or portion thereof, within such maturity or maturities and in such principal amounts for redemption.

(b) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall assign a separate number for each of \$5,000 portion of Bonds and sell the portion or portions of the Bonds to be redeemed by lot or by any other customary method that results in a random selection.

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

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

Section 4.05: Notice of Redemption to Bondholders.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first-class postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each bond (or portion thereof) to be redeemed, at the address shown in the Registration Books.

(b) The notice shall state among other things, the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and if less than all of the Bonds are to be redeemed, an identification of the Bonds or portions thereof to be redeemed and that the Bonds so called for redemption shall cease to bear interest after the redemption date.

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

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

Section 4.06: Payment Upon Redemption.

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

(b) Upon presentation and surrender of any Bond called for redemption at the designated corporate trust office of the Paying Agent/Registrar, on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Bond to the date of redemption from the moneys set aside for such purpose.

Section 4.07: Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in the payment of the principal thereof or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If any Bond or portion thereof called for redemption is not so paid upon presentation and surrender thereof for redemption, such Bond or portion thereof shall continue to bear interest at the rate stated on the Bond until paid or until due provision is made for the payment of same.

ARTICLE V  
BOOK ENTRY SYSTEM

Section 5.01: Book-Entry-Only System.

Notwithstanding the provisions contained herein relating to the payment, redemption and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of “Book-Entry-Only” securities clearance, settlement and transfer system provided by DTC, in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum, as amended, the Blanket Issuer Letter of Representation, by and between the City and DTC, and the Letter of Representation from the Paying Agent/Registrar to DTC (collectively, the “Depository Agreement”).

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold the Bonds for DTC Participants. While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Registration Books for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the “Beneficial Owners”) being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the bond or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bonds to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred, and exchanged on the Registration Books maintained by the Paying Agent/Registrar and payment of such bonds shall be made in accordance with the provisions of Section 3.03 hereof.

## ARTICLE VI FORM OF BONDS

### Section 6.01: Form Generally.

(a) The Bonds and Initial Bond, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Authentication Certificate, and the Assignment to appear on each of the Bonds, (i) shall be substantially in the form set forth in Exhibit A to this Ordinance, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association, referred to herein as “CUSIP numbers”) and such legends and endorsements (including any reproduction of opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bond.

(c) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The initial Bonds submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

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

### Section 6.02: Legal Opinion.

The approving legal opinion of Andrews Kurth Kenyon LLP, Bond Counsel, may be printed on the back of each Bond over the certification of the City Secretary of the City, which

may be executed in facsimile or an executed counterpart thereof shall accompany the definitive Bonds deposited with DTC.

Section 6.03: Bond Insurance.

A statement relating to municipal bond insurance, if applicable, provided by a Bond Insurer may be printed on or attached to each Bond.

ARTICLE VII  
RATES AND CHARGES

Section 7.01: Rates and Charges.

The City shall, at all times while any of the Bonds are outstanding and unpaid, maintain rates and collect charges for the facilities and services afforded by the Waterworks and Sewer System, as required by Section 1502.057, Texas Government Code, which will provide revenues sufficient at all times to:

- (a) Pay for all maintenance, operation, debt service, depreciation, replacement and betterment charges of the Waterworks and Sewer System;
- (b) Establish and maintain the Debt Service Fund and the Reserve Fund as provided for in this Ordinance;
- (c) Produce Net Revenues each year in an amount reasonably estimated to be not less than 1.25 times the average Annual Debt Service Requirements of the Parity Bonds from time to time outstanding; and
- (d) Pay all other obligations reasonably anticipated to be payable from the revenues of the Waterworks and Sewer System as and when the same become due.

ARTICLE VIII  
FUNDS AND ACCOUNTS AND ADDITIONAL DEPOSITS

Section 8.01: Waterworks and Sewer System Revenue Fund.

The City affirms that there has been created and established on the books of the City a separate fund entitled the “City of Bryan, Texas, Waterworks and Sewer System Revenue Fund” (hereinafter called the “Revenue Fund”). All revenues of the Waterworks and Sewer System immediately shall be credited to the Revenue Fund upon receipt. The Revenue Fund shall be kept separate and apart from all other funds of the City, and, further shall be pledged and appropriated to the following uses and in the order of precedence shown:

- First: To the payment of all necessary and reasonable maintenance and operation expenses of the Waterworks and Sewer System, as said expenses are defined by law.

Second: To the “Debt Service Fund” and the “Reserve Fund” for the payment of Parity Obligations, including specifically the payment of principal of and interest on the Parity Bonds, when and as the same fall due and mature.

Third: To pay Subordinated Debt.

Fourth: To any other purpose of the City now or hereafter permitted by law.

Section 8.02: Debt Service Fund.

The City affirms that, for the sole purpose of paying obligations incurred under Parity Obligations, including specifically the payment of the principal of and interest on the Parity Bonds, as the same come due, there has been created and established on the books of the City a separate fund entitled the “City of Bryan, Texas, Waterworks and Sewer System New Series Revenue Bonds Debt Service Fund” (hereinafter called the “Debt Service Fund”). Monies in the Debt Service Fund are and shall be maintained at an official depository bank of the City.

Promptly after the delivery of the Bonds the City shall cause to be deposited to the credit of the Debt Service Fund any accrued interest received from the sale and delivery of the Bonds, and any such deposit shall be used for the payment of the interest next coming due on the Bonds.

The City shall transfer from the Net Revenues credited to the account of the Revenue Fund and deposit to the credit of the Debt Service Fund the amounts, at the times, as follows:

(1) such amounts, deposited in approximately equal monthly installments on or before the last Business Day of each month hereafter, commencing with the month during which the Bonds are delivered, as will be sufficient, together with other amounts, if any, then on hand in the Debt Service Fund and available for such purpose, to pay the interest scheduled to accrue and come due on the Bonds on the next succeeding interest payment date; and

(2) such amounts, deposited in approximately equal monthly installments on or before the last Business Day of each month hereafter, commencing with the month during which the Bonds are delivered, as will be sufficient, together with other amounts, if any, then on hand in the Debt Service Fund and available for such purpose, to pay the principal scheduled to mature and come due on the Bonds on the next succeeding principal payment date.

The City reserves the right to establish accounts within the Debt Service Fund for the payment of Parity Obligations that are not Parity Bonds, including specifically obligations incurred under a Credit Agreement that are declared to be a Parity Obligation in the ordinance authorizing the execution of such Credit Agreement.

Section 8.03: Reserve Fund.

The City affirms that there has been created and established on the books of the City a separate fund entitled the “City of Bryan, Texas, Waterworks and Sewer System New Series Revenue Bonds Reserve Fund” (hereinafter called the “Reserve Fund”). The Reserve Fund shall

be maintained for the benefit of the owners and holders of the Parity Obligations. There shall be credited to the Reserve Fund any Reserve Fund Obligations so designated by the City. Reserve Fund Obligations in the Reserve Fund shall be used for the purpose of retiring the last of the Parity Obligations as they become due or paying principal of and interest on the Parity Obligations when and to the extent the amounts in the Debt Service Fund are insufficient for such purpose. The Reserve Fund shall be maintained in an amount at least equal to the Required Reserve Amount. The City may, at its option, withdraw and use all surplus in the Reserve Fund over the Required Reserve Amount for any lawful purpose not inconsistent with the City's ownership and operation of the Waterworks and Sewer System; provided, that should such surplus constitute the proceeds of Parity Obligations, such surplus shall be deposited to the Debt Service Fund.

The City may satisfy its covenant to maintain the Reserve Fund in an amount equal to the Required Reserve Amount with a Credit Facility that will provide funds, together with other Reserve Fund Obligations, if any, credited to the Reserve Fund, at least equal to the Required Reserve Amount. The City may, upon passage of an ordinance by the City Council of the City, replace or substitute a Credit Facility for cash or Authorized Investments on deposit in the Reserve Fund or in substitution for or replacement of any existing Credit Facility. Upon such replacement or substitution, cash or Authorized Investments in excess of the Required Reserve Amount may be withdrawn by the City, at its option, and transferred to the Revenue Fund; provided that the face amount of any Credit Facility may be reduced at the option of the City in lieu of such transfer; and provided, further, that if such amount withdrawn was originally funded with the proceeds of Parity Obligations, such funds shall be used to pay for improvements to the Waterworks and Sewer System or be transferred to the Debt Service Fund.

If the City is required to make a withdrawal from the Reserve Fund for any of the purposes described in this Section, the City shall promptly notify the issuer of such Credit Facility of the necessity for a withdrawal from the Reserve Fund for any such purposes, and shall make such withdrawal FIRST from available moneys or Authorized Investments then on deposit in the Reserve Fund, and NEXT from a drawing under any Credit Facility to the extent of such deficiency.

When and if the Reserve Fund contains less than the Required Reserve Amount due to the issuance of the Bonds or Additional Bonds, beginning on the last Business Day of the month following the delivery of the Bonds to the purchasers thereof, and continuing for sixty (60) months, the City shall transfer from the Net Revenues and deposit to the credit of the Reserve Fund an amount equal to 1/60th of the difference determined as of such delivery date between the amount in the Reserve Fund and the Required Reserve Amount. In the event of a deficiency in the Reserve Fund, or in the event that on the date of termination or expiration of any Credit Facility there is not on deposit in the Reserve Fund sufficient Reserve Fund Obligations, all in an aggregate amount at least equal to the Required Reserve Amount, then the City shall, after making required deposits to the Debt Service Fund in accordance with the terms of this Ordinance, satisfy the Required Reserve Amount by depositing Reserve Fund Obligations into the Reserve Fund in monthly installments of not less than 1/12 of such deficiency on or before the last Business Day of each month following such deficiency, termination or expiration.

In the event of the redemption or defeasance of any of the Parity Obligations, any Reserve Fund Obligations on deposit in the Reserve Fund in excess of the Required Reserve Amount may be withdrawn and transferred, at the option of the City, to the escrow fund established for the retirement of such Parity Obligations or to the Revenue Fund for subsequent transfer to the Debt Service Fund, as a result of (i) the redemption of Parity Obligations or (ii) funds for the payment of the Parity Obligations having been deposited in the manner described in this Ordinance, the result of such deposit being that such Parity Obligations no longer are deemed to be outstanding under the terms of this Ordinance.

In the event there is a draw upon a Credit Facility, the City shall reimburse the issuer of such Credit Facility for such draw, in accordance with the terms of any agreement pursuant to which the Credit Facility is issued, from Net Revenues; however, such reimbursement from Net Revenues shall be subject to the provisions of Section 8.02 above and shall be subordinate and junior in right of payment to the payment of principal of and premium, if any, and interest on the Parity Obligations.

Section 8.04: Construction Fund.

There is hereby created and there shall be established and maintained on the books of the City, and accounted for separate and apart from all other funds of the City, a separate fund designated as the “City of Bryan, Texas, Waterworks and Sewer System New Series 2016B Revenue Bonds Construction Fund” (hereinafter called the “Construction Fund”). A portion of the proceeds from the sale of the Bonds shall be deposited to the credit of the Construction Fund for use by the City for payment of all lawful costs associated with the construction, improvement, repair, renovation, enlargement, extension and equipping of the Waterworks and Sewer System, including the City of Bryan Aquifer Storage and Recovery Project, as hereinbefore provided. Upon payment of all such costs, any moneys remaining on deposit in the Construction Fund shall be transferred FIRST, to the extent the City is liable, to pay rebate amounts to the United States of America pursuant to the terms of the Code and NEXT to the Debt Service Fund. Amounts so deposited to the Debt Service Fund shall be used in the manner described in Section 8.02.

Section 8.05: Excess Revenues.

All revenues in excess of those required to establish and maintain the Debt Service Fund and the Reserve Fund as required may be used for any proper City purpose now or hereafter permitted by law including, without limitation, pledging any excess revenues in support of Subordinate Obligations.

Section 8.06: Security of Funds.

All Funds and Accounts shall be secured in the manner and to the fullest extent required by law for the security of public funds, including Chapter 2257, Texas Government Code, as amended, and the funds created by the Ordinance shall be used only for the purposes therein specified.

ARTICLE IX  
INVESTMENT

Section 9.01: Investment of Certain Funds.

Moneys in any Fund or Account established pursuant to this Ordinance may, at the option of the City, be placed or invested in Authorized Investments. The value of any such Fund or Account shall be established by adding any money therein to the Value of Investment Securities. The value of each such Fund or Account shall be established no less frequently than annually as of the last Business Day of each Fiscal Year, and in any event the value of each such Fund and Account shall be established as of the last Business Day of the month preceding the date the City Council adopts an ordinance authorizing the issuance and delivery of Parity Obligations. Authorized Investments credited to the Reserve Fund shall have stated maturities, or be redeemable at the option of the holder thereof at a stated price and time, not later than five (5) years after the date of the investment therein or the date of last maturity of Parity Obligations, whichever date is earlier. Authorized Investments credited to the Revenue Fund or the Debt Service Fund shall have stated maturities, or be redeemable at the option of the holder thereof at a stated price and time, not later than the date such moneys shall be needed to pay principal (including scheduled mandatory sinking fund redemption payments) and interest on Parity Obligations, or to pay operating and maintenance expenses of the Waterworks and Sewer System, as the case may be. Earnings derived from the investment of moneys on deposit in the various Funds and Accounts shall be credited to the Revenue Fund.

ARTICLE X  
ADDITIONAL BONDS

Section 10.01: Issuance of Additional Bonds.

(a) In addition to the right to issue Subordinate Obligations as authorized by law, the City reserves the right to issue Additional Bonds, under and in accordance with the Ordinance for the purpose of improving, extending, equipping and repairing the Waterworks and Sewer System, paying or refunding Parity Obligations or Subordinate Obligations and for any other lawful purpose. The Additional Bonds shall be secured by and payable from a lien on and pledge of the Net Revenues in the same manner and to the same extent as any then outstanding Parity Bonds, and the Additional Bonds then proposed to be issued shall in all respects be on a parity and of equal dignity as to lien and right. Additional Bonds may be issued under this Ordinance in one or more installments; provided, however, that none of the Additional Bonds shall be issued unless and until the following conditions have been met, to-wit:

(i) The City is not then in default as to any covenant, condition or obligation prescribed by any ordinance authorizing the issuance of the outstanding Parity Bonds;

(ii) Each of the special Funds created for the payment and security of the Parity Bonds contains the amount of money then required to be on deposit therein;

(iii) The City has secured from a Certified Public Accountant a certificate showing that the Net Earnings of the Waterworks and Sewer System for either the completed Fiscal Year next preceding the date of the Additional Bonds or a consecutive twelve-month period out of the last fifteen (15) months next preceding the date of the Additional Bonds is equal to at least 1.25 times the average Annual Debt Service Requirements (calculated on a Fiscal Year basis) of all Parity Bonds which will be outstanding after the issuance of the proposed Additional Bonds. However, (A) should the certificate of the accountant certify that the Net Earnings of the Waterworks and Sewer System for the period covered thereby were less than required above, and (B) a change in the rates and charges for services afforded by the Waterworks and Sewer System became effective at least sixty (60) days prior to the last day of the period covered by the accountant's certificate, and (C) an independent engineer or engineering firm having a favorable reputation with respect to such matters will certify that, had such change in rates and charges been effective for the entire period covered by the accountant's certificate, the Net Earnings of the Waterworks and Sewer System covered by the accountant's certificate would have been, in the opinion of such engineer or engineering firm, at least equal to 1.25 times the average Annual Debt Service Requirements (calculated on a Fiscal Year basis) of the outstanding Parity Bonds after giving effect to the issuance of the Additional Bonds, then, in such event, the coverage specified in the first sentence of this paragraph (iii) shall not be required for the period specified, and such accountant's certificate will be sufficient if accompanied by an engineer's certificate to the above effect; and

(iv) The ordinance authorizing the Additional Bonds (A) requires that deposits shall be made into the Debt Service Fund in amounts adequate to pay the principal and interest requirements of the Additional Bonds as the same become due; and (B) provides that the aggregate amount to be accumulated and maintained in the Reserve Fund shall be an amount equal to the Required Reserve Amount for all outstanding Parity Bonds theretofore issued and to be outstanding after the issuance of said Additional Bonds and any additional amount shall be so accumulated in not more than sixty (60) months from the date of the Additional Bonds.

(b) Wherever, in this Ordinance, the City reserves the right to issue Additional Bonds, such term shall also include, mean and refer to any other forms or types of obligations which may be made lawfully payable from and secured by the same source of revenues of the City.

(c) If Additional Bonds are being issued for the purpose of refunding less than all outstanding Parity Bonds, the certification described in subsection (a)(iii) of this Section is not required so long as the Designated Financial Officer provides a certificate showing that the aggregate debt service requirements of such refunding Parity Bonds will not exceed the aggregate debt service requirements of the Parity Bonds being refunded.

Section 10.02: Credit Agreements.

Payments to be made under a Credit Agreement may be treated as Parity Obligations if the governing body of the City makes a finding in the ordinance authorizing the execution and delivery of such Credit Agreement that the obligations of the City incurred under a Credit Agreement shall be treated as a Parity Obligation that, based upon the findings contained in a certificate executed and delivered by a Designated Financial Officer, the City will have sufficient funds to meet the financial obligations of the Waterworks and Sewer System, including sufficient Net Revenues to satisfy the Annual Debt Service Requirements of the Waterworks and Sewer System and the financial obligations of the City relating to the Waterworks and Sewer System after giving effect to the treatment of the Credit Agreement as a Parity Obligation.

Section 10.03: Separately Financed Projects.

The City expressly retains the right to issue or incur bonds, notes, or other obligations or evidences of indebtedness, other than Parity Obligations, for any project or purpose for goods or services other than the generation, transmission, distribution and sale of electric energy and capacity or related goods and services, which presently are or hereafter may be authorized or permitted to be provided or maintained by waterworks and sewer systems generally or the City specifically under the laws of the State of Texas, federal law or the City's home rule charter; provided the bonds, notes or other obligations issued or incurred for any such separately financed project are payable from and secured by other available funds derived from the ownership or operation thereof or excess Net Revenues remaining after satisfying, or making provision for the satisfaction of, the priority of claims identified on such Net Revenues in Section 8.01 hereof and separate books and records for such separately financed project or activity are maintained by the City.

ARTICLE XI  
SECURITY INTEREST IN NET REVENUES

Section 11.01: Chapter 1208, Government Code, Applies to Bonds.

Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the Net Revenues granted by the City under Section 2.01 hereof, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the Net Revenues granted by the City is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

## ARTICLE XII INSURANCE

### Section 12.01: Maintenance and Operation; Insurance.

The City shall maintain the Waterworks and Sewer System in good condition and operate the same in an efficient manner and at reasonable cost. So long as any Parity Bonds are outstanding, the City agrees to maintain insurance for the benefit of the holder or holders thereof on the Waterworks and Sewer System of a kind and in an amount which usually would be carried by private companies engaged in a similar type of business. Nothing in the Ordinance shall be construed as requiring the City to expend any funds derived from sources other than the operation of the Waterworks and Sewer System, but nothing therein shall be construed as preventing the City from doing so. In lieu of obtaining policies for insurance as provided above, the City may self-insure against risks, accidents, claims or casualties of the nature described above.

## ARTICLE XIII SYSTEM RECORDS

### Section 13.01: Records; Accounts; Accounting Reports.

The City covenants and agrees that so long as any Parity Bonds or any interest thereon remain outstanding and unpaid, it will keep and maintain a proper and complete system of records and accounts pertaining to the operation of its Waterworks and Sewer System separate and apart from all other records and accounts; complete and correct entries shall be made of all transactions relating to the Waterworks and Sewer System, as provided by Section 1502.056, Texas Government Code, and that the holder or holders of any Parity Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all such records, accounts and data relating thereto, and to inspect the Waterworks and Sewer System and all properties comprising same. The City further agrees that following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. Each such audit, in addition to whatever other matters may be thought proper by the accountants, shall particularly include the following:

- (a) A detailed statement of the income and expenditures of the Waterworks and Sewer System for such Fiscal Year.
- (b) A balance sheet as of the end of such Fiscal Year.
- (c) The accountant's comments regarding the manner in which the City has carried out the requirements of the Ordinance and his recommendations for any changes or improvements in the operation, records and accounts of the Waterworks and Sewer System.
- (d) A list of the insurance policies in force at the end of the Fiscal Year on the Waterworks and Sewer System properties, setting out as to each policy the amount thereof, the risk covered, the name of the insurer, and the policy's expiration date.

Expenses incurred in making the audits referred to hereinabove are to be regarded as maintenance and operation expenses and paid as such. Copies of the aforesaid annual audit shall be immediately furnished, upon request, to the original purchaser or any subsequent owner of the Parity Bonds.

#### ARTICLE XIV DEFAULT AND REMEDIES

##### Section 14.01: Remedy in Event of Default.

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

##### Section 14.02: Remedies Not Exclusive.

No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bond shall not be available as a remedy under this Ordinance.

The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

#### ARTICLE XV COMPETITION; SALE OF WATERWORKS AND SEWER SYSTEM

##### Section 15.01: Competition; Sale of Waterworks and Sewer System.

So far as it legally may, the City covenants and agrees, for the protection and security of the Parity Bonds and the holders thereof from time to time, that it will not grant a franchise for the operation of any competing system in the City until all Parity Bonds shall have been retired. Neither the Waterworks and Sewer System, nor a substantial part thereof, shall be sold while the Parity Bonds are outstanding, but nothing in the Ordinance shall prevent the sale or disposal of properties constituting a part of the Waterworks and Sewer System which are no longer useful in connection with the operation thereof.

ARTICLE XVI  
COVENANTS TO MAINTAIN TAX EXEMPT STATUS

Section 16.01: Definitions.

When used in this Section, the following terms shall have the following meanings:

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

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

“Computation Date” has the meaning set forth in Section 1.1481(b) of the Regulations.

“Gross Proceeds” means any proceeds as defined in Section 1.1481(b) of the Regulations, and any replacement proceeds as defined in Section 1.148 1(e) of the Regulations, of the Bonds.

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

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

“Rebate Amount” has the meaning set forth in Section 1.1481(b) of the Regulations.

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

“Yield” of

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

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

Section 16.02: Not to Cause Interest to Become Taxable.

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

such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

Section 16.03: No Private Use or Private Payments.

Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

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

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

Section 16.04: No Private Loan.

Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take or pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

Section 16.05: Not to Invest at Higher Yield.

Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

Section 16.06: Not Federally Guaranteed.

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

Section 16.07: Information Report.

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

Section 16.08: Rebate of Arbitrage Profits.

Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

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

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

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

and information as is or may be required by Section 148(1) of the Code and the Regulations and rulings thereunder.

(d) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it interest thereon, and any penalty imposed under Section 1.1483(h) of the Regulations.

Section 16.09: Not to Divert Arbitrage Profits.

Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Section 16.08 hereof because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

Section 16.10: Elections.

The City hereby directs and authorizes the Mayor, City Manager or Chief Financial Officer, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

Section 16.11: Bonds Not Hedge Bonds.

The City reasonably expects that it will spend at least 85% of the spendable proceeds of the Bonds within three (3) years after the Bonds are issued and that not more than 50% of the proceeds of the Bonds will be invested in Non-Purpose Investments having a substantially guaranteed Yield for a period of four (4) years or more.

ARTICLE XVII  
DISCHARGE

Section 17.01: Defeasance of Bonds.

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

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

(ii) pursuant to an escrow or trust agreement, cash and/or Defeasance Securities, which (in the case of Defeasance Securities) may be in book-entry form, and the principal of and interest on which will, when due or redeemable at the option of the holder, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon, provide money in an amount which, together with other moneys, if any, held in such escrow at the same time and available for such purpose, shall be sufficient to provide for the timely payment of the principal of and interest thereon to the date of maturity or earlier redemption;

provided, however, that if any of the Bonds are to be redeemed prior to their respective dates of maturity, provision shall have been made for giving notice of redemption as provided in this Ordinance.

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

(b) Any agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection (a) above. All income from such Defeasance Securities which is not required for the payment of the Defeased Bonds, with respect to which such money has been so deposited, shall be remitted to the City or deposited as directed in writing by the City.

(c) Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) In the event that the City elects to defease less than all of the principal amount of Bonds of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Bonds by such random method as it deems fair and appropriate.

## ARTICLE XVIII AMENDMENT OF ORDINANCE

### Section 18.01: Amendment of Ordinance.

(a) That the holders of the Parity Bonds aggregating a majority in principal amount of then outstanding Parity Bonds shall have the right from time to time to approve any amendment to this Ordinance which may be deemed necessary or desirable by the City; provided, however, that without the consent of the holders of all of the Parity Bonds at the time outstanding, nothing herein contained shall permit or be construed to permit the amendment of the terms and conditions in this Ordinance or in the Parity Bonds so as to:

- (i) Make any change in the maturity of the outstanding Parity Bonds;
- (ii) Reduce the rate of interest borne by any of the outstanding Parity Bonds;
- (iii) Reduce the amount of the principal payable on the outstanding Parity Bonds;
- (iv) Modify the terms of payment of principal of or interest on the outstanding Parity Bonds or impose any conditions with respect to such payment;
- (v) Affect the rights of the holders of less than all of the Parity Bonds then outstanding; or
- (vi) Change the minimum percentage of the principal amount of Parity Bonds necessary for consent to such amendment.

(b) That if at any time the City shall desire to amend the Ordinance under this Section, the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal published in The City of New York, New York, once during each calendar week for at least two (2) successive calendar weeks; provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory ordinance and the failure to publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory ordinance. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all holders of Parity Bonds. Such publication is not required, however, if notice in writing is given to each holder of Parity Bonds.

(c) That whenever at any time not less than thirty (30) days, and within one year, from the date of the first publication of said notice or other service of written notice the City shall receive an instrument or instruments executed by the holders of at least a majority in aggregate principal amount of all Parity Bonds then outstanding, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file with the Paying Agent/Registrar, the City Council may pass the amendatory ordinance in substantially the same form.

(d) That upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be amended in accordance with such amendatory ordinance, and the respective rights, duties and obligations under this Ordinance of the City and all the holders of then outstanding Parity Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such amendments.

(e) That any consent given by the holder of a Parity Bond pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication of the notice provided for in this Section, and shall be conclusive

and binding upon all future holders of the same Parity Bond during such period. Such consent may be revoked at any time after six (6) months from the date of the first publication of such notice by the holder who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar therefor and the City, but such revocation shall not be effective if the holders of a majority in aggregate principal amount of the then outstanding Parity Bonds as in this Section defined have, prior to the attempted revocation, consented to and approve the amendment.

(f) For the purposes of this Section, the ownership and other matters relating to all Parity Bonds registered as to ownership shall be determined from the registration books kept by the registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar. For purposes of this Section, the notional amount attributable to a Credit Agreement that is treated as a Parity Obligation shall be deemed to be the principal amount thereof.

(g) The foregoing provisions of this Section notwithstanding, the City by action of the City Council may amend this Ordinance for any one or more of the following purposes:

(i) To add to the covenants and agreements of the City in this Ordinance contained, other covenants and agreements thereafter to be observed, grant additional rights or remedies to bondholders or to surrender, restrict or limit any right or power herein reserved to or conferred upon the City;

(ii) To make such provisions for the purpose of curing any ambiguity, or curing, correcting or supplementing any defective provision contained in this Ordinance, or in regard to clarifying matters or questions arising under this Ordinance, including, without limitation, those matters described in Section 20.04 hereof, as are necessary or desirable and not contrary to or inconsistent with this Ordinance and which shall not adversely affect the interests of the holders of the Parity Bonds;

(iii) To modify any of the provisions of this Ordinance in any other respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all previously issued Parity Bonds outstanding at the date of the adoption of such modification shall cease to be outstanding, and (ii) such modification shall be specifically referred to in the text of all Additional Bonds issued after the date of the adoption of such modification;

(iv) To make such amendments to this Ordinance as may be required, in the opinion of Bond Counsel, to ensure compliance with sections 103 and 141 through 150 of the Code and the regulations promulgated thereunder and applicable thereto;

(v) To make such changes, modifications or amendments as may be necessary or desirable in order to obtain or maintain the granting of a rating on the

Parity Obligations by a Rating Agency or to obtain or maintain a Credit Agreement or a Credit Facility; and

(vi) To make such changes, modifications or amendments as may be necessary or desirable, which shall not adversely affect the interests of the owners of the Parity Obligations, in order, to the extent permitted by law, to facilitate the economic and practical utilization of interest rate swap agreements, foreign currency exchange agreements, or similar types of agreements with respect to the Parity Obligations.

Notice of any such amendment may be published by the City in the manner described in clause (b) of this Section; provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory ordinance and the failure to publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory ordinance.

Section 18.02: Bond Insurer Deemed to be the Owner of Parity Bonds.

Notwithstanding anything in this Ordinance to the contrary, if a Bond Insurer has issued a municipal bond insurance policy in respect to any series of Parity Bonds, such Bond Insurer shall be deemed to be the holder of 100% of the Parity Bonds for which such Bond Insurer has issued and currently maintains a municipal bond insurance policy, and shall be entitled to approve on behalf of such holders of the Parity Bonds any and all amendments to this Ordinance for which less than 100% bondholder consent is required.

ARTICLE XIX  
SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS

Section 19.01: Sale of Bonds.

The sale of the Bonds to the Texas Water Development Board (the "TWDB") at a price of the par value thereof, is hereby approved. It is hereby officially found, determined and declared that the above price and terms of sale of the Bonds are the most advantageous reasonable obtainable by the City.

The Bonds herein authorized shall be initially issued (i) as a single fully registered bond in the total principal amount of this series with principal installments to become due and payable as provided in Section 3.02 hereof and numbered T-1, or (ii) as one bond for each year of maturity in the applicable principal amount and denomination as referenced in Section 3.02 hereof and to be numbered consecutively from T-1 and upward (hereinafter called the "Initial Bond(s)") and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the TWDB. Anytime after the delivery of the Bonds, the TWDB shall have the right to exchange such Bonds as provided in Section 3.03 hereof without cost.

Section 19.02: Control and Delivery of Bonds.

(a) The City Manager of the City is hereby authorized to have control of the Bonds and all necessary records and proceedings pertaining hereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State and registration with initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the TWDB under and subject to the general supervision and direction of the Mayor, against receipt by the City of all amounts due to the City under the terms of sale.

(c) The Mayor, Mayor Pro Tem, the City Manager, the Chief Financial Officer of the City, and all other officers, employees, and agents of the City, and each of them, shall be and they are expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such agreements, certificates, and instruments, whether herein mentioned, as may be necessary or desirable to carry out the terms and provisions of this Ordinance, the Bonds, the sale and delivery of the Bonds, the DTC Blanket Letter of Representations and the Official Statement.

Section 19.03: Deposit of Proceeds.

The proceeds from the sale of the Bonds shall be deposited to the Construction Fund established pursuant to Section 8.04 of this Ordinance and used only for the purposes set forth in Section 3.01 of this Ordinance and to pay all expenses arising in connection with the issuance of the Bonds. Any proceeds of the Bonds, together with earnings from the investment thereof, remaining after making all such deposits and payments shall be deposited into the Debt Service Fund and, to the extent applicable, applied to pay or redeem Bonds.

Notwithstanding the above and foregoing, immediately following the delivery of the Bonds and prior to the deposit of the proceeds from the sale of such Bonds in the Construction Fund established at an official depository of the City pursuant to Section 8.04 hereof, such proceeds shall be held in trust and in escrow pursuant to the written escrow agreement described below pending written authorization to release said proceeds.

A "Special Escrow Deposit Agreement" by and between the City and Wilmington Trust, N.A., Dallas, Texas, attached hereto as Exhibit D and incorporated herein by reference as a part of this Ordinance for all purposes, is hereby approved as to form and content, and the Mayor and the City Secretary of the City are hereby authorized and directed to execute such Agreement in substantially the same form and content herein approved.

ARTICLE XX  
CONTINUING DISCLOSURE UNDERTAKING

Section 20.01: Annual Reports.

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

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

The financial information and operating data to be provided pursuant to this Article may be set forth in full in one or more documents or may be included by specific reference to documents (i) available to the public on the MSRB's Internet Web Site or (ii) filed with the SEC. All filings shall be made electronically, in the format specified by the MSRB.

Section 20.02: Event Notices.

The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner (not in excess of ten (10) business days after the occurrence of the event), of any of the following events with respect to the Bonds:

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

10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the City;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 20.01 of this Ordinance by the time required by such Section.

Section 20.03: Identifying Information.

All documents provided to the MSRB shall be accompanied by identifying information, as prescribed by the MSRB.

Section 20.04: Limitations, Disclaimers and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by Section 20.02 of any Bond calls and defeasance that cause the City to be no longer such an “obligated person”.

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

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

BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

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

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

The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change, legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the Holders and beneficial owners of the Bonds. If the City so amends the provisions of this Article it shall include with any amended financial information or operating data next provided in accordance with Section 20.01 an explanation in narrative form of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

## ARTICLE XXI MISCELLANEOUS

### Section 21.01: Compliance with the Texas Water Development Board's Rules and Regulations.

The City will comply with all of the requirements contained in the resolution or resolutions adopted by the TWDB with respect to the issuance of the Bonds. In addition, in compliance with the TWDB's State Water Implementation Fund for Texas Loan Program Rules, the City agrees and covenants:

- (a) Any loan proceeds from the Bonds that are determined to be surplus proceeds remaining after completion of one or more of the projects described in Section 3.01 hereof shall be used for the following purposes as approved by the Executive Administrator: (1) deposit into the Interest and Sinking Fund or other debt service

account for the payment of interest or principal on the Bonds owned by the TWDB; or (2) eligible costs for a project as authorized by the Executive Administrator.

(b) The Authority shall indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the Authority, its contractors, consultants, agents, officials and employees as a result of activities relating to the project, to the extent permitted by law.

(c) The Authority shall report to the TWDB the amounts of project funds, if any, that were used to compensate historically underutilized businesses that worked on the project, in accordance with 31 TAC § 363.1312.

(d) The TWDB will purchase the Bonds, acting through the TWDB's designated trustee, and the Bonds shall be registered in the name of Cede & Co. and closed in book-entry form in accordance with 31 TAC Section 363.42(c)(1).

(e) Neither the Authority nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Bonds to be acquired from the Authority by the TWDB.

(f) Payments of principal and interest on the Bonds will be made to the TWDB via wire transfer at no cost to the TWDB.

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

(h) Within 60 days of completion of the construction of the projects financed, in whole or in part, by the loan evidenced by the Bonds, the Authority will provide a final accounting to the TWDB of the total costs of the projects; any surplus shall be used in a manner as approved by the Executive Administrator.

(i) So long as any Bonds are held by the TWDB, the Authority will provide to the TWDB's Executive Administrator, within 180 days of the end of the Authority's fiscal year, a copy of each of its annual audited financial statements, to be submitted without charge.

Section 21.02: Severability.

If any Section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, null, void, of no force and effect, then such provisions shall be construed as severable from the remainder of this Ordinance and shall not affect the validity of all other provision of this Ordinance which shall remain in full force and effect.

Section 21.03: Effectiveness.

That in accordance with the provisions of Section 1201.028, Texas Government Code, as amended, this Ordinance shall be effective immediately upon its adoption by the City Council.

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

PASSED, APPROVED AND EFFECTIVE this the 11th day of October, 2016.

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Mayor, City of Bryan, Texas

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City Secretary, City of Bryan, Texas

(Seal)

EXHIBIT A  
FORM OF BOND

REGISTERED  
No. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
COUNTY OF BRAZOS  
CITY OF BRYAN, TEXAS  
WATERWORKS AND SEWER SYSTEM REVENUE BOND,  
NEW SERIES 2016B

<u>DATED</u> <u>DATE</u>	<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>ISSUANCE</u> <u>DATE</u>	<u>CUSIP No.</u>
November 10, 2016	_____%	_____, 20__	November 10, 2016	_____

The City of Bryan (the "City"), in the County of Brazos, State of Texas, for value received, hereby promises to pay to

CEDE & CO.

or registered assigns, but solely from the sources and in the manner hereinafter provided, on the Maturity Date specified above, the sum of

\_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Issuance Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on January 1 and July 1 of each year, commencing July 1, 2017.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the designated corporate trust office in Dallas, Texas (the "Designated Trust Office") of Wilmington Trust, N.A., which is the "Paying Agent/Registrar" executing the registration certificate appearing hereon. Interest on this Bond is payable by check dated as of the interest payment date, mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid; provided, however, that such person shall bear all risk and expenses of such other customary banking arrangements. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of

business on the “Record Date”, which shall be the fifteenth day of the month next preceding such interest payment date.

So long as the Texas Water Development Board is the Holder of the Bonds, payments of principal and interest shall be made by wire transfer at no cost to the Texas Water Development Board.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday or day on which banking institutions in the city where the Designated Trust Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day, which is not Saturday, Sunday, legal holiday or day on which banking institutions are required authorized to close and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Bond is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$2,345,000 (herein referred to as the “Bonds”), issued pursuant to the authority provided by the Constitution and the laws of the State of Texas, and a certain ordinance of the City (the “Ordinance”). Capitalized terms used herein and not otherwise defined shall have the meaning assigned thereto in the Ordinance. The Bonds are being issued for the purpose of (i) constructing, improving, repairing, renovating, enlarging, extending and equipping the Waterworks and Sewer System, including the City of Bryan Aquifer Storage and Recovery Project, (ii) funding a debt service reserve fund and (iii) paying the costs of issuing the Bonds.

The City has reserved the right, subject to the restrictions stated in the Ordinance, to issue Additional Bonds that may be secured in the same manner and on a parity with the Bonds.

The City has reserved the option to redeem the Bonds maturing on and after July 1, 2028, before their respective scheduled maturities in inverse order of maturity, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof, on July 1, 2027 or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the redemption date. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the principal amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds or portions thereof, within such maturity and in such principal amounts, for redemption. A portion of a single bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall assign a separate number for each \$5,000 portion of the Bonds and select the portion or portions of the Bonds to be redeemed by lot or by any other customary method that results in a random selection; provided, that during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

Notice of such redemption or redemption shall be given by United States mail, first-class postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. Notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice, and from and after such date, notwithstanding that any of the Bonds or portion thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

With respect to any optional redemption of the Bonds, unless all prerequisites to such redemption have been met, including moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed having been received by the Paying Agent/Registrar prior to the giving of notice of such redemption, such notice shall state that said redemption may, at the option of the City, by conditional upon the satisfaction of all such prerequisites on or prior to the date fixed for such redemption, and if such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect.

As provided in the Ordinance and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Trust Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar, and, thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Whenever the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of the owner of this Bond any Bond called for redemption, in whole or in part, within 30 days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date) and for all other purposes, whether this Bond be overdue, and neither the City nor the Paying Agent/Registrar, nor any such agent shall be, affected by notice to the contrary.

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

IT IS HEREBY CERTIFIED AND RECITED that this Bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of this Bond have been performed, existed, and been done in accordance with law; and that the interest or, and principal of this

Bond and the series of which it is a part are secured by and payable from a first lien on and pledge of the Net Revenues of the Waterworks and Sewer System. The Bonds constitute special obligations of the City payable solely from the sources and in the manner set forth herein in the Ordinance and not from any other revenues, funds or assets of the City.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

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Mayor, City of Bryan, Texas

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City Secretary, City of Bryan, Texas

(Seal)

FORM OF COMPTROLLER'S REGISTRATION CERTIFICATE:

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such Certificate on the Bond(s) submitted to the Attorney General of Texas for approval has been fully executed.

COMPTROLLER'S REGISTRATION CERTIFICATE:

OFFICE OF COMPTROLLER                    §  
STATE OF TEXAS                            §       REGISTER NO. \_\_\_\_\_  
  §

I hereby certify this bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas and further that this bond has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY HAND and seal of office at Austin, Texas, this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

[SEAL]

FORM OF CERTIFICATE OF PAYING AGENT/REGISTRAR:

CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that this series of Bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas and that is one of the Bonds referred to in the within mentioned Ordinance.

WILMINGTON TRUST, N.A., as  
Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Signatory

Dated: \_\_\_\_\_

FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): \_\_\_\_\_ (Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

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

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

FORM OF HEADING AND FIRST PARAGRAPH OF SINGLE INITIAL BOND

REGISTERED  
No. T-1

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
COUNTY OF BRAZOS  
CITY OF BRYAN, TEXAS  
WATERWORKS AND SEWER SYSTEM REVENUE BOND  
NEW SERIES 2016B

DATED DATE: November 10, 2016

ISSUANCE DATE: November 10, 2016

The City of Bryan (the "City"), in the County of Brazos, State of Texas, for value received, hereby promises to pay to

\_\_\_\_\_

or registered assigns, but solely from the sources and in the manner hereinafter provided, the sum of

\_\_\_\_\_ MILLION \_\_\_\_\_ HUNDRED \_\_\_\_\_ THOUSAND DOLLARS

on July 1 in each of the years and in principal amounts and bearing interest at the per annum rates in accordance with the following schedule

<u>Year of</u> <u>Maturity</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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(Information to be inserted from schedule in Section 3.02 hereof).

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Issuance Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rates of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on January 1 and July 1 of each year, commencing July 1, 2017.

## EXHIBIT B

### DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred in Article 20 of this Ordinance.

#### Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Article are as specified below:

- (1) The annual audited financial statements of the City.
- (2) The information included under Tables 1 through 9 of the Official Statement for the City's Waterworks and Sewer System Revenue Bonds, New Series 2016A (the "Official Statement").

#### Accounting Principles

The accounting principles referred to in such Article are generally those described in the audited financial statements attached as Appendix B to the Official Statement, as such principles may be changed from time to time to comply with state law or regulation.

EXHIBIT C

SPECIAL ESCROW DEPOSIT AGREEMENT