



City of Grand Island

Tuesday, May 12, 2009

Council Session

Item F5

**#9218 - Consideration of Issuance Refunding Various Purpose
Bonds - Series 2009**

Staff Contact: David Springer

Council Agenda Memo

From: Dave Springer, Finance Director
Meeting: May 12, 2009
Subject: Consideration of Refinancing Various Purpose Bonds
Item #'s: F-5 & I-1
Presenter(s): Dave Springer, Finance Director

Background

On January 15, 2002, \$4,370,000 in Various Purpose bonds was issued by the City to partially finance various street and alley improvements, particularly, Improvement District No. 1221.

Discussion

\$2,925,000 is still outstanding through December 15, 2017 at an average interest rate of 4.7791% and was callable by the City after January 15, 2007. Series 2009 Refunding Bonds can be issued to mature on the same December 15, 2017 date, with an average interest rate of 2.9666%. The debt service savings from the refinancing totals approximately \$235,891 over the remaining life of the bonds. Those savings are net of issuance expenses associated with the refunding bonds; so, reflect true cash flow savings to the City.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the issuance of 2009 Refunding Bonds and retiring \$2,925,000 in 2002 Various Purpose Bonds.
2. Disapprove or /Deny the refinancing
3. Modify the Resolution to meet the wishes of the Council
4. Table the issue

Recommendation

City Administration recommends that the Council approve the issuance of Series 2009 Refunding Bonds, as detailed above, and to pay and redeem the Series 2002 Various Purpose Bonds.

Sample Motion

Move to approve the issuance of 2009 Refunding Bonds with the referenced ordinance.

Move to approve the resolution to pay and redeem the Series 2002 Various Purpose Bonds.

ORDINANCE NO. 9218

AN ORDINANCE AUTHORIZING THE ISSUANCE OF REFUNDING BONDS OF THE CITY OF GRAND ISLAND, NEBRASKA, IN THE PRINCIPAL AMOUNT OF TWO MILLION _____ THOUSAND DOLLARS (\$_____) FOR THE PURPOSE OF PAYING AND REDEEMING THE CITY'S VARIOUS PURPOSE BONDS, SERIES 2002, DATE OF ORIGINAL ISSUE - JANUARY 15, 2002, PRESENTLY OUTSTANDING IN THE PRINCIPAL AMOUNT OF \$2,925,000; DIRECTING THE APPLICATION OF THE PROCEEDS OF SAID BONDS; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES TO PAY THE SAME; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

Section 1. The Mayor and City Council hereby find and determine that there have been heretofore issued and are now outstanding and unpaid valid and interest bearing bonds of the City of Grand Island, Nebraska, as follows:

Various Purpose Bonds, Series 2002, date of original issue - January 15, 2002, in the principal amount of Two Million Nine Hundred Twenty-five Thousand Dollars (\$2,925,000), numbered as shown on the books of the Paying Agent and Registrar becoming due and bearing interest as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
\$270,000	December 15, 2009	4.20%	385622 MP 7
285,000	December 15, 2010	4.30	385622 MQ 5
295,000	December 15, 2011	4.40	385622 MR 3
310,000	December 15, 2012	4.50	385622 MS 1
320,000	December 15, 2013	4.65	385622 MT 9
330,000	December 15, 2014	4.75	385622 MU 6
355,000	December 15, 2015	4.85	385622 MV 4
370,000	December 15, 2016	4.95	385622 MW 2
390,000	December 15, 2017	5.00	385622 MX 0

Said bonds are hereinafter referred to as the "Refunded Bonds."

Said bonds are subject to redemption at any time on or after January 15, 2007, at the principal amount thereof plus accrued interest, and said interest is payable semiannually.

Said Refunded Bonds were issued for the purpose of paying the costs of improving streets and alleys, intersections and areas formed by the crossing of streets, avenues or alleys and streets adjacent to real estate owned by the City in Street Improvement District No. 1221.

Approved as to Form	<input type="checkbox"/>	_____
May 8, 2009	<input type="checkbox"/>	City Attorney

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Since the issuance of the Refunded Bonds, the rates of interest available in the markets have declined so that the City of Grand Island can effect a savings in interest costs by providing for payment in full of the Refunded Bonds as called for redemption on June 16, 2009 (the "Redemption Date") through the issuance of its refunding bonds. The Refunded Bonds have been called for redemption on the Redemption Date. For the purpose of making said redemption, it is for the best interest of the City to issue refunding bonds of the City in the principal amount of \$_____, pursuant to Section 10-142, Reissue Revised Statutes of Nebraska, 2007, and all laws amendatory thereof or supplementary thereto, and all conditions, acts and things required by law to exist or to be done precedent to the issuance of such refunding bonds do exist and have been done as required by law.

Section 2. For the purpose described in Section 1 hereof, there shall be and there are hereby ordered issued general obligation Refunding Bonds, Series 2009, of the City of Grand Island, Nebraska, in the principal amount of _____ Thousand Dollars (\$_____) (the "Series 2009 Bonds") with said bonds bearing interest at the rates per annum (said interest to be computed on the basis of a 360-day year consisting of twelve 30-day months) and maturing on December 15 of each year in the principal amounts as follows:

<i><u>Principal Amount</u></i>	<i><u>Date of Maturity</u></i>	<i><u>Rate of Interest</u></i>
\$ 275,000	December 15, 2009	
315,000	December 15, 2010	
320,000	December 15, 2011	
325,000	December 15, 2012	
330,000	December 15, 2013	
330,000	December 15, 2014	
350,000	December 15, 2015	
355,000	December 15, 2016	
370,000	December 15, 2017	

The Series 2009 Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the Series 2009 Bonds shall be the date of delivery thereof. Interest on the Series 2009 Bonds, at the respective rates for each maturity, shall be payable semiannually on June 15 and December 15 of each year, commencing December 15, 2009 (each

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of said dates an "Interest Payment Date") and the Series 2009 Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the close of business on the last business day of the month immediately preceding the month in which the Interest Payment Date occurs (the "Record Date"), subject to the provisions of Section 4 hereof. The Series 2009 Bonds shall be numbered from 1 upwards in the order of their issuance. No Series 2009 Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Series 2009 Bonds issued shall be designated by the City's Treasurer as directed by the initial purchaser thereof. Payments of interest due on the Series 2009 Bonds prior to maturity or date of redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Series 2009 Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 3 hereof. Payments of principal and accrued interest thereon due at maturity or at any date fixed for redemption prior to maturity shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the Series 2009 Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any Series 2009 Bond as the absolute owner of such Series 2009 Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Series 2009 Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Series 2009 Bond in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Series 2009 Bonds or claims for interest to the extent of the sum or sums so paid.

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Section 3. Cornerstone Bank, York, Nebraska, is hereby designated as Paying Agent and Registrar for the Series 2009 Bonds. Said Paying Agent and Registrar shall serve in such capacities under the terms of an agreement entitled "Paying Agent and Registrar's Agreement" between the City and said Paying Agent and Registrar, the form of which is hereby approved. The Mayor and City Clerk are hereby authorized to execute said agreement in substantially the form presented but with such changes as they shall deem appropriate or necessary. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Series 2009 Bonds at its principal corporate trust office. The names and registered addresses of the registered owner or owners of the Series 2009 Bonds shall at all times be recorded in such books. Any Series 2009 Bond may be transferred pursuant to its provisions at the principal corporate trust office of said Paying Agent and Registrar by surrender of such Series 2009 Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar on behalf of the City will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new Series 2009 Bond or Series 2009 Bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Series 2009 Bonds by this Ordinance, one such bond may be transferred for several such bonds of the same interest rate and maturity, and for a like aggregate principal amount, and several such bonds may be transferred for one or several such bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Series 2009 Bond, the surrendered Series 2009 Bond or Bonds shall be canceled and destroyed. All Series 2009 Bonds issued upon transfer of the Series 2009 Bonds so surrendered shall be valid obligations of the City evidencing the same obligations as the Series 2009 Bonds surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the Series 2009 Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to

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transfer any Series 2009 Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Series 2009 Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. In the event that payments of interest due on the Series 2009 Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the Series 2009 Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 5. If the date for payment of the principal of or interest on the Series 2009 Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent and Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 6. Series 2009 Bonds maturing December 15, 2014, and thereafter shall be subject to redemption, in whole or in part, prior to maturity at any time on or after the fifth anniversary of the date of original issue thereof at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the Series 2009 Bonds to be redeemed in its sole discretion but the Series 2009 Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Series 2009 Bonds redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for new Series 2009 Bonds evidencing the unredeemed principal thereof. Notice of redemption of any Series 2009 Bond called for redemption shall be given at the direction of the City by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Series 2009 Bond at said owner's registered address. Such notice

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shall designate the Series 2009 Bond or Series 2009 Bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such Series 2009 Bond or Series 2009 Bonds are to be presented for prepayment at the principal corporate trust office of said Paying Agent and Registrar. In case of any Series 2009 Bond partially redeemed, such notice shall specify the portion of the principal amount of such Series 2009 Bond to be redeemed. No defect in the mailing of notice for any Series 2009 Bond shall affect the sufficiency of the proceedings of the City designating the Series 2009 Bonds called for redemption or the effectiveness of such call for Series 2009 Bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such Series 2009 Bond for which defective notice has been given.

Section 7. The Series 2009 Bonds shall be in substantially the following form:

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Bonds of this issue maturing December 15, 2014 and thereafter are subject to redemption at the option of the City, in whole or in part, at any time on or after the fifth anniversary of the date of original issue thereof, at par plus interest accrued on the principal amount redeemed to the date fixed for redemption. Notice of redemption shall be given by mail to the registered owner of any bond to be redeemed at said registered owner's address in the manner specified in the ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in \$5,000 amounts or integral multiples thereof.

This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the principal corporate trust office of the Paying Agent and Registrar upon surrender and cancellation of this bond, and thereupon a new bond or bonds of the same aggregate principal amount, interest rate and maturity will be issued to the transferee as provided in the ordinance authorizing said issue of bonds, subject to the limitations therein prescribed. The City, the Paying Agent and Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

If the date for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent and Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond and in the issuance of the bonds refunded hereby did exist, did happen and were done and performed in regular and due form and time as required by law and that the indebtedness of said City, including this bond and the bonds refunded hereby, does not exceed any limitation imposed by law. The City agrees that it will cause to be levied and collected annually a tax by valuation on all the taxable property in the City, in addition to all other taxes, sufficient in rate and amount to fully pay the principal and interest of this bond and the other bonds of this issue as the same become due.

AS PROVIDED IN THE ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE ORDINANCE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ORDINANCE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT AND REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE PAYING AGENT AND REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE PAYING AGENT AND REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY

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BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREOF IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSONS IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

This bond shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

IN WITNESS WHEREOF, the Mayor and Council of the City of Grand Island, Nebraska, have caused this bond to be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk and by causing the official seal of the City to be imprinted hereon or affixed hereto, all as of the date of original issue specified above.

CITY OF GRAND ISLAND, NEBRASKA

Mayor

ATTEST:

City Clerk

(SEAL)

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ORDINANCE NO. 9218 (Cont.)

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds authorized by the Ordinance of the Mayor and City Council of the City of Grand Island, in the State of Nebraska, described in the foregoing bond.

Cornerstone Bank
York, Nebraska
Paying Agent and Registrar

By: _____
Authorized Signature

(Form of Assignment)

For value received hereby sells, assigns and transfers unto _____
_____ (Social Security or Taxpayer I.D. No. _____
_____) the within bond and hereby irrevocably constitutes and appoints
_____, attorney, to transfer the same on
the books of registration in the principal corporate trust office of the within mentioned Paying Agent and
Registrar with full power of substitution in the premises.

Dated: _____

Registered Owner(s)

Signature Guaranteed

By _____

Authorized Officer(s)

Note: The signature(s) on this assignment MUST CORRESPOND with the name(s) as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 8. Each of the Series 2009 Bonds shall be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal. The

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Series 2009 Bonds shall be issued initially as "book-entry-only" bonds under the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a Letter of Representations (the "Letter of Representations") in the form required by the Depository (which may be in the form of a blanket letter, including any such letter previously executed and delivered), for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Series 2009 Bonds. With respect to the issuance of the Series 2009 Bonds as "book-entry-only" bonds, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Series 2009 Bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a Series 2009 Bond from a Bond Participant while the Series 2009 Bonds are in book-entry form (each, a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Series 2009 Bonds,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Series 2009 Bonds, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Series 2009 Bonds. The Paying Agent and Registrar shall make payments with respect to the Series 2009 Bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Series 2009 Bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Series 2009 Bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Series 2009 Bonds or (ii) to make available Series 2009 Bonds registered in whatever name or names as the Beneficial Owners transferring or exchanging such Series 2009 Bonds shall designate.

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(c) If the City determines that it is desirable that certificates representing the Series 2009 Bonds be delivered to the ultimate beneficial owners of the Series 2009 Bonds and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the Series 2009 Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the Series 2009 Bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Series 2009 Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such Series 2009 Bond and all notices with respect to such Series 2009 Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Series 2009 Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Series 2009 Bonds may be delivered in physical form to the following:

(i) any successor securities depository or its nominee; or

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section and the terms of the Paying Agent and Registrar's Agreement.

(f) In the event of any partial redemption of a Series 2009 Bond unless and until such partially redeemed bond has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such bond as is then outstanding and all of the Series 2009 Bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository is terminated or resigns and is not replaced, the City shall immediately provide a supply of printed bond certificates for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of such certificates and to direct their execution by manual or facsimile signatures of its then duly qualified and acting Mayor and City Clerk and by imprinting thereon or affixing thereto the City's seal. In case any officer whose signature or facsimile thereof shall appear on any Series 2009 Bond shall cease to be such officer before the delivery of such bond (including such certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such

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facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such bond. The Series 2009 Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Series 2009 Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Series 2009 Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to Ameritas Investment Corp., as initial purchaser thereof, upon receipt of _____% of the principal amount of the Series 2009 Bonds plus accrued interest thereon, if any, to date of payment for the Series 2009 Bonds. Such purchaser and its agents, representatives and counsel (including the City's bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Series 2009 Bonds, including without limitation, authorizing the release of the Series 2009 Bonds by the Depository at closing. The officers of the City (or any one of them) are hereby authorized to execute and deliver the Bond Purchase Agreement for and on behalf of the City. Said initial purchaser shall have the right to direct the registration of the Series 2009 Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The City Clerk shall make and certify a transcript of the proceedings of the Mayor and Council with respect to the Series 2009 Bonds which shall be delivered to said purchaser.

Section 9. Accrued interest, if any, received from the sale of the Series 2009 Bonds shall be applied to pay interest falling due on December 15, 2009. Expenses of issuance of the Series 2009 Bonds may be paid from the proceeds of the Series 2009 Bonds. The remaining proceeds of the Series 2009 Bonds, together with other available City funds as required for such purpose, shall be applied to the payment of the principal of and interest on the Refunded Bonds as called for redemption on the Redemption Date. The Mayor and Council hereby covenant and agree to take all steps necessary and appropriate to provide for the payment, calling and redemption of the Refunded Bonds on the Redemption Date and hereby authorize the officers of the City or any one or more of them to take all actions deemed

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necessary in connection with the issuance of the Series 2009 Bonds and the payment and redemption of the Refunded Bonds.

Section 10. The holders of the Series 2009 Bonds shall be subrogated to all rights of the holders of the Refunded Bonds including the right to have special assessments set aside as a sinking fund for the payment of principal thereof and interest thereon, from and after their payment and redemption on the Redemption Date. The City agrees that it shall cause to be levied and collected annually a special levy of taxes on all the taxable property in this City, in addition to all other taxes, sufficient in rate and amount to fully pay the principal of and interest on the Series 2009 Bonds when and as such principal and interest become due.

Section 11. The City hereby covenants to the purchasers and holders of the Series 2009 Bonds hereby authorized that it will make no use of the proceeds of said bond issue, including monies held in any sinking fund for the Series 2009 Bonds, which would cause the Series 2009 Bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103(b) and 148 and all applicable regulations thereunder throughout the term of said bond issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax exempt status (as to taxpayers generally) of interest payable on the Series 2009 Bonds. The City hereby designates the Series 2009 Bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not reasonably expect to issue or have issued on its behalf tax-exempt bonds or other tax-exempt interest bearing obligations aggregating in principal amount more than \$30,000,000 during calendar year 2009 (taking into consideration the exception for current refunding issues), provided that the amount of the Series 2009 Bonds hereby designated shall be reduced as and to the extent that all or a portion of the Series 2009 Bonds may be determined to be "deemed designated" in accordance with the provisions of Section 265(b)(3)(D) of the Code. The officers of the City (or any one of them) are hereby authorized to make allocations of the Series 2009 Bonds (as to principal maturities) and of the proceeds of

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the Series 2009 Bonds and debt service funds of the City as may be deemed appropriate under the federal tax laws and regulations, specifically including any allocations relating to the determination of a portion of the Series 2009 Bonds as “deemed designated”. Any such allocations made and determinations set forth in a certificate by an officer of the City shall be and constitute authorized determinations made on behalf of the City with the same force and effect as if set forth in this Ordinance.

Section 12. The City's obligations under this Ordinance with respect to any or all of the Series 2009 Bonds herein authorized shall be fully discharged and satisfied as to any or all of such Series 2009 Bonds and any such Series 2009 Bond shall no longer be deemed to be outstanding hereunder if such Series 2009 Bond has been purchased by the City and canceled or when the payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof or (b) shall have been provided for by depositing with the Paying Agent and Registrar, or with a national or state bank having trust powers, or trust company, in trust, solely for such payment (i) sufficient money to make such payment and/or (ii) direct general obligations (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payment; provided, however, that with respect to any Series 2009 Bond to be paid prior to maturity, the City shall have duly called such bond for redemption and given notice of such redemption as provided by law or made irrevocable provision for the giving of such notice. Any money so deposited with a bank or trust company or the Paying Agent and Registrar may be invested or reinvested in U.S. Government Obligations at the direction of the City, and all interest and income from U.S. Government Obligations in the hands of such bank or trust company or Paying Agent and Registrar in excess of the amount required to pay principal of and interest on the Series 2009 Bonds for which such

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monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 13. In accordance with the requirements of Rule 15c2-12 (as now existing or subsequently amended, the “Rule”) promulgated by the Securities and Exchange Commission, the City hereby agrees that it will provide the following continuing disclosure information:

(a) to each nationally recognized municipal securities information repository (a “NRMSIR”) and to the initial purchaser of the Series 2009 Bonds, the City shall provide annual financial and operating information generally consistent with the information set forth under the heading “SUMMARY FINANCIAL STATEMENT AND OPERATING STATISTICS” in the Official Statement for said bonds and the City’s audited financial statements; such information is expected to be available not later than seven months after the end of each fiscal year for the City. Audited financial information shall be provided for governmental and fiduciary fund types based on the modified accrual basis of accounting and as to proprietary fund types on an accrual basis in accordance with generally accepted accounting principles, subject to modification by the City in the future as it may determine appropriate;

(b) in a timely manner to each NRMSIR or to the Municipal Securities Rulemaking Board (“MSRB”) (as and to the extent required by the Rule), notice of the occurrence of any of the following events with respect to the Series 2009 Bonds, if in the judgment of the City, such event is material:

- (1) principal and interest payment delinquencies,
- (2) non-payment related defaults,
- (3) unscheduled draws on debt service reserves reflecting financial difficulties (there are no debt service reserves established for the Series 2009 Bonds under the terms of this Ordinance),
- (4) unscheduled draws on credit enhancements reflecting financial difficulties (there is no credit enhancement on the Series 2009 Bonds),
- (5) substitution of credit or liquidity providers, or their failure to perform (not applicable to the Series 2009 Bonds),
- (6) adverse tax opinions or events affecting the tax-exempt status of the Series 2009 Bonds,
- (7) modifications to rights of the Series 2009 Bondholders,
- (8) Series 2009 Bond calls,
- (9) defeasances,

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- (10) release, substitution, or sale of property securing repayment of the Series 2009 Bonds, and
- (11) rating changes (the Series 2009 Bonds are not rated and no rating for the Series 2009 Bonds is expected to be requested).

The City has not undertaken to provide notice of the occurrence of any other material event, except the events listed above.

(c) in a timely manner to each NRMSIR or to the MSRB (as and to the extent required by the Rule) notice of any failure on the part of the City to provide required annual financial information not later than seven months from the close of the City's fiscal year.

Any filing with respect to this Ordinance may be made solely by transmitting such filing to the Texas Municipal Advisory Council (the "MAC") as provided at <http://www.disclosureusa.org> unless the United States Securities and Exchange Commission has withdrawn the interpretive advice in its letter to the MAC dated September 7, 2004.

The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the City, consistent with the Rule. The City hereby agrees that such covenants are for the benefit of the registered owners of the Series 2009 Bonds (including Beneficial Owners) and that such covenants may be enforced by any registered owner or Beneficial Owner, provided that any such right to enforcement shall be limited to specific enforcement of such undertaking and any failure shall not constitute an event of default under this Ordinance. The continuing disclosure obligations of the City under this Ordinance, as described above, shall cease when none of the Series 2009 Bonds remain outstanding.

Section 14. The Preliminary Official Statement for the Series 2009 Bonds is hereby approved and the Mayor and City Clerk are hereby authorized to approve on behalf of the City a final Official Statement with any changes deemed appropriate by them.

Section 15. This Ordinance shall be in force and take effect from and after its passage and publication in pamphlet form as provided by law.

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PASSED AND APPROVED this 12th day of May, 2009.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk