

**ORDINANCE NO. 10-11**  
**AUTHORIZING THE ISSUANCE OF CITY OF COMMERCE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010C, IN THE PRINCIPAL AMOUNT OF \$3,490,000 AND AWARDING THE SALE OF SUCH CERTIFICATES OF OBLIGATION TO THE TEXAS WATER DEVELOPMENT BOARD**

---

|                         |          |
|-------------------------|----------|
| <b>STATE OF TEXAS</b>   | <b>§</b> |
| <b>COUNTY OF HUNT</b>   | <b>§</b> |
| <b>CITY OF COMMERCE</b> | <b>§</b> |

WHEREAS, the City Council of the City of Commerce, Texas (the "Issuer") deems it advisable to issue certificates of obligation (the "Certificates") in the amount of \$3,490,000 to provide funds for paying all or a portion of the Issuer's contractual obligations incurred in connection with (i) acquiring, constructing, installing and equipping improvements and additions to the Issuer's water and wastewater system, including collection line replacement, manhole rehabilitation and lift station rehabilitation and (ii) legal, fiscal, design and engineering fees in connection with such projects; and

WHEREAS, the Certificates hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Texas Local Government Code, as amended, and Chapter 1502, Government Code, as amended; and

WHEREAS, the City Council has heretofore passed a resolution authorizing and directing the City Secretary to give notice of intention to issue the Certificates; and

WHEREAS, said notice has been duly published in a newspaper of general circulation in the Issuer, said newspaper being a "newspaper" as defined in § 2051.044, Texas Government Code, as amended; and

WHEREAS, the Issuer received no petition from the qualified electors of the Issuer protesting the issuance of such Certificates; and

WHEREAS, it is considered to be to the best interest of the Issuer that said Certificates be issued.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE:**

**Section 1. RECITALS, AMOUNT AND PURPOSE OF THE CERTIFICATES.** The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. The Certificates of the Issuer are hereby authorized to be issued and delivered in the aggregate principal amount of \$3,490,000 to provide funds for paying all or a portion of the Issuer's contractual obligations incurred in connection with (i) acquiring, constructing, installing and equipping improvements and additions to the Issuer's water and wastewater system, including collection line replacement, manhole rehabilitation and lift station rehabilitation and (ii) legal, fiscal, design and engineering fees in connection with such projects (the "Project").

**Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF THE CERTIFICATES.** Each Certificate issued pursuant to this Ordinance shall be designated: "CITY OF COMMERCE, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, SERIES 2010C" and initially there shall be issued, sold and delivered hereunder one fully registered certificate, without interest coupons, dated June 1, 2010, in the aggregate principal amount stated above and in the denominations hereinafter stated, numbered T-1, with certificates issued in replacement thereof being in the denominations and principal amounts hereinafter stated and numbered consecutively from R-1 upward,

payable to the respective Registered Owners thereof (with the initial certificate being made payable to the initial purchaser as described in Section 12 hereof), or to the registered assignee or assignees of said certificate or any portion or portions thereof (in each case, the "Registered Owner"). The Certificates shall not bear interest. The Certificates shall mature on February 15 in the years and in the principal amounts as follows:

| Year | Principal Amount | Year | Principal Amount |
|------|------------------|------|------------------|
| 2011 | \$115,000        | 2026 | \$115,000        |
| 2012 | 115,000          | 2027 | 115,000          |
| 2013 | 115,000          | 2028 | 115,000          |
| 2014 | 115,000          | 2029 | 115,000          |
| 2015 | 115,000          | 2030 | 115,000          |
| 2016 | 115,000          | 2031 | 115,000          |
| 2017 | 115,000          | 2032 | 115,000          |
| 2018 | 115,000          | 2033 | 120,000          |
| 2019 | 115,000          | 2034 | 120,000          |
| 2020 | 115,000          | 2035 | 120,000          |
| 2021 | 115,000          | 2036 | 120,000          |
| 2022 | 115,000          | 2037 | 120,000          |
| 2023 | 115,000          | 2038 | 120,000          |
| 2024 | 115,000          | 2039 | 120,000          |
| 2025 | 115,000          | 2040 | 120,000          |

Section 3. CHARACTERISTICS OF THE CERTIFICATES. (a) Registration, Transfer, Conversion and Exchange; Authentication. The Issuer shall keep or cause to be kept at the corporate trust office of The Bank of New York Mellon Trust Company, N.A., in Dallas, Texas (the "Paying Agent/Registrar"), books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Issuer and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 3(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed herein, and the Certificates shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates that initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General and registered by the Texas Comptroller of Public Accounts.

(b) Payment of Certificates. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance.

(c) In General. The Certificates (i) shall be issued in fully registered form, without interest coupons, with the principal of such Certificates to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the Issuer at least 50 days prior to any such redemption date), (iii) may be converted and exchanged for other Certificates, (iv) may be transferred and assigned, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificate initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE.

(d) Book-Entry Only System. The Certificates issued in exchange for the Certificate initially issued to the initial purchaser specified herein shall be initially issued in the form of a separate single fully registered Certificate for each of the maturities thereof. Upon initial issuance, the ownership of each such Certificate shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), and except as provided in subsection (f) hereof, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of

DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner of Certificates, as shown on the Registration Books, of any notice with respect to the Certificates, or (iii) the payment to any DTC Participant or any other person, other than a Registered Owner of Certificates, as shown in the Registration Books of any amount with respect to principal of the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of the Certificates only to or upon the order of the Registered Owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of the Certificates to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Certificate evidencing the obligation of the Issuer to make payments of principal pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(e) Successor Securities Depository: Transfers Outside Book-Entry Only System. In the event that the Issuer determines that DTC is incapable of discharging its responsibilities described herein and in the Blanket Issuer Letter of Representations to DTC or that it is in the best interest of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the Issuer shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate certificated Certificates to DTC Participants having Certificates credited to their DTC accounts; provided that while the Texas Water Development Board (the "Board") is the Registered Owner of the Certificates, the DTC services shall not be discontinued by the Issuer until the Issuer has received the written consent thereto of the Board. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Registered Owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

(f) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the Blanket Issuer Letter of Representations to DTC.

(g) Successor Paying Agents. The Issuer covenants with the Registered Owners of the Certificates that at all times while the Certificates are outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution, or other entity having trust powers to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/Registrar will be a single entity. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 50 days written notice to the Paying Agent/Registrar, to be effective not later than 30 days prior to the next principal payment date after such notice. 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 Issuer covenants that promptly it will appoint

a competent and legally qualified bank, trust company, financial institution, or other agency 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 Certificates, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Certificates, 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) Cancellation of Initial Certificates. On the closing date, one initial Certificate representing the entire principal amount of the Certificates, payable in stated installments to the purchaser designated in Section 12 or its designee, executed by manual or facsimile signature of the Mayor or the Mayor Pro-tem and City Secretary of the Issuer, approved by the Attorney General of the State of Texas (the "Attorney General"), and registered and manually signed by the Comptroller of Public Accounts of the State of Texas (the "Comptroller"), will be delivered to such purchaser or its designee. Upon payment for the initial Certificate, the Paying Agent/Registrar shall cancel the initial Certificate and deliver to DTC on behalf of such purchaser one registered definitive Certificate for each year of maturity of the Certificates, in the aggregate principal amount of all of the Certificates for such maturity.

(i) Conditional Notice of Redemption. With respect to any optional redemption of the Certificates, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the Issuer, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the Issuer shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

Section 4. FORM OF CERTIFICATES. The form of the Certificates, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller to be attached to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

(a) [Form of Certificate]

NO. R-

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF COMMERCE, TEXAS COMBINATION TAX AND  
REVENUE CERTIFICATE OF OBLIGATION  
SERIES 2010C

PRINCIPAL  
AMOUNT  
\$ \_\_\_\_\_

Dated Date

Maturity Date

CUSIP No.

June 1, 2010

February 15, \_\_\_\_

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

ON THE MATURITY DATE specified above, the City of Commerce, in Hunt County, Texas (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above.

THE PRINCIPAL OF this Certificate is payable in lawful money of the United States of America, without exchange or collection charges. This Certificate shall not bear interest. The principal of this Certificate shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at the corporate trust office of The Bank of New York Mellon Trust Company, N.A., in Dallas, Texas, which is the "Paying Agent/Registrar" for this Certificate.

NOTWITHSTANDING ANY PROVISION, term, condition or requirement of this Certificate or the ordinance authorizing this Certificate (the "Certificate Ordinance") to the contrary, payments to the initial purchaser of the Certificates of principal of the Certificates shall be made by wire transfer of immediately available funds at no cost to such purchaser.

THE ISSUER COVENANTS with the Registered Owner of this Certificate that on or before the Maturity Date specified above it will make available to the Paying Agent/Registrar, from the "Sinking Fund" created by the Certificate Ordinance, in immediately available funds, the Principal Amount specified above.

IF THE DATE for the payment of the principal of this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the designated corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is one of a series of Certificates dated June 1, 2010, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$3,490,000 for paying all or a portion of the Issuer's contractual obligations incurred in connection with (i) acquiring, constructing,

installing and equipping improvements and additions to the Issuer's water and wastewater system, including collection line replacement, manhole rehabilitation and lift station rehabilitation and (ii) legal, fiscal, design and engineering fees in connection with such projects.

ON FEBRUARY 15, 2021, or on any date thereafter, the Certificates having stated maturities on and after February 15, 2022, may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the Issuer shall, in inverse order of maturity, select and designate the maturity or maturities and the amount that is to be redeemed, and if less than a whole maturity is to be called, the Issuer shall direct the Paying Agent/Registrar to call by lot (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000), at the redemption price of the principal amount thereof, without premium or interest.

AT LEAST 30 days prior to the date fixed for any redemption of Certificates or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least 30 days prior to the date fixed for any such redemption, to the Registered Owner of each Certificate to be redeemed at its address as it appeared on the 45th day prior to such redemption date; provided, however, that the failure of the Registered Owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Certificate. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Certificates or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Certificate shall be redeemed, a substitute Certificate or Certificates having the same maturity date, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Certificate Ordinance.

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Certificate Ordinance, this Certificate may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Certificate Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for

assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the Issuer. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on the last business day of the month next preceding any principal payment date and ending with the opening of business on the next following principal payment date, or (ii) with respect to any Certificate or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Certificate Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Certificates.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; that this Certificate is a general obligation of said Issuer, issued on the full faith and credit thereof; and that annual ad valorem taxes sufficient to provide for the payment of the principal of this Certificate, as such principal matures, have been levied and ordered to be levied against all taxable property in said Issuer, and have been pledged for such payment, within the limit prescribed by law, and that this Certificate is additionally secured by and payable from a pledge of the revenues of the Issuer's Water and Wastewater System (the "System") described below, to wit: the Surplus Revenues of the System, which are the revenues of the System that remain (i) after payment of all operation and maintenance expenses thereof (constituting the "Net Revenues" of the System) and (ii) after payment of all debt service, reserve and other requirements in connection with all of the Issuer's revenue obligations (now or hereafter outstanding) that are payable from the Net Revenues, all as provided in the Certificate Ordinance.

BY BECOMING the Registered Owner of this Certificate, the Registered Owner thereby acknowledges all of the terms and provisions of the Certificate Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Certificate Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer, and agrees that the terms and provisions of this Certificate and the Certificate Ordinance constitute a contract between each Registered Owner hereof and the Issuer.

IN WITNESS WHEREOF, the Issuer has caused this Certificate to be signed with the manual or facsimile signature of the Mayor of the Issuer and countersigned with the manual or facsimile signature of the City Secretary of the Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Certificate.

\_\_\_\_\_  
(signature)  
City Secretary, City of Commerce, Texas

(SEAL)

\_\_\_\_\_  
(signature)  
Mayor, City of Commerce, Texas

(b) [Form of Delivery Certificate]

DELIVERY CERTIFICATE

This Certificate of Obligation was delivered to and paid for by the Purchaser thereof on \_\_\_\_\_.

(c) [Form of Paying Agent/Registrar's Authentication Certificate]

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Certificate is not accompanied by an  
executed Registration Certificate of the Comptroller)

It is hereby certified that this Certificate has been issued under the provisions of the Certificate Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

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

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.  
Dallas, Texas  
Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Representative

(d) [Form of Assignment]

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_.

Please insert Social Security or Taxpayer Identification Number of Transferee  
\_\_\_\_\_

(Please print or typewrite name and address, including zip code, of Transferee.)  
\_\_\_\_\_

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to register the transfer of the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

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

Signature Guaranteed:  
\_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Certificate in every particular, without alteration or enlargement or any change whatsoever.

(e) [Form of Registration Certificate of the Comptroller]

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

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

Witness my signature and seal this

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

(COMPTROLLER'S SEAL)

(f) [Initial Certificate Insertions]

(i) The initial Certificate shall be in the form set forth is paragraph (a) of this Section, except that:

A. immediately under the name of the Certificate, the heading "Maturity Date" shall be completed with the words "As shown below" and "CUSIP No. \_\_\_\_" shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"THE CITY OF COMMERCE, TEXAS, in Hunt County, Texas (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on February 15 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

| <u>Years</u> | <u>Principal Installments</u> |
|--------------|-------------------------------|
|--------------|-------------------------------|

(Information from Section 2 to be inserted)

C. The Initial Certificate shall be numbered "T-1".

Section 5. SINKING FUND. A special "Sinking Fund" has been created and shall be established and maintained by the Issuer at an official depository bank of said Issuer. Said Sinking Fund shall be kept separate and apart from all other funds and accounts of said Issuer, and shall be used only for paying the principal of the Certificates. All ad valorem taxes levied and collected for and on account of the Certificates shall be deposited, as collected, to the credit of said Sinking Fund. During each year while any of the Certificates are outstanding and unpaid, the governing body of said Issuer shall compute and ascertain a rate

and amount of ad valorem tax that will be sufficient to raise and produce the money required to provide and maintain a sinking fund adequate to pay the principal of the Certificates as such principal matures (but never less than 2% of the original amount of the Certificates as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said Issuer, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said Issuer, for each year while any of the Certificates are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of principal of the Certificates, as such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

Section 6. SURPLUS REVENUES. (a) That the Certificates, together with other obligations of the Issuer, are additionally secured by a pledge of the revenues of the System that remain (i) after payment of all operation and maintenance expenses of the System (constituting the "Net Revenues" of the System) and (ii) after payment of all debt service, reserve and other requirements in connection with all of the Issuer's revenue obligations (now or hereafter outstanding) that are payable from the Net Revenues (such revenues, constituting the "Surplus Revenues" of the System). The Surplus Revenues are hereby pledged to secure the payment of the Certificates. The Issuer shall maintain sufficient rates and charges for the payment of System operations and, if Surplus Revenues are used in lieu of ad valorem taxes for the payment of the debt service requirements of System debt, such rates and charges shall produce sufficient Surplus Revenues therefor. If Surplus Revenues are required for the payment of debt service on the Certificates, the Issuer shall deposit Surplus Revenues to the credit of the Sinking Fund created pursuant to Section 5, to the extent necessary to pay the principal on the Certificates.

(b) Notwithstanding the requirements of Section 5, if Surplus Revenues or other lawfully available funds of the Issuer are actually on deposit in the Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied pursuant to Section 5 may be reduced to the extent and by the amount of the revenues then on deposit in the Sinking Fund.

(c) Notwithstanding the requirements of Section 5 and Section 6(b), if Surplus Revenues and/or other lawfully available funds of the Issuer are not on deposit in the Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, but there are budgeted for collection revenues ("Budgeted Revenues") in sufficient amounts to pay the principal coming due on the Certificates in any year, then, subject to the requirements set forth below, the amount of taxes which otherwise would have been required to be levied pursuant to Section 5 may be reduced to the extent and by the amount of the Budgeted Revenues. In the event that Budgeted Revenues are to be used to pay principal coming due on the Certificates in any year, the Issuer:

(a) shall transfer and deposit in the Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Certificates until the amount on deposit in the Sinking Fund equals the amount required for annual debt service on the Certificates; further, the Issuer shall not transfer any funds from the Issuer's Water and Wastewater System Fund to any fund other than the Sinking Fund until such time as an amount equal to the annual debt service on the Certificates for the then current fiscal year has been deposited in the Sinking Fund; and, provided further that transfers may be made from the Water and Wastewater System Fund to an interest and/or sinking fund established for the benefit of any revenue obligations of the Issuer that are secured by a pledge of the Net Revenues (which transfers shall be made in accordance with the provisions of the Ordinance pursuant to which such obligations were issued or incurred) and to any other interest and/or sinking fund established for

the benefit of any revenue obligations of the Issuer that are secured by a pledge of the Surplus Revenues (and any such transfers shall be made on a pro rata basis as the transfers made for the benefit of the Certificates);

(b) shall establish, adopt and maintain an annual budget that provides for either the monthly deposit of sufficient Surplus Revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Sinking Fund for the repayment of the Certificates; and

(c) shall at all times maintain and collect sufficient System rates and charges in conjunction with any other legally available funds that, after payment of the costs of operating and maintaining the System, produce revenues in an amount not less than 1.10 times debt service requirements of all outstanding System revenue obligations of the Issuer and other obligations of the Issuer which are secured in whole or in part by a pledge of revenues of the System, for which the Issuer is budgeting the repayment of such obligations from the revenues of the System, or the Issuer shall prepare and provide documentation to any Registered Owner of a Certificate who requests same, which evidences the levy of an ad valorem tax rate dedicated to the Sinking Fund, in conjunction with any other legally available funds except System rates and charges, sufficient for the repayment of System debt service requirements.

Section 7. DEFEASANCE OF CERTIFICATES. (A) Any Certificate shall be deemed to be paid, retired, and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Certificate either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates shall have become due and payable. At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied and pledged as provided in this Ordinance, and such principal shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Certificates that is made in conjunction with the payment arrangements specified in subsection 7(a)(i) or (ii) shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Certificates for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Certificates immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Issuer also be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificates with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Certificates 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 7(a)(i) or (ii). All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificates, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) The term "Defeasance Securities" means any securities and obligations now or hereafter authorized by Texas law that are eligible to discharge obligations such as the Certificates.

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

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

(f) In the event that the Issuer establishes a defeasance escrow for the Certificates in accordance with Section 7, written notice thereof shall be promptly given to the Board.

Section 8. **DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES.** (a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificates. Application for replacement of damaged, mutilated, lost, stolen or destroyed Certificates shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the Registered Owner applying for a replacement certificate shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the Registered Owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Certificate shall have matured, and no default has occurred that is then continuing in the payment of the principal of the Certificate, the Issuer may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the Registered Owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Chapter 1201, Texas Government Code, as amended, this Section 8 of this Ordinance shall constitute authority for the issuance of any such replacement certificate without necessity of further action by the governing body of the Issuer or any other body or person, and the duty of the replacement of such certificates is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificates in the form and manner and with the effect, as provided in Section 3(a) of this Ordinance for Certificates issued in conversion and exchange for other Certificates.

Section 9. CUSTODY, APPROVAL AND REGISTRATION OF CERTIFICATES; BOND COUNSEL'S OPINION; CUSIP NUMBERS; ATTORNEY GENERAL REVIEW FEE; AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. (a) The Mayor of the Issuer is hereby authorized to have control of the Certificates initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination, and approval by the Attorney General, and their registration by the Comptroller. Upon registration of the Certificates said Comptroller (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificates, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, be printed on the Certificates issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Certificates. In addition, if bond insurance is obtained, the Certificates may bear an appropriate legend as provided by the insurer. The officers, employees and agents of the Issuer, and each of them, shall be and each is expressly authorized, empowered and directed from time to time and at any time to do and perform all acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Issuer all certificates, financing statements, instruments, agreements and other papers, whether or not herein mentioned, as they may determine to be necessary or desirable in order to carry out the terms and provisions of this Ordinance. In the absence of the Mayor, the Mayor Pro-tem is directed to sign as Mayor on behalf of the Issuer.

(b) In accordance with the provisions of Section 1202.004, Tex. Gov't Code Ann., in connection with the submission of the Certificates by the Attorney General for review and approval, a statutory fee (an amount equal to 0.1% principal amount of the Certificates, subject to a minimum of \$750 and a maximum of \$9,500) is required to be paid to the Attorney General upon the submission of the transcript of proceedings for the Certificates. The Issuer hereby authorizes and directs that a check in the amount of the Attorney General filing fee for the Certificates, made payable to the "Texas Attorney General," be promptly furnished to the Issuer's Bond Counsel, for payment to the Attorney General in connection with his review of the Certificates.

Section 10. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES. The Issuer covenants to take any action necessary to assure, or refrain from any action that would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest, if any, on which is not includable in the "gross income" of the Registered Owner for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(a) to take any action to assure that no more than 10 percent of the proceeds of the Certificates (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for

the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

(b) to take any action to assure that in the event that the "private business use" described in subsection (a) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" that is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(c) to take any action to assure that no amount that is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(d) to refrain from taking any action that would otherwise result in the Certificates being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(e) to refrain from taking any action that would result in the Certificates being "federally guaranteed" within the meaning of section 149(b) of the Code;

(f) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds that were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) that produces a materially higher yield over the term of the Certificates, other than investment property acquired with –

(1) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(2) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the rules and regulations of the United States Department of the Treasury ("Treasury Regulations"), and

(3) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(g) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings);

(h) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code; and

(i) to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Certificates are issued, an

information statement concerning the Certificates, all under and in accordance with section 149(e) of the Code and the applicable Treasury Regulations promulgated thereunder.

In order to facilitate compliance with the above covenant (h), a "Rebate Fund" is hereby established by the Issuer for the sole benefit of the United States of America, and such Fund shall not be subject to the claim of any other person, including without limitation the certificateholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

For purposes of the foregoing (a) and (b), the Issuer understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Certificates. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the United States Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated that modify or expand provisions of the Code, as applicable to the Certificates, the Issuer will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest, if any, on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated that impose additional requirements applicable to the Certificates, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest, if any, on the Certificates under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor or the Mayor Pro-tem to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, that may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates.

Section 11. METHOD OF AMENDMENT. The Issuer hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The Issuer may from time to time, without the consent of any Registered Owner, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the Registered Owners, (ii) grant additional rights or security for the benefit of the Registered Owners, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the Registered Owners, (v) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (iv) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the Registered Owners.

(b) Except as provided in paragraph (a) above, the Registered Owners of Certificates aggregating in principal amount 51% of the aggregate principal amount of then outstanding Certificates that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the Issuer; provided, however, that without the consent of 100% of the Registered Owners in aggregate principal amount of the then outstanding Certificates, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Certificates so as to:

- (1) Make any change in the maturity of any of the outstanding Certificates;

- (2) Reduce the amount of the principal payable on any outstanding Certificates;
- (3) Modify the terms of payment of principal of outstanding Certificates or impose any condition with respect to such payment; or
- (4) Change the minimum percentage of the principal amount of the Certificates necessary for consent to such amendment.

(c) If at any time the Issuer shall desire to amend this Ordinance under this Section, the Issuer shall send by United States mail to each Registered Owner of the affected Certificates a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in the City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the Issuer for inspection by all Registered Owners of such Certificates.

(d) Whenever at any time within one year from the date of publication of such notice the Issuer shall receive an instrument or instruments executed by the Registered Owners of at least 51% in aggregate principal amount of all of the Certificates then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the Issuer may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the Issuer and all Registered Owners of such affected Certificates shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the Registered Owner of a Certificate pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future Registered Owners of the same Certificate during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the Registered Owner who gave such consent, or by a successor in title, by filing notice with the Issuer, but such revocation shall not be effective if the Registered Owners of 51% in aggregate principal amount of the affected Certificates then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

For the purposes of establishing ownership of the Certificates, the Issuer shall rely solely upon the registration of the ownership of such Certificates on the registration books kept by the Paying Agent/Registrar.

(g) Notwithstanding any provision of this Section 11, there shall be no modification of this Ordinance without the written consent of the Board (while it is a Registered Owner of the Certificates).

**Section 12. SALE OF CERTIFICATES.** The Certificates are hereby sold and shall be delivered to the Board for cash for the principal amount thereof, less an origination fee of \$64,565. In accordance with its Resolution No. 08-91, the Board will purchase the Certificates in accordance with its pre-design funding option basis, with an amount approved by the Board to be deposited to the Construction Fund authorized by Section 13 hereof upon initial delivery of the Certificates, and the balance of the proceeds to be deposited to the Escrow Account authorized by Section 26 hereof until authorized for transfer to the Construction Fund by the Board.

Section 13. CONSTRUCTION FUND. There shall be established by the Issuer a Construction Fund (the "Construction Fund") to be held by the Issuer's depository bank, and upon the delivery of the purchase price for the Certificates, the proceeds from the sale of the Certificates, which shall be received from the installment deliveries of the Certificates, shall be deposited into the Construction Fund. The costs of issuance of the Certificates, which include legal, fiscal, design and engineering fees, may be paid from the Construction Fund. The cost of the construction of the Project will be paid from this Construction Fund upon direction of the City Council of the Issuer. All interest and profits from investments made with moneys in the Construction Fund shall remain on deposit in the Construction Fund as a part thereof. After completion of the payment of all costs of the Project, any residue remaining in the Construction Fund shall be applied in accordance with Section 16 hereof.

Section 14. FINAL ACCOUNTING. The Issuer shall render a final accounting to the Board in reference to the total cost incurred by the Issuer for the Project together with a copy of "as built" plans of the Project upon completion. If the Project as finally completed is built at a total cost less than the amount of available funds for building the Project, or if the Executive Administrator of the Board disapproves construction of any portion of the Project as not being in accordance with the plans and specifications, the Issuer agrees that contemporaneously with filing of the final accounting it will return to the Board the amount of any such excess and/or the cost determined by the Executive Administrator of the Board relating to the parts of the Project that are not built in accordance with the plans and specifications, to the nearest multiple of the authorized denominations for the Certificates, upon the surrender and cancellation of a like amount of such Certificates held by the Board in inverse order of their stated maturities. In determining the amount of available funds for construction of the Project, the Issuer agrees to account for all amounts deposited to the credit of the Construction Fund, including all proceeds of the Certificates received from the Board, all other funds available from the Project as described in the project engineer's or fiscal representative's sufficiency of funds statement and all interest earned by the Issuer from investment of money in the Construction Fund.

Section 15. INVESTMENTS. Money in any fund established pursuant to this Ordinance may, at the option of the Issuer, be invested in eligible investments described in the Texas Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended, consistent with the investment policy of the Issuer, as approved by the City Council of the Issuer. All investments shall be made in such manner as will, in the opinion of the Issuer, permit the money required to be expended from any fund to be available at the proper time or times as expected to be needed.

Section 16. SURPLUS PROCEEDS. The Issuer shall use any surplus proceeds from the Certificates remaining after completion of the Project, to redeem, in inverse annual order, the Certificates owned by the Board.

Section 17. ANNUAL AND MONTHLY REPORTS. Monthly operating statements and annual audits of the Issuer shall be delivered to the Board as long as the State of Texas owns any of the Certificates, and the monthly operating statement shall be in such detail as requested by the Development Fund Manager of the Board until, if ever, this requirement is waived by the Development Fund Manager. The Issuer shall file a copy of its audited financial statements with the Board within 120 days of the close of each fiscal year of the Issuer.

Section 18. COMPLIANCE WITH THE BOARD'S RULES AND REGULATIONS. The Issuer covenants to comply with the rules and regulations of the Board, and agrees to maintain casualty and other insurance on the System of a kind and in an amount customarily carried by municipal corporations owning and operating similar properties and in an amount sufficient to protect the interests of the Texas Water

Development Board in the Project Furthermore, the Board, in Resolution 08-91 adopted on September 23, 2008, requires that the Issuer make the following covenant in this Ordinance

(a) Environmental Indemnification. To the extent permitted by law, the Issuer agrees to indemnify, hold harmless and protect the Board 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 Issuer, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project.

(b) Annual Audit Reporting. The Issuer shall provide to the Development Fund Manager of the Texas Water Development Board, without the necessity of a written request therefor, a copy of the Issuer's annual audit report, to be submitted without charge, within 120 days of the close of each Issuer fiscal year.

(c) Water Conservation Program. The Issuer agrees and covenants that it will implement an approved water conservation program in accordance with 31 TAC 375.71(a)(2)(F).

(d) Records and Accounts. The Issuer agrees and covenants that it will maintain current, accurate and complete records and accounts regarding the System in accordance with 31 TAC 375.71(a)(2)(G).

(e) Environmental Determinations. The Issuer agrees and covenants that it will comply with any special conditions of the Executive Administrator's environmental determination in accordance with 31 TAC 375.71(a)(8).

Section 20. ALLOCATION OF CERTIFICATE PROCEEDS. The Issuer covenants to account for the expenditure of sale proceeds and investment earnings to be used for the construction and acquisition of the Project on its books and records by allocating proceeds to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed. The foregoing notwithstanding, the Issuer shall not expend proceeds of the sale of the Certificates or investment earnings thereon more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired, unless the Issuer obtains an opinion of nationally-recognized bond counsel that such expenditure will not adversely affect the status, for federal income tax purposes, of the Certificates or the interest, if any, thereon. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest on the Certificates, if any.

Section 21. DISPOSITION OF PROJECT. The Issuer covenants that the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless the Issuer obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains a legal opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest on the Certificates, if any.

Section 22. INTEREST EARNINGS ON CERTIFICATE PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Certificates shall be used along with other Certificate proceeds for the Project; provided that after completion of such purpose, if any of such interest earnings remain on

hand, such interest earnings shall be used as directed in Section 16. It is further provided, however, that any interest earnings on Certificate proceeds that are required to be rebated to the United States of America pursuant to Section 10 hereof in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 23. COMPLIANCE WITH RULE 15c2-12. (a) Annual Reports. (i) The Issuer shall provide annually to the MSRB, within six months after the end of each fiscal year ending in or after 2010, financial information and operating data with respect to the Issuer of the general type included in the Issuer's application to the Board for financial assistance (the "Application"). Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in the notes to the financial statements filed with the Board as part of the Application, or such other accounting principles as the Issuer may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the Issuer commissions an audit of such 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 such period, then the Issuer shall provide unaudited financial statements by the required time and will provide audited financial statements for the applicable fiscal year to the MSRB when and if the audit report on such statements become available.

(ii) If the Issuer 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 Issuer otherwise would be required to provide financial information and operating data pursuant to this Section. The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB or the SEC) that is available to the public on the MSRB's internet web site or filed with the SEC.

(b) Material Event Notices. The Issuer shall notify the MSRB, in a timely manner, of any of the following events with respect to the Certificates, if such event is material within the meaning of the federal securities laws:

1. Principal payment delinquencies;
2. Non-payment related defaults;
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 or events affecting the tax-exempt status of the Certificates;
7. Modifications to rights of Registered Owners of the Certificates;
8. Bond calls;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Certificates; and
11. Rating changes.

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

(c) Limitations, Disclaimers, and Amendments. (i) The Issuer shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Issuer remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the Issuer in

any event will give the notice required by Subsection (b) hereof of any Certificate calls and defeasance that cause the Issuer to no longer be such an "obligated person."

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

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

(iv) No default by the Issuer in observing or performing its obligations under this Section shall comprise a breach of or default under the Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Issuer under federal and state securities laws.

(v) The provisions of this Section may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the Registered Owners 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 Certificates consent to such amendment or (b) a person that is unaffiliated with the Issuer (such as nationally-recognized bond counsel) determined that such amendment will not materially impair the interest of the Registered Owners and beneficial owners of the Certificates. If the Issuer so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Issuer 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 Certificates in the primary offering of the Certificates.

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

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

"SEC" means the United States Securities and Exchange Commission.

Section 24. PUBLIC NOTICE. It is hereby officially found and determined that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code, and that no petition was received from the qualified electors of the Issuer protesting the issuance of the Certificates.

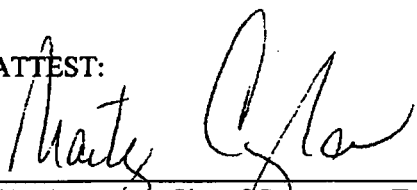
Section 25. ESCROW AGREEMENT. The Mayor is hereby authorized and directed to execute and deliver an Escrow Agreement substantially in the form attached hereto as Exhibit A, with such changes as may be approved by the Mayor, such approval to be evidenced by his execution thereof. The Escrow Agent named in the Escrow Agreement is hereby appointed as the Escrow Agent pursuant to such Escrow Agreement.

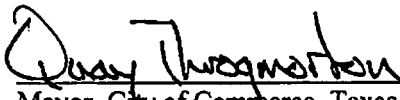
Section 26. ESCROW ACCOUNT. An escrow account is hereby authorized to be created pursuant to the Escrow Agreement referred to in Section 25. Proceeds of the Certificates shall be deposited to the escrow account and disbursed to the Construction Fund created pursuant to Section 13 upon the authorized release of moneys from the escrow account in accordance with the Escrow Agreement.

[The remainder of this page is left blank intentionally; execution page follows]

PASSED, APPROVED AND EFFECTIVE this May 18, 2010.

ATTEST:

  
\_\_\_\_\_  
City Secretary, City of Commerce, Texas

  
\_\_\_\_\_  
Mayor, City of Commerce, Texas

[CITY SEAL]

**EXHIBIT A**  
**FORM OF ESCROW AGREEMENT**

## CERTIFICATE FOR ORDINANCE

THE STATE OF TEXAS  
COUNTY OF HUNT  
CITY OF COMMERCE

§  
§  
§

We, the undersigned officers of the City of Commerce, Texas (the "City"), hereby certify as follows:

1. The City Council of the City (the "City Council") convened in REGULAR MEETING ON THE 18<sup>th</sup> DAY OF MAY, 2010 (the "Meeting"), and the roll was called of the duly constituted officers and members of the City Council, to-wit:

Quay Throgmorton, Mayor  
Richard Hill, Mayor Pro Tem  
Susan Davis  
Billie Biggerstaff  
Tony Henry  
Marty Cunningham, City Secretary

and all of such persons were present, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

**AUTHORIZING THE ISSUANCE OF CITY OF COMMERCE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010C, IN THE PRINCIPAL AMOUNT OF \$3,490,000 AND AWARDING THE SALE OF SUCH CERTIFICATES OF OBLIGATION TO THE TEXAS WATER DEVELOPMENT BOARD**

was duly introduced for the consideration of the City Council and read in full (the "Ordinance"). It was then duly moved and seconded that the Ordinance be adopted; and, after due discussion, the motion, carrying with it the adoption of the Ordinance, prevailed and carried by the following vote:

AYES: All members of the City Council shown  
present above voted "Aye", except  
as shown below.

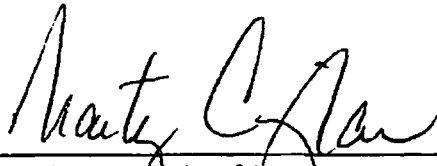
NOES: None.

2. That a true, full, and correct copy of the Ordinance adopted at the Meeting is attached to and follows this Certificate; that the Ordinance has been duly recorded in the City Council's minutes of the Meeting; that the above and foregoing paragraph is a true, full, and correct excerpt from the City Council's minutes of the Meeting pertaining to the adoption of the Ordinance, that the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting, and that the Ordinance would be introduced and considered for adoption at the Meeting, and each of such officers and members consented, in advance, to the holding of the Meeting for such purpose; and that the Meeting was open to the public, and public notice of the time, place, and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

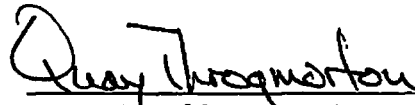
3. That the Mayor of the City has approved, and hereby approves, the Ordinance; that the Mayor and the City Clerk of the City have duly signed the Ordinance; and that the Mayor and the City Clerk of the City hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of the Ordinance for all purposes.

4. That the Ordinance has not been modified, amended or repealed and is in full force and effect on and as of the date hereof.

SIGNED AND SEALED this **May 18, 2010**

  
\_\_\_\_\_  
City Secretary, City of Commerce, Texas

(SEAL)

  
\_\_\_\_\_  
Mayor, City of Commerce, Texas