

**ORDINANCE NO. 1958**

**AN ORDINANCE authorizing the issuance of "CITY OF TERRELL, TEXAS, TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 1999"; specifying the terms and features of said certificates; providing for the payment of said certificates of obligation by the levy of an ad valorem tax upon all taxable property within the City and a limited pledge of the net revenues from the operation of the City's Waterworks and Sewer System; and resolving other matters incident and relating to the issuance, payment, security, sale and delivery of said Certificates, including the approval and execution of a Paying Agent/Registrar Agreement and a Purchase Contract and the approval and distribution of an Official Statement; and providing an effective date.**

WHEREAS, notice of the City Council's intention to issue certificates of obligation in the maximum principal amount of \$4,500,000 for the purposes of paying contractual obligations to be incurred for (i) the construction of street improvements, including drainage improvements and utility lines relocations incidental thereto, and (ii) professional services rendered in relation to such projects and the financing thereof, has been duly published in the Terrell Tribune, a newspaper hereby found and determined to be of general circulation in the City of Terrell, Texas, on February 1, 1999 and February 8, 1999, the date the first publication of such notice being not less than fifteen (15) days prior to the tentative date stated therein for the second reading and final passage of the ordinance authorizing the issuance of such certificates; and

WHEREAS, no petition protesting the issuance of the certificates of obligation and bearing valid petition signatures of at least 5% of the qualified electors of the City, has been presented to or filed with the Mayor, City Secretary or any other official of the City on or prior to the date of the passage of this ordinance; and

WHEREAS, the Council hereby finds and determines all of the certificates of obligation described in the aforesaid notice should be issued and sold at this time; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

SECTION 1: Authorization, Designation, Principal Amount, Purpose. Certificates of obligation of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$4,500,000, to be designated and bear the title "CITY OF TERRELL, TEXAS, TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 1999" (hereinafter referred to as the "Certificates"), for the purposes of paying contractual obligations to be incurred for (i) the construction of street improvements, including drainage improvements and utility lines relocations incidental thereto, and (ii) professional services rendered in relation to such projects and the financing thereof, pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Local Government Code, Subchapter C of Chapter 271, as amended.

SECTION 2: Fully Registered Obligations - Authorized Denominations- Stated Maturities-Date. The Certificates are issuable in fully registered form only; shall be dated March 1, 1999 (the "Certificate Date") and shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity) and the Certificates shall become due and payable on February 15 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the per annum rate(s) in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate(s)</u>
2003	\$170,000	%
2004	175,000	%
2005	190,000	%
2006	200,000	%
2007	210,000	%
2008	225,000	%
2009	235,000	%
2010	250,000	%
2011	260,000	%
2012	270,000	%
2013	285,000	%
2014	300,000	%

2015	315,000	%
2016	330,000	%
2017	345,000	%
2018	360,000	%
2019	380,000	%

The Certificates shall bear interest on the unpaid principal amounts from the Certificate Date at the rate per annum shown above in this Section (calculated on the basis of a 360-day year of twelve 30-day months), and such interest shall be payable on February 15 and August 15 of each year, commencing February 15, 2000.

SECTION 3: Terms of Payment-Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Certificates, due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the registered owners or holders of the Certificates (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of The Bank of New York, New York, New York to serve as Paying Agent/Registrar for the Certificates is hereby approved and confirmed. Books and records relating to the registration, payment, transfer and exchange of the Certificates (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement", substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor and City Secretary are authorized to execute and deliver such Agreement in connection with the delivery of the Certificates. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Certificates are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Certificates, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Certificates shall be payable at the Stated Maturities or the redemption thereof only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its designated offices in Houston, Texas (the "Designated Payment/Transfer Office"). Interest on the Certificates shall be paid to the Holders whose name appears in the Security Register at the close of business on the Record Date (the last business day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the City where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/ Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business next preceding the date of mailing of such notice.

SECTION 4: Redemption. (a) Optional Redemption. The Certificates with Stated Maturities on and after February 15, 2010 shall be subject to redemption prior to maturity, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on February 15, 2009, or on any date thereafter at the redemption price of par plus accrued interest to the date of redemption.

At least forty-five (45) days prior to a redemption date for the Certificates (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of the decision to redeem Certificates, the principal amount of each Stated Maturity to be redeemed, and the date of redemption therefor. The decision of the City to exercise the right to redeem Certificates shall be entered in the minutes of the governing body of the City.

(b) Mandatory Redemption. The Certificates with Stated Maturities of February 15, 20\_\_ and February 15, 20\_\_ ("Term Certificates") shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and accrued interest to the date of redemption on the respective dates and in principal amounts as follows:

(i) Certificates maturing February 15, 20\_\_, shall be subject to mandatory redemption as follows:

<u>Redemption Date</u>	<u>Amount</u>
February 15, 20__	\$ ,000
February 15, 20__	,000

(ii) Certificates maturing February 15, 20\_\_, shall be subject to mandatory redemption as follows:

<u>Redemption Date</u>	<u>Amount</u>
February 15, 20__	\$ ,000
February 15, 20__	,000

Approximately forty-five (45) days prior to each mandatory redemption date specified above that the Term Certificates are to be mandatorily redeemed, the Paying Agent/Registrar shall select by lot the numbers of the Term Certificates within the applicable Stated Maturity to be redeemed on the next following February 15 from moneys set aside for that purpose in the Certificate Fund (as hereinafter defined). Any Term Certificate not selected for prior redemption shall be paid on the date of their Stated Maturity.

The principal amount of the Term Certificates for a Stated Maturity required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the City, by the principal amount of Term Certificates of like Stated Maturity which, at least 50 days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in paragraph(a) of this Section and not theretofore credited against a mandatory redemption requirement.

(c) Selection of Certificates for Redemption. If less than all Outstanding Certificates of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/ Registrar shall treat such Certificates as representing the number of Certificates Outstanding which is obtained by dividing the principal amount of such Certificates by \$5,000 and shall select the Certificates to be redeemed within such Stated Maturity by lot.

(d) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Certificates, a notice of redemption shall be sent by United States Mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Certificate to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Certificates, (ii) identify the Certificates to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Certificates, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, provided moneys sufficient for the payment of such Certificate (or the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar and (v) specify that payment of the redemption price for

the Certificates, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender of the Certificates. If a Certificate is subject by its terms to prior redemption and has been called for redemption and notice of redemption has been duly given as hereinabove provided, such Certificate (or the principal amount thereof to be redeemed) shall become due and payable and interest thereon shall cease to accrue from and after the redemption date therefor.

**SECTION 5: Registration - Transfer - Exchange of Certificates-Predecessor Certificates.**

The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every owner of the Certificates issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Certificate may be transferred or exchanged for Certificates of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Certificate for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Certificate or Certificates surrendered for transfer.

At the option of the Holder, Certificates may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Certificates surrendered for exchange, upon surrender of the Certificates to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/ Registrar. Whenever any Certificates are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Certificates to the Holder requesting the exchange.

All Certificates issued in any transfer or exchange of Certificates shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States Mail, first class, postage prepaid to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Certificates," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Certificates" shall include any mutilated, lost, destroyed, or stolen Certificate for which a replacement Certificate has been issued, registered and delivered in lieu thereof pursuant to the provisions of Section 19 hereof and such new replacement Certificate shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

Neither the City nor the Paying Agent/ Registrar shall be required to issue or transfer to an assignee of a Holder any Certificate called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Certificate; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Certificate called for redemption in part.

**SECTION 6: Book-Entry Only Transfers and Transactions.** Notwithstanding the provisions contained in Sections 3, 4 and 5 hereof relating to the payment, and transfer/exchange of the Certificates, the City hereby approves and authorizes the use of "Book-Entry Only" securities clearance, settlement and transfer system provided by The Depository Trust Company (DTC), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the City and DTC (the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Certificates shall be deposited with DTC who shall hold said Certificates for its participants (the "DTC Participants"). While the Certificates are held by DTC under the Depository Agreement, the Holder of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Certificate (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Certificates, the City covenants and agrees with the Holders of the Certificates to cause Certificates to be printed in definitive form and provide for the Certificate certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Certificates in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Certificates shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

SECTION 7: Execution - Registration. The Certificates shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signature of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Certificate Date shall be deemed to be duly executed on behalf of the City, notwithstanding that one or more of the individuals executing the same shall cease to be such officer at the time of delivery of the Certificates to the initial purchaser(s) and with respect to Certificates delivered in subsequent exchanges and transfers, all as authorized and provided in the Bond Procedures Act of 1981, as amended.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 9C, manually executed by the Comptroller of Public Accounts of the State of Texas, or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9D, manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified, registered and delivered.

SECTION 8: Initial Certificate(s). The Certificates herein authorized shall be initially issued either (i) as a single fully registered certificate in the total principal amount of \$4,500,000 with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1, or (ii) as \_\_\_\_\_ (\_\_\_) fully registered certificates, fully registered certificates, being one certificate for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (hereinafter called the "Initial Certificate(s)") and, in either case, the Initial Certificate(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Certificate(s) shall be the Certificates submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Certificate(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Certificate(s) delivered hereunder and exchange therefor definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms. A. Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Certificates, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Certificates, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or

determined by the officers executing such Certificates as evidenced by their execution. Any portion of the text of any Certificates may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the certificate.

The definitive Certificates and the Initial Certificate(s) shall be printed, lithographed, or engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Certificates as evidenced by their execution.

B. Form of Certificates.

REGISTERED  
NO. \_\_\_\_

REGISTERED  
\$

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF TERRELL, TEXAS,  
TAX AND WATERWORKS AND SEWER SYSTEM  
(LIMITED PLEDGE) REVENUE  
CERTIFICATE OF OBLIGATION,  
SERIES 1999

Certificate Date: Interest Rate: Stated Maturity: CUSIP NO:  
March 1, 1999 \_\_\_\_\_

Registered Owner:

Principal Amount: DOLLARS

The City of Terrell (hereinafter referred to as the "City"), a body corporate and municipal corporation in the County of Kaufman, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid principal amount hereof from the Certificate Date at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, commencing February 15, 2000. Principal of this Certificate is payable at its Stated Maturity or redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Certificate is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Certificate. Interest is payable to the registered owner of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$4,500,000 (herein referred to as the "Certificates") for the purposes of paying contractual obligations to be incurred for (i) the construction of street improvements, including drainage improvements and utility lines relocations incidental thereto, and (ii) professional services rendered in relation to such projects and the financing thereof, under and in strict conformity with the Constitution and laws of the State of Texas, particularly V.T.C.A., Local Government Code, Subchapter C of Chapter 271, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

The Certificates maturing on dates hereinafter identified (the "Term Certificates") are subject to mandatory redemption prior to maturity with funds on deposit in the Certificate Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in

part prior to maturity at the redemption price of par plus accrued interest to the date of redemption, and without premium. Certificates maturing February 15, 20 \_\_\_\_ are subject to mandatory redemption on February 15, 20 \_\_ and annually thereafter on each February 15 through February 15, 20 \_\_ in the amounts set forth in the Ordinance. Certificates maturing February 15, 20 \_\_\_\_ are subject to mandatory redemption on February 15, 20 \_\_ and annually thereafter on each February 15 through February 15, 20 \_\_ in the amounts set forth in the Ordinance. The particular Term Certificates of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Certificates for a stated maturity required to be redeemed pursuant to the operation of such mandatory redemption provisions may be reduced, at the option of the City, by the principal amount of Term Certificates of like maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.

The Certificates maturing on and after February 15, 2010, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on February 15, 2009, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Certificate to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Certificate (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon the redemption date such Certificate (or the portion of its principal sum to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount redeemed.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

The Certificates are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City and from a limited pledge of the Net Revenues (as defined in the Ordinance) of the City's combined Waterworks and Sewer System (the "System"), such pledge being limited to an amount not in excess of \$1,000 and being junior and subordinate to the lien on and pledge of such Net Revenues securing the payment of "Prior Lien Obligations" (identified and defined in the Ordinance) now outstanding and hereafter issued by the City. In the Ordinance, the City reserves and retains the right to issue Prior Lien Obligations without limitation as to principal amount but subject to any applicable terms, conditions or restrictions under law or otherwise.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all the provisions of which the owner or holder of this Certificate by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificates; the nature and extent of the limited pledge of the Net Revenues securing the payment of the Certificates; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the pledge of the Net Revenues and covenants made in the Ordinance may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding thereunder; and for the

other terms and provisions contained therein. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates as aforesaid. In case any provision in this Certificate shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Certificate to be duly executed under the official seal of the City as of the Certificate Date.

CITY OF TERRELL, TEXAS

COUNTERSIGNED:

Mayor

City Secretary

(SEAL)

- C. \*Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Certificate(s) only.

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER (   
OF PUBLIC ACCOUNTS (   
THE STATE OF TEXAS ( 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 duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this \_\_\_\_\_ .

Comptroller of Public Accounts  
of the State of Texas

(SEAL)

\*NOTE TO PRINTER: Do Not Print on Definitive Certificates

- D. Form of Certificate of Paying Agent/Registrar to appear on Definitive Certificates only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued and registered under the provisions of the within-mentioned Ordinance; the certificate or certificates of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar located in Houston, Texas, is the "Designated Payment/Transfer Office" for this Certificate.

Registration Date:

\_\_\_\_\_

THE BANK OF NEW YORK,  
New York, New York,  
as Paying Agent/Registrar

By

Authorized Signature

E. Form of Assignment.

ASSIGNMENT

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

DATED: .....

.....

Signature guaranteed: .....

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

Certificate in every particular.

F. The Initial Certificate(s) shall be in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Certificate shall be modified as follows:

(i) immediately under the name of the certificate the headings "Interest Rate \_\_\_\_" and "Stated Maturity \_\_\_\_" shall both be omitted;

(ii) paragraph one shall read as follows:

Registered Owner:

Principal Amount:

Dollars

The City of Terrell (hereinafter referred to as the "City"), a body corporate and municipal corporation in the County of Kaufman, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on February 15 in each of the years and in principal installments in accordance with the following schedule:

<u>YEAR</u>	<u>PRINCIPAL INSTALLMENTS</u>	<u>INTEREST RATE</u>
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(Information to be inserted from schedule in Section 2 hereof).

(or so much thereof as shall not have been prepaid prior to maturity) and to pay interest on the unpaid principal amounts hereof from the Certificate Date at the per annum rate(s) of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 of each year, commencing February 15, 2000. Principal installments of this Certificate are payable at its Stated Maturity or on a prepayment date to the registered owner hereof by The Bank of New York, New York, New York (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices in Houston, Texas (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Certificate whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date hereof and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/ Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 10: Definitions. For purposes of this Ordinance and for clarity with respect to the issuance of the Certificates herein authorized, and the levy of taxes and appropriation of Net Revenues therefor, the following words or terms, whenever the same appears herein without qualifying language, are defined to mean as follows:

(a) The term "Certificates" shall mean the \$4,500,000 "City of Terrell, Texas, Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 1999" authorized by this Ordinance.

(b) The term "Certificate Fund" shall mean the special Fund created and established under the provisions of Section 11 of this Ordinance.

(c) The term "Collection Date" shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the City become delinquent.

(d) The term "Fiscal Year" shall mean the twelve month financial accounting period used by the City in connection with the operation of the System which may be any twelve consecutive month period established by the City.

(e) The term "Government Securities" shall mean direct obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, and the United States Treasury obligations such as its State and Local Government Series in book-entry form.

(f) The term "Net Revenues" shall mean the gross revenues of the System less the expense of operation and maintenance, including all salaries, labor, materials, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions, as in the judgment of the City Council, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair any obligations payable from and secured by a lien on the Net Revenues of the System, shall be deducted in determining "Net Revenues".

(i) The term "Outstanding" when used in this Ordinance with respect to Certificates means, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except:

(1) those Certificates cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Certificates for which payment has been duly provided by the City in accordance with the provisions of Section 20 hereof; and

(3) those Certificates that have been mutilated, destroyed, lost, or stolen and replacement Certificates have been registered and delivered in lieu thereof as provided in Section 19 hereof.

(j) The term "Prior Lien Obligations" shall mean (i) the outstanding and unpaid revenue bonds and certificates of obligation more particularly described as follows: (1) "CITY OF TERRELL, TEXAS, WATERWORKS AND SEWER SYSTEM REVENUE BONDS, SERIES 1970", dated July 10, 1970, in the original principal amount of \$730,000, (2) "CITY OF TERRELL, TEXAS, WATERWORKS AND SEWER SYSTEM REVENUE BONDS, SERIES 1973, dated January 10, 1973, in the original principal amount of \$1,000,000; (3) "CITY OF TERRELL, TEXAS, WATERWORKS AND SEWER SYSTEM REVENUE BONDS, SERIES 1983, dated May 1, 1983, in the original principal amount of \$715,000;(4) "CITY OF TERRELL, TEXAS, WATERWORKS AND SEWER SYSTEM REVENUE BONDS, SERIES 1985, dated April 1, 1985, in the original principal amount of \$1,000,000; (5) "CITY OF TERRELL, TEXAS, TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 1988", dated August 15, 1988, in the original principal amount of \$350,000 and (6) "CITY OF TERRELL, TEXAS, TAX AND WATER AND SEWER SYSTEM SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 1994", dated June 1, 1994, in the original principal amount of \$5,565,000 and (ii) obligations hereafter issued which by the terms of the authorizing ordinance are made payable from and secured by a lien on and pledge

of the Net Revenues of the System ranking prior and superior to the lien and pledge securing the payment of the Certificates.

(l) The term "System" shall mean the City's combined Waterworks and Sanitary Sewer System, including all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City of Terrell through purchase, construction or otherwise, and used in connection with said System, and in anywise appertaining thereto, whether situated within or without the limits of the City.

SECTION 11: Certificate Fund. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption and retirement of the Certificates, there shall be and is hereby created a special account or fund on the books and records of the City known as the "SPECIAL SERIES 1999 TAX AND REVENUE CERTIFICATE OF OBLIGATION FUND", and all moneys deposited to the credit of such Fund shall be kept and maintained in a special banking account at the City's depository bank. Authorized officials of the City are hereby authorized and directed to make withdrawals from said Fund sufficient to pay the principal of and interest on the Certificates as the same become due and payable, and, shall cause to be transferred to the Paying Agent/Registrar from moneys on deposit in the Certificate Fund an amount sufficient to pay the amount of principal and/or interest falling due on the Certificates, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the last business day next preceding each interest and principal payment date for the Certificates.

Pending the transfer of funds to the Paying Agent/Registrar, money in the Certificate Fund may, at the option of the City, be invested in obligations identified in, and in accordance with the provisions of the "Public Funds Investment Act" (V.T.C.A., Government Code, Chapter 2256) relating to the investment of "bond proceeds"; provided that all such investments shall be made in such a manner that the money required to be expended from said Fund will be available at the proper time or times. All interest and income derived from deposits and investments in said Certificate Fund shall be credited to, and any losses debited to, the said Certificate Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Certificates.

SECTION 12: Tax Levy. To provide for the payment of the "Debt Service Requirements" on the Certificates being (i) the interest on said Certificates and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied for the current year and each succeeding year thereafter while said Certificates or any interest thereon shall remain Outstanding, a sufficient tax on each one hundred dollars' valuation of taxable property in said City, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Certificate Fund. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the said Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

Accrued interest and premium, if any, received from the purchasers of the Certificates shall be deposited to the Certificate Fund. In addition, any surplus proceeds from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said Fund from ad valorem taxes.

SECTION 13: Limited Pledge of Net Revenues. The City hereby covenants and agrees that, subject to the prior lien on and pledge of the Net Revenues of the System to the payment and security of Prior Lien Obligations, the Net Revenues of the System in an aggregate amount not to exceed \$1,000 are hereby irrevocably pledged to the payment of the principal of and interest on the Certificates, and the limited pledge of \$1,000 of the Net Revenues of the System herein made for the payment of the Certificates shall constitute a lien on the Net Revenues of the System in accordance with the terms and provisions hereof. Furthermore, such lien on and pledge of the Net Revenues securing the payment of the Certificates shall be valid and binding without further action by the City and without any filing or recording except for the filing of this Ordinance in the records of the City.

SECTION 14: System Fund. The City covenants and agrees that all income, revenues and receipts from the operation and ownership of the System (excluding earnings from the investment of money held in any special funds or accounts created for the payment and security of the Prior Lien Obligations) shall be deposited as collected into a fund maintained at an official depository of the City and known on the books of the City as the "City of Terrell, Texas, Waterworks and Sewer System Fund" (hereinafter called the "System Fund"). All moneys deposited to the credit of the System Fund shall be allocated, appropriated and budgeted to the extent required for the following purposes and in the order of priority shown, to wit:

First: To the payment of necessary and reasonable operating and maintenance expenses of the System as defined in Section 9(f) hereof or required by statute to be a first charge on and claim against the revenues of the System.

Second: To the payment of all amounts required to be deposited in the special Funds created and established for the payment, security and benefit of Prior Lien Obligations in accordance with the terms and provisions of the ordinances authorizing the issuance of Prior Lien Obligations.

Third: To the payment, equally and ratably, of the limited amounts pledged to the payment of the Certificates.

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

SECTION 15: Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds, and moneys on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

SECTION 16: Special Covenants. The City hereby further covenants as follows:

(a) It has the lawful power to pledge the Net Revenues of the System to the payment of the Certificates in the manner herein contemplated and has lawfully exercised such power under the Constitution and laws of the State of Texas, including said power existing under Articles 1111 et seq., V.A.T.C.S. and V.T.C.A., Local Government Code, Sections 271.041, et seq.

(b) Other than for the payment of the Certificates and the Prior Lien Obligations, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the City or of the System.

SECTION 17: Issuance of Prior Lien Obligations/Additional Parity Obligations. The City hereby expressly reserves the right to hereafter issue Prior Lien Obligations, without limitation as to principal amount but subject to any terms, conditions or restrictions applicable thereto under law or otherwise, and such Prior Lien Obligations hereafter issued may be payable, in whole or in part, from the Net Revenues (without impairment of the obligation of contract with the Holders of the Certificates) upon such terms and secured in such manner as the City Council may determine. Additionally, the City reserves the right without any limitations or restrictions to issue additional obligations payable (in whole or in part) from and secured by lien on and pledge of the Net Revenues of the System of equal rank and dignity with the lien on and pledge of such Net Revenues securing the payment of the Certificates.

SECTION 18: Application of Prior Lien Obligations Covenants and Agreements. It is the intention of this governing body and accordingly hereby recognized and stipulated that the provisions, agreements and covenants contained herein bearing upon the management and operations of the System, and the administering and application of revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements and covenants contained in the ordinances authorizing the issuance of the Prior Lien Obligations, and to the extent of any irreconcilable conflict between the provisions contained herein and in the ordinances authorizing the issuance of the Prior Lien Obligations, the provisions, agreements and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance but in all respects subject to the priority of rights and benefits, if any, conferred thereby to the holders of the Prior Lien Obligations. Notwithstanding the above, any change or modification affecting the application of revenues derived from the operation of the System shall not impair the obligation of contract with respect to the limited pledge of revenues herein made for the payment and security of the Certificates.

SECTION 19: Mutilated - Destroyed - Lost and Stolen Certificates. In case any Certificate shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Certificate of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Certificate, or in lieu of and in substitution for such destroyed, lost or stolen Certificate, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Certificate, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Certificate shall be borne by the Holder of the Certificate mutilated, or destroyed, lost or stolen.

Every replacement Certificate issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Certificates. The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Certificates.

SECTION 20: Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and the Net Revenues of the System (to the extent such limited pledge of Net Revenues shall not have been discharged or terminated by prior payment of principal of or interest on the Certificates) and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Certificates or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Certificates or the principal amount(s) thereof at maturity or the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/ Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/ Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates and remaining unclaimed for a period of four (4) years after the Stated Maturity, or applicable redemption date, of the Certificates such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

SECTION 21: Ordinance a Contract -Amendments. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders holding a majority in aggregate principal

amount of the Certificates then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Certificates, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, or (3) reduce the aggregate principal amount of Certificates required to be held by Holders for consent to any such amendment, addition, or rescission.

SECTION 22: Covenants to Maintain Tax-Exempt Status. (a) Definitions.  
When used in this Section, the following terms have the following meanings:

"*Closing Date*" means the date on which the Certificates are first authenticated and delivered to the initial purchasers against payment therefor.

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

"*Computation Date*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"*Gross Proceeds*" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Certificates.

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

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

"*Rebate Amount*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

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

"*Yield*" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Certificates has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Certificates:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different

than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

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

(d) No Private Loan. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

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

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

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

(h) No Rebate Required. The City warrants and represents that it satisfies the requirements of paragraph (2) and (3) of section 148(f) of the Code with respect to the Certificates without making the payments for the United States described in such section. Specifically, the City warrants and represents that

(1) the City is a governmental unit with general taxing powers;

(2) at least 95% of the net proceeds of the Certificates will be used for the local governmental activities of the City;

(3) the aggregate face amount of all tax-exempt obligations issued or expected to be issued by the City (and all subordinate entities thereof) in the calendar year in which the Certificates are issued is not reasonably expected to exceed \$5,000,000.

(i) Elections. The City hereby directs and authorizes the Mayor, City Secretary, or City Manager, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(j) Qualified Tax Exempt Obligations. In accordance with the provisions of paragraph (3) of subsection (b) of Section 265 of the Code, the City hereby designates the Certificates to be "qualified tax exempt obligations" in that the Certificates are not "private activity bonds" as defined

in the Code and the reasonably anticipated amount of "qualified tax exempt obligations" to be issued by the City (including all subordinate entities of the City) for the calendar year 1999 will not exceed \$10,000,000.

SECTION 23: Sale of Certificates. Pursuant to a public sale for the Certificates, the bid submitted by \_\_\_\_\_ (herein referred to as the "Purchasers") is declared to be the best bid received producing the lowest true interest cost rate to the City, and the sale of the Certificates to said Purchasers at the price of par and accrued interest to the date of delivery, plus a premium of \$\_\_\_\_\_, is hereby approved and confirmed. Delivery of the Certificates to the Purchasers shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale.

SECTION 24: Official Statement. The Official Statement prepared in the initial offering and sale of the Certificates by the City, together with all addendas, supplements and amendments thereto issued on behalf of the City, is hereby approved as to form and content, and the City Council hereby finds that the information and data contained in said Official Statement pertaining to the City and its financial affairs is true and correct in all material respects and no material facts have been omitted therefrom which are necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The use of such Official Statement in the reoffering of the Certificates by the Purchasers is hereby approved and authorized.

SECTION 25: Proceeds of Sale. The proceeds of sale of the Certificates, excluding the accrued interest and premium, if any, received from the Purchasers, shall be deposited in a construction fund maintained at the City's depository bank. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Certificate Fund as shall be determined by the City Council. Accrued interest and premium, if any, as well as all surplus proceeds of sale of the Certificates, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Certificate Fund.

SECTION 26: Control and Custody of Certificates. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending the sale of the Certificates, the investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Certificates, and shall take and have charge and control of the Initial Certificate(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Mayor, City Secretary, City Manager and Assistant City Manager, any one or more of said officials, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Certificates, including a certification as to facts, estimates, circumstances and reasonable expectations pertaining to the use and expenditure and investment of the proceeds of the Certificates as may be necessary for the approval of the Attorney General and their registration by the Comptroller of Public Accounts. In addition, such officials, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, are authorized and directed to make the necessary arrangements for the delivery of the Initial Certificate(s) to the Purchasers and the initial exchange thereof for definitive Certificates.

SECTION 27: Notices to Holders-Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Certificates. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 28: Cancellation. All Certificates surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying

Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Certificates held by the Paying Agent/Registrar shall be returned to the City.

SECTION 29: Bond Counsel's Opinion. The Purchasers' obligation to accept delivery of the Certificates is subject to being furnished a final opinion of Fulbright & Jaworski L.L.P., Dallas, Texas, approving the Certificates as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Certificates. An executed counterpart of said opinion shall accompany the global certificates deposited with The Depository Trust Company or a reproduction thereof shall be printed on the definitive Certificates in the event the book entry only system shall be discontinued.

SECTION 30: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

SECTION 31: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, and this Ordinance and all its provisions is intended to be and shall be for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

SECTION 32: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 33: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 34: Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 35: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 36: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 37: Continuing Disclosure Undertaking. (a) *Definitions*. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"NRMSIR" means each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.

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

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

"SID" means any person designated by the State of Texas or an authorized department, officer, or agency thereof as, and determined by the SEC or its staff to be, a state information depository within the meaning of the Rule from time to time.

(b) *Annual Reports.* The City shall provide annually to each NRMSIR and any SID, within six months after the end of each fiscal year (beginning with the fiscal year ending September 30, 1999) financial information and operating data with respect to the City of the general type included in the final Official Statement approved by Section 24 of this Ordinance, being the information described in Exhibit B hereto. Financial statements to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit B hereto and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not available at the time the financial information and operating data must be provided, then the City shall provide unaudited financial statements for the applicable fiscal year to each NRMSIR and any SID with the financial information and operating data and will file the annual audit report, when and if the same becomes available.

If the City changes its fiscal year, it will notify each NRMSIR and any SID of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this 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) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

(c) *Material Event Notices.* The City shall notify any SID and either each NRMSIR or 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 and interest 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 holders of the Certificates;
8. Certificate calls;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Certificates; and
11. Rating changes.

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

(d) *Limitations, Disclaimers, and Amendments.* The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) hereof of any Certificate calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders 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 City 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 City'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 City 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.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER 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 CITY, 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.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this 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 City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted underwriters 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 to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Certificates. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Certificates from lawfully purchasing or selling Certificates in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 38: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by V.T.C.A., Government Code, Chapter 551, as amended.

SECTION 39: Effective Date. This Ordinance shall be in force and effect from and after its final passage on the date shown below.

PASSED AND APPROVED on first reading, this March 2, 1999.  
PASSED AND ADOPTED on second and final reading, this March 16, 1999

CITY OF TERRELL, TEXAS

HENRY C. MADGWICK, SR., MAYOR

ATTEST:

JOHN ROUNSAVALL, CITY SECRETARY

APPROVED AS TO FORM:

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MARY GAYLE RAMSEY, CITY ATTORNEY

**DESCRIPTION OF ANNUAL FINANCIAL INFORMATION**

The following information is referred to in Section 37 of this Ordinance.

**Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

1. The financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. The information contained in Tables 1 through 5 and 7 through 14 of the Official Statement.

**Accounting Principles**

The accounting principles referred to in such Section are the generally accepted accounting principles as applicable to governmental units as prescribed by The Government Accounting Standards Board.