

Ord. 126

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF "TOWN OF ANNETTA, TEXAS COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, SERIES 2012"; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF THE TOWN'S WATERWORKS AND SEWER SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT AND INVESTMENT LETTER, AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO**

DATE OF APPROVAL: APRIL 19, 2012

CERTIFICATE FOR ORDINANCE

THE STATE OF TEXAS     §  
COUNTY OF PARKER     §  
TOWN OF ANNETTA       §

I, the undersigned City Secretary of the TOWN OF ANNETTA, TEXAS (the "City"), hereby certify as follows:

1. The City Council of the City convened in REGULAR MEETING ON THE 19<sup>TH</sup> DAY OF APRIL, 2012, at the City Hall, and the roll was called of the duly constituted officers and members of said City Council, to wit:

Bruce Pinckard, Mayor  
Benny Evans  
Jamie Harris  
Bill Lunsford  
Farrar Patterson  
Chuck Sheridan

and all of said officers and members of said City Council were present, except the following: \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

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was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said Resolution be adopted; and, after due discussion, said motion carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

AYES: 5 NOES: 0 ABSTENTIONS: 0

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

SIGNED AND SEALED the 19<sup>th</sup> day of April, 2012.



\_\_\_\_\_  
City Secretary, Town of Annetta, Texas

(SEAL)

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Exhibit A - FORM OF PAYING AGENT/REGISTRAR AGREEMENT

Exhibit B - FORM OF PURCHASE CONTRACT AND INVESTMENT LETTER

**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF "TOWN OF ANNETTA, TEXAS COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, SERIES 2012"; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF THE TOWN'S WATERWORKS AND SEWER SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT AND INVESTMENT LETTER, AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO**

STATE OF TEXAS                   §  
COUNTY OF PARKER           §  
TOWN OF ANNETTA           §

***WHEREAS***, the TOWN OF ANNETTA, TEXAS (the "*City*") in Parker County, Texas, is a political subdivision of the State of Texas operating as a Type A general law municipality pursuant to the Texas Local Government Code; and

***WHEREAS***, the City Council has determined that it is necessary to acquire, construct and equip extensions and improvements to the City's waterworks and sewer system (the "*Project*"); and

***WHEREAS***, the City Council intends to finance the Project from proceeds derived from the sale of a certificate of obligation issued by the City pursuant to Sections 271.041 - 271.064, Texas Local Government Code, as amended, and Chapter 1201, Texas Government Code, as amended; and

***WHEREAS***, on February 16, 2012, the City Council adopted a resolution authorizing and directing the City Secretary to give notice of intention to issue certificates of obligation to finance the Project; and

***WHEREAS***, said notice was duly published in *The Community News*, which is a newspaper of general circulation in the City in its issues of March 2, 2012, and March 9, 2012; and

***WHEREAS***, the City received no petition signed by at least five percent of the qualified electors of the City protesting the issuance of certificates of obligation described in the notice; and

***WHEREAS***, it is considered to be in the best interest of the City that said interest bearing certificate of obligation be issued; and

***WHEREAS***, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code;

***NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ANNETTA, TEXAS, THAT:***

**SECTION 1. AMOUNT AND PURPOSE OF THE CERTIFICATE OF OBLIGATION.**

The certificate of obligation of the City further described in Section 2 of this Ordinance and referred to herein as the "Certificate of Obligation" is hereby authorized to be issued and delivered in the aggregate principal amount of ***\$1,000,000 FOR THE PURPOSE OF PAYING, IN WHOLE OR IN PART, CONTRACTUAL OBLIGATIONS TO BE INCURRED TO ACQUIRE, CONSTRUCT AND EQUIP EXTENSIONS AND IMPROVEMENTS TO THE CITY'S WATERWORKS AND SEWER SYSTEM, TO PAY ALL OR A PORTION OF THE LEGAL, FISCAL AND ENGINEERING FEES IN CONNECTION THEREWITH, AND TO PAY THE COSTS OF ISSUANCE RELATED TO SUCH CERTIFICATE OF OBLIGATION.***

**SECTION 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS, MATURITY OF, AND INTEREST ON, THE CERTIFICATE OF OBLIGATION.**

(a) Each certificate of obligation issued pursuant to this Ordinance shall be designated **TOWN OF ANNETTA, TEXAS COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, SERIES 2012**, and initially there shall be issued, sold, and delivered hereunder one fully registered certificate of obligation, without interest coupons, dated May 1, 2012, in the denomination and principal amount of ***\$1,000,000***, numbered R-1, with any certificate of obligation issued in replacement thereof being in the denomination and principal amount hereinafter stated and numbered consecutively from R-2 upward, payable in installments to the registered owner thereof, or to the registered assignee of said certificate of obligation (in each case, the "***Registered Owner***").

(b) *Principal Installments; Interest Rate.* Principal of the certificate of obligation shall mature and be payable in installments on the dates and in the principal installment amounts and shall bear interest at the per annum rate set forth in the following schedule:

<u>PAYMENT DATE</u> <u>(AUGUST 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT (\$)</u>	<u>INTEREST</u> <u>RATE (%)</u>	<u>PAYMENT DATE</u> <u>(AUGUST 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT (\$)</u>	<u>INTEREST</u> <u>RATE (%)</u>
2013	25,000	4.07	2023	50,000	4.07
2014	35,000	4.07	2024	50,000	4.07
2015	35,000	4.07	2025	55,000	4.07
2016	40,000	4.07	2026	55,000	4.07
2017	40,000	4.07	2027	60,000	4.07
2018	40,000	4.07	2027	60,000	4.07
2019	45,000	4.07	2029	65,000	4.07
2020	45,000	4.07	2030	65,000	4.07
2021	45,000	4.07	2031	70,000	4.07
2022	50,000	4.07	2032	70,000	4.07

The term "***Certificate of Obligation***" as used in this Ordinance shall mean and include collectively the certificate of obligation initially issued and delivered pursuant to this Ordinance, as well as all other substitute certificates of obligation and replacement certificates of obligation issued pursuant hereto.

**SECTION 3. INTEREST.** The Certificate of Obligation shall bear interest from the dates specified in the FORM OF CERTIFICATE OF OBLIGATION set forth in this Ordinance to date of maturity or redemption at the rate per annum set forth above. Said interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE OF OBLIGATION set forth in this Ordinance. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

**SECTION 4. CHARACTERISTICS OF THE CERTIFICATE OF OBLIGATION.**

(a) *Registration and Transfer; Authentication.* The City shall keep or cause to be kept at the designated office (initially located in Charlotte, North Carolina) of **BRANCH BANKING AND TRUST COMPANY** (the "*Paying Agent/Registrar*"), books or records for the registration of the transfer of the Certificate of Obligation (the "*Registration Books*"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations and transfers as herein provided within three days of presentation in due and proper form. Attached hereto as *Exhibit A* is a copy of the Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar which is hereby approved in substantially final form, and the Mayor and City Secretary of the City are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of the Certificate of Obligation to which payments with respect to the Certificate of Obligation shall be mailed, as herein provided; but it shall be the duty of the Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City 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 City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer and delivery of a substitute Certificate of Obligation. Registration of assignment and transfer of the Certificate of Obligation shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE OF OBLIGATION set forth in this Ordinance. Each substitute Certificate of Obligation shall bear a letter and/or number to distinguish it from each other Certificate of Obligation.

Except as provided in Section 5(c) hereof, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate of Obligation, date and manually sign said Certificate of Obligation, and no such Certificate of Obligation shall be deemed to be issued or outstanding unless such Certificate of Obligation is so executed. The Paying Agent/Registrar promptly shall cancel the paid Certificate of Obligation or a Certificate of Obligation surrendered for transfer. No additional ordinances, orders or resolutions need be passed or adopted by the City Council of the City or any other body or person so as to accomplish the foregoing, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Certificate of Obligation in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, the duty of transfer of the Certificate of Obligation as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate of Obligation, the transferred Certificate of Obligation shall be valid, incontestable, and

enforceable in the same manner and with the same effect as the Certificate of Obligation which initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) *Payment of Certificate of Obligation and Interest.* The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificate of Obligation, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificate of Obligation, and of all transfers of the Certificate of Obligation, and all replacements of the Certificate of Obligation, as provided in this Ordinance. However, 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 the Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) *In General.* The Certificate of Obligation (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificate of Obligation to be payable only to the Registered Owner thereof, (ii) may be transferred and assigned, (iii) may be redeemed, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Certificate of Obligation shall be payable, and (vii) shall be administered, and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Certificate of Obligation, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE OF OBLIGATION set forth in this Ordinance. The Certificate of Obligation 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 of Obligation issued in transfer or replacement for any Certificate of Obligation 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 OF OBLIGATION.

(d) *Substitute Paying Agent/Registrar.* The City covenants with the registered Owner of the Certificate of Obligation that at all times while the Certificate of Obligation is outstanding the City will provide a competent and legally qualified bank, trust company, financial institution or other agency to act as and perform the services of Paying Agent/Registrar for the Certificate of Obligation under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 40 days written notice to the Paying Agent/Registrar, to be effective not later than 30 days prior to the next principal or interest 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 City 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 Certificate of Obligation, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying



Agent/Registrar to the Registered Owner of the Certificate of Obligation, 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 the Paying Agent/Registrar.

(e) On the closing date, one Initial Certificate of Obligation representing the entire principal amount of the Certificate of Obligation, payable in stated installments to the initial purchaser identified in Section 15 hereof, executed by manual or facsimile signature of the Mayor or Mayor Pro-Tem of the City and attested by the City Secretary of the City, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the initial purchaser or its designee. The Paying Agent/Registrar shall insert the date of delivery and deliver the Certificate of Obligation to the initial purchaser.

**SECTION 5. FORM OF CERTIFICATE OF OBLIGATION.** The form of the Certificate of Obligation, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificate of Obligation 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 of Obligation.

**NO. R-1**

**PRINCIPAL AMOUNT  
\$1,000,000.00**

**UNITED STATES OF AMERICA  
STATE OF TEXAS  
TOWN OF ANNETTA, TEXAS  
COMBINATION TAX AND REVENUE  
CERTIFICATE OF OBLIGATION, SERIES 2012**

Interest Rate	Delivery Date	Maturity Date
As shown below	May 8, 2012	As shown below

**REGISTERED OWNER: BRANCH BANKING AND TRUST COMPANY**

**PRINCIPAL AMOUNT: ONE MILLION DOLLARS**

The *TOWN OF ANNETTA, TEXAS* (the "*City*"), being a conservation and reclamation district and a political subdivision of the State of Texas, for value received, hereby promises to pay, from the sources described herein, to the Registered Owner specified above, or registered assign (the "*Registered Owner*"), the principal amount from time to time unpaid and to pay interest thereon from the date of delivery of this Certificate of Obligation as specified above, at the rate per annum set forth in the table below, calculated on the basis of a 360-day year of twelve 30-day months. The principal of this Certificate of Obligation shall mature and be paid in installments on the dates and in the amounts set forth in the table below:

<u>PAYMENT DATE (AUGUST 1)</u>	<u>PRINCIPAL AMOUNT (\$)</u>	<u>INTEREST RATE (%)</u>	<u>PAYMENT DATE (AUGUST 1)</u>	<u>PRINCIPAL AMOUNT (\$)</u>	<u>INTEREST RATE (%)</u>
2013	25,000	4.07	2023	50,000	4.07
2014	35,000	4.07	2024	50,000	4.07
2015	35,000	4.07	2025	55,000	4.07
2016	40,000	4.07	2026	55,000	4.07
2017	40,000	4.07	2027	60,000	4.07
2018	40,000	4.07	2027	60,000	4.07
2019	45,000	4.07	2029	65,000	4.07
2020	45,000	4.07	2030	65,000	4.07
2021	45,000	4.07	2031	70,000	4.07
2022	50,000	4.07	2032	70,000	4.07

***THE PRINCIPAL OF AND INTEREST ON THIS CERTIFICATE OF OBLIGATION*** are payable in lawful money of the United States of America, without exchange or collection charges. The City shall pay interest on the unpaid principal installments of this Certificate of Obligation on February 1, 2013 and on each February 1 and August 1 thereafter to the date of maturity or prior redemption thereof. The last principal installment of this Certificate of Obligation shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate of Obligation at maturity at the designated office (initially located in Charlotte, North Carolina) of **BRANCH BANKING AND TRUST COMPANY**, which is the "***Paying Agent/Registrar***" for this Certificate of Obligation. The payment of all other principal installments of and interest on this Certificate of Obligation shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each principal and interest payment date by check or draft, dated as of such principal and interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Certificate of Obligation (the "***Ordinance***") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the 15<sup>th</sup> day of the month next preceding each such date (the "***Record Date***") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, principal and interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner.

***ANY ACCRUED INTEREST*** due at maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate of Obligation for payment at a corporate trust or commercial banking office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Certificate of Obligation that on or before each principal payment date and interest payment date for this Certificate of Obligation it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on this Certificate of Obligation, when due.

***IF THE DATE FOR THE PAYMENT*** of the principal of or interest on this Certificate of Obligation shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the principal 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 which 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 OF OBLIGATION, DATED AS OF MAY 1, 2012, IS AUTHORIZED*** and issued in accordance with the Constitution and laws of the State of Texas in the principal amount of ***\$1,000,000 FOR THE PURPOSE OF PAYING, IN WHOLE OR IN PART, CONTRACTUAL OBLIGATIONS TO BE INCURRED TO ACQUIRE, CONSTRUCT AND EQUIP EXTENSIONS AND IMPROVEMENTS TO THE CITY'S WATERWORKS AND SEWER SYSTEM, TO PAY ALL OR A PORTION OF THE LEGAL, FISCAL AND ENGINEERING FEES IN CONNECTION THEREWITH, AND TO PAY THE COSTS OF ISSUANCE RELATED TO SUCH CERTIFICATE OF OBLIGATION.***

***ON AUGUST 1, 2022, AND ON ANY SCHEDULED INTEREST PAYMENT DATE THEREAFTER,*** the principal installments of this Certificate of Obligation may be redeemed prior to their scheduled payment dates, at the option of the City, with funds derived from any available and lawful source, as a whole, but not in part, at a redemption price equal to the principal amount to be redeemed plus accrued interest thereon to the date of redemption.

***AT LEAST THIRTY (30) DAYS PRIOR*** to the date fixed for any optional redemption of this Certificate of Obligation 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, to the Registered Owner of this Certificate of Obligation at its address as it appeared on the Registration Books on the day such notice of redemption is mailed; 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 this Certificate of Obligation. 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 this Certificate of Obligation or portion thereof which is 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, this Certificate of Obligation automatically shall be treated as redeemed prior to its scheduled maturity, and shall not bear interest after the date fixed for redemption, and 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.

***UPON THE PAYMENT OF THE OUTSTANDING*** principal balance of this Certificate of Obligation, the Paying Agent/Registrar, shall note in the Payment Record appearing on this Certificate of Obligation the amount of such payment, the date said payment was made and the remaining unpaid principal balance of this Certificate of Obligation and shall then have said entry signed by an authorized official of the Paying Agent/Registrar. The Paying Agent/Registrar shall also record such information in the Registration Books.

***THIS CERTIFICATE OF OBLIGATION IS ISSUED AS A FULLY REGISTERED CERTIFICATE OF OBLIGATION,*** without interest coupons, in the denomination of the principal amount thereof. As provided in the Ordinance, this Certificate of Obligation may, at the request of the Registered Owner or the assignee hereof, be assigned or transferred for a like aggregate principal

amount of a fully registered Certificate of Obligation in the denomination of the principal amount hereof, without interest coupons, payable to the Registered Owner or assignees as the case may be, having the same denomination, upon surrender of this Certificate of Obligation to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate of Obligation 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 of Obligation. The form of Assignment printed or endorsed on this Certificate of Obligation 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 of Obligation by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring or exchanging this Certificate of Obligation will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment or transfer, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date.

***IN THE EVENT THE PAYING AGENT/REGISTRAR FOR THIS CERTIFICATE OF OBLIGATION IS CHANGED*** by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owner of this Certificate of Obligation.

***IT IS HEREBY*** certified, recited, and covenanted that this Certificate of Obligation 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 of Obligation have been performed, existed, and been done in accordance with law; that this Certificate of Obligation is a general obligation of the City, issued on the full faith and credit thereof; and that ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate of Obligation, as such interest comes due, and as such principal matures, have been levied and ordered to be levied against all taxable property in the City, and have been pledged for such payment, within the limits prescribed by law, and that this Certificate of Obligation is additionally secured by a lien on and pledge of "Surplus Revenues" derived by the City from the ownership and operation of the City's Waterworks and Sewer System, all as provided in the Ordinance authorizing this Certificate of Obligation.

***BY BECOMING THE REGISTERED OWNER OF THIS CERTIFICATE OF OBLIGATION***, the Registered Owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Certificate of Obligation and the Ordinance constitute a contract between each Registered Owner hereof and the City.

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

\_\_\_\_\_  
 (facsimile signature)  
 City Secretary  
 Town of Annetta, Texas

\_\_\_\_\_  
 (facsimile signature)  
 Mayor  
 Town of Annetta, Texas

(CITY SEAL)

*[The remainder of this page intentionally left blank]*

(b) Form of Payment Record.

**PAYMENT RECORD**

Date of Payment	Principal Payment (amount and installment(s) to which payment is applied)	Remaining Principal Balance	Name and Title of Authorized Officer making Entry	Signature of Authorized Officer

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

**PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE**

(To be executed if this Certificate of Obligation is not accompanied by an executed Registration Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Certificate of Obligation has been issued under the provisions of the Ordinance described in the text of this Certificate of Obligation; and that this Certificate of Obligation has been issued in replacement of, or transferred for, this Certificate of Obligation which 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:

**BRANCH BANKING AND TRUST COMPANY**  
Charlotte, North Carolina  
Paying Agent/Registrar

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

(d) Form of Assignment.

**ASSIGNMENT**  
(Please print or type clearly)

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

Transferee's Social Security or Taxpayer Identification Number: \_\_\_\_\_

Transferee's name and address, including zip code: \_\_\_\_\_

\_\_\_\_\_ the within Certificate of Obligation and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to register the transfer of the within Certificate of Obligation 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 of Obligation in every particular, without alteration or enlargement or any change whatsoever.

(e) Form of Registration Certificate of the Comptroller of Public Accounts:

**COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.**

I hereby certify that this Certificate of Obligation has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Certificate of Obligation 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)

**SECTION 6. INTEREST AND SINKING FUND; TAX LEVY; SECURITY INTEREST.**

(a) Interest and Sinking Fund; Tax Levy. A special Interest and Sinking Fund for the Certificate of Obligation (the "*Interest and Sinking Fund*") is hereby created solely for the benefit of the Certificate of Obligation, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Certificate of Obligation. All ad valorem taxes levied and collected for and on account of the Certificate of Obligation shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while the Certificate of Obligation or interest thereon is outstanding and unpaid, the City shall compute and ascertain a rate and amount of ad valorem tax which, together with "Surplus Revenues" with respect to the Certificate of Obligation (as described in Section 7 below) budgeted to pay principal and interest coming due during such fiscal year, will be sufficient to raise and produce the money required to pay the interest on the Certificate of Obligation as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Certificate of Obligation as such principal matures (but never less than 2% of the original principal amount of the Certificate of Obligation as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of the City, with full allowance 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 the City for each year while the Certificate of Obligation or interest thereon is outstanding and unpaid; and said tax shall be assessed and collected each such year and deposited to the credit of the respective Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Certificate of Obligation, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

(b) Security Interest. Chapter 1208, Texas Government Code, applies to the issuance of the Certificate of Obligation and the pledge of the ad valorem taxes and Surplus Revenues granted by the City under Section 6(a) and Section 7, respectively, of this Ordinance, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Certificate of Obligation is outstanding and unpaid such that the pledge of the ad valorem taxes or Surplus Revenues granted by the City under Section 6(a) and Section 7 of this Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the

registered owner of the Certificate of Obligation the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

**SECTION 7. SURPLUS REVENUES.** Pursuant to Section 271.052, Texas Local Government Code, as amended, and Chapter 1502, Texas Government Code, as amended, the Certificate of Obligation additionally shall be payable from and secured by surplus revenues derived by the City from the City's Waterworks and Sewer System remaining after (a) payment of all amounts constituting operation and maintenance expenses of said Waterworks and Sewer System, and (b) payment of all debt service, reserve, and other requirements and amounts required to be paid under all ordinances heretofore or hereafter authorizing (i) all bonds and (ii) all other obligations not on a parity with the Certificate of Obligation, which are payable from and secured by any Waterworks and Sewer System revenues, and (c) payment of all amounts payable from any Waterworks and Sewer System revenues pursuant to contracts heretofore or hereafter entered into by the City in accordance with law (the "*Surplus Revenues*"). If for any reason the City fails to deposit ad valorem taxes levied pursuant to Section 6 hereof to the credit of the Interest and Sinking Fund in an amount sufficient to pay, when due, the principal of and interest on the Certificate of Obligations, then Surplus Revenues may be deposited to the credit of the Interest and Sinking Fund and used to pay such principal and/or interest. The City reserves, and shall have, the right to issue bonds and other obligations not on a parity with the Certificate of Obligation, and to enter into contracts, in accordance with applicable laws, to be payable from and secured by any Waterworks and Sewer System revenues.

**SECTION 8. CONSTRUCTION FUND.** There is hereby created and established in the depository of the City, a fund to be called the *Town of Annetta, Texas Combination Tax and Revenue Certificate of Obligation (Series 2012) Construction Fund* (herein called the "*Construction Fund*"). Proceeds from the sale and delivery of the Certificate of Obligation (other than proceeds representing accrued interest on the Certificate of Obligation, proceeds to be used to pay interest on the Certificate of Obligation as permitted in Section 1201.042, Texas Government Code, as amended, if any, and any premium on the Certificate of Obligation that is not used by the City to pay costs of issuance in accordance with the provisions of Section 1201.042(d), Texas Government Code, as amended, if any, which shall be deposited in the Interest and Sinking Fund) shall be deposited in the Construction Fund. Money in the Construction Fund shall be subject to disbursements by the City for payment of all costs incurred in carrying out the purpose for which the Certificate of Obligation is issued, including but not limited to costs for construction, engineering, architecture, financing, financial consultants and legal services related to the projects being financed with proceeds of the Certificate of Obligation and the issuance of the Certificate of Obligation. All funds remaining on deposit in the Construction Fund upon completion of the projects being financed with the proceeds from the Certificate of Obligation, if any, shall be transferred to the Interest and Sinking Fund.

**SECTION 9. INVESTMENTS.** Funds on deposit in the Interest and Sinking Fund and the Construction Fund shall be secured by the depository bank of the City in the manner and to the extent required by law to secure other public funds of the City and may be invested from time to time in any investment authorized by applicable law, including but not limited to the Public Funds Investment Act (Chapter 2256, Texas Government Code), and the City's investment policy adopted in accordance with the provisions of the Public Funds Investment Act; provided, however, that investments purchased for and held in the Interest and Sinking Fund shall have a final maturity no later than the next principal or interest payment date for which such funds are required, and



investments purchased for and held in the Construction Fund shall have a final maturity of not later than the date the City reasonably expects the funds from such investments will be required to pay costs of the projects for which the Certificate of Obligation was issued. Income and profits from such investments shall be deposited in the respective Fund which holds such investments; however, any such income and profits from investments in the Construction Fund may be withdrawn by the City and deposited in the Interest and Sinking Fund to pay all or a portion of the interest next coming due on the Certificate of Obligation. It is further provided, however, that any interest earnings on Certificate of Obligation proceeds which are required to be rebated to the United States of America pursuant to Section 14 hereof in order to prevent the Certificate of Obligation from being an arbitrage bond shall be so rebated and not considered as interest earnings for the purposes of this Section.

**SECTION 10. EMPOWERED.** The Mayor, Mayor Pro-Tem, and the City Secretary are hereby ordered to do any and all things necessary to accomplish the transfer of monies to the Interest and Sinking Fund of this issue in ample time to pay such items of principal and interest.

**SECTION 11. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATE OF OBLIGATION.**

(a) Replacement Certificate of Obligation. In the event the outstanding Certificate of Obligation is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new certificate of obligation of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Certificate of Obligation, in replacement for such Certificate of Obligation in the manner hereinafter provided.

(b) Application for Replacement Certificate of Obligation. Application for replacement of a damaged, mutilated, lost, stolen, or destroyed Certificate of Obligation shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft, or destruction of the Certificate of Obligation, the Registered Owner applying for a replacement certificate of obligation shall furnish to the City 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 the Certificate of Obligation, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of the Certificate of Obligation. In every case of damage or mutilation of the Certificate of Obligation, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate of Obligation so damaged or mutilated.

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

(d) Charge for Issuing Replacement Certificate of Obligation. Prior to the issuance of any replacement certificate of obligation, the Paying Agent/Registrar shall charge the Registered Owner of the Certificate of Obligation with all legal, printing, and other expenses in connection therewith. Every replacement certificate of obligation issued pursuant to the provisions of this Section by virtue of the fact that the Certificate of Obligation is lost, stolen, or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Certificate

of Obligation shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance.

(e) City for Issuing Replacement Certificate of Obligation. In accordance with Chapter 1201, Texas Government Code, as amended, this Section of this Ordinance shall constitute authority for the issuance of any such replacement certificate of obligation without necessity of further action by the City Council of the City or any other body or person, and the duty of the replacement of such Certificate of Obligation is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificate of Obligation in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for a Certificate of Obligation issued in conversion and exchange for another Certificate of Obligation.

## SECTION 12. DEFEASANCE OF CERTIFICATE OF OBLIGATION.

(a) Defeasance. The Certificate of Obligation and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "*Defeased Certificate of Obligation*") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of the Certificate of Obligation, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) 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 and/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 City with the Paying Agent/Registrar for the payment of its services until the Defeased Certificate of Obligation shall have become due and payable. At such time as the Certificate of Obligation shall be deemed to be a Defeased Certificate of Obligation hereunder, as aforesaid, the Certificate of Obligation and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues herein levied and pledged as provided in this Ordinance, and such principal and interest 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 the Defeased Certificate of Obligation that is made in conjunction with the payment arrangements specified in subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the City expressly reserves the right to call the Defeased Certificate of Obligation for redemption; (2) gives notice of the reservation of that right to the owner of the Defeased Certificate of Obligation 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) Investment of Funds in Defeasance Securities. Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the City 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 Certificate of Obligation and interest thereon, with respect to which such money has been so deposited, shall be turned over to the City, or deposited as directed in writing by the City. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of the Defeased Certificate of Obligation may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other

Defeasance Securities upon the satisfaction of the requirements specified in subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificate of Obligation, with respect to which such money has been so deposited, shall be remitted to the City or deposited as directed in writing by the City.

(c) Definition of Defeasance Securities. The term "*Defeasance Securities*" means (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of the purchase thereof are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, date the City Council of the City adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (iv) any other then authorized securities or obligations under applicable state law that may be used to defease obligations such as the Certificate of Obligation.

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

**SECTION 13. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATE OF OBLIGATION; BOND COUNSEL'S OPINION; CUSIP NUMBERS.** The Mayor of the City is hereby authorized to have control of the Certificate of Obligation issued hereunder and all necessary records and proceedings pertaining to the Certificate of Obligation pending its delivery and its investigation, examination, and approval by the Attorney General of the State of Texas, and its registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificate of Obligation said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate on the Certificate of Obligation, and the seal of said Comptroller shall be impressed, or placed in facsimile, on the Certificate of Obligation. The approving legal opinion of the City's Bond Counsel, and the assigned CUSIP numbers may, at the option of the City, be printed on the Certificate of Obligation 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 Certificate of Obligation.

**SECTION 14. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATE OF OBLIGATION.**

(a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificate of Obligation as an obligation described in section 103 of the Internal Revenue Code of 1986, as amended (the "*Code*"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificate of Obligation or the projects financed or refinanced therewith (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 of the Certificate of Obligation or the projects financed or refinanced therewith are so used, such amounts, whether or not received by the City, 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 Certificate of Obligation, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificate of Obligation or the projects financed or refinanced 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" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificate of Obligation (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;

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

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

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

(A) proceeds of the Certificate of Obligation invested for a reasonable temporary period of three years or less or, in the case of a refunding bond, for a period of thirty days or less, until such proceeds are needed for the purpose for which the Certificate of Obligation is issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) 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 Certificate of Obligation;

(7) to otherwise restrict the use of the proceeds of the Certificate of Obligation or amounts treated as proceeds of the Certificate of Obligation, as may be necessary, so that the Certificate of Obligation does 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); and

(8) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificate of Obligation) 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 Certificate of Obligation has 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.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "*Rebate Fund*" is hereby established by the City 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 holders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City 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 Certificate of Obligation. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificate of Obligation, the City 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 on the Certificate of Obligation under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificate of Obligation, the City 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 on the Certificate of Obligation under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the Mayor, the Mayor Pro-Tem, and the City Secretary of the City to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificate of Obligation.

(d) Allocation of, and Limitation on, Expenditures for the Projects. The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Ordinance (collectively referred to herein as the "*Projects*") on its books and records in accordance with the requirements of the Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Projects are completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificate of Obligation, or (2) the date the Certificate of Obligation is retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificate of Obligation. For purposes hereof, the City 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.

(e) Disposition of Projects. The City covenants that the property constituting the projects financed or refinanced with the proceeds of the Certificate of Obligation will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Certificate of Obligation. 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 City 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.

(f) Written Procedures. Unless superseded by another action of the City, to ensure compliance with the covenants contained herein regarding private business use, remedial actions, arbitrage and rebate, the City Council hereby adopts and establishes the instructions attached hereto as Exhibit B as the City's written procedures.

(g) Designation as Qualified Tax-Exempt Obligation. The City hereby designates the Certificate of Obligation as a "qualified tax-exempt obligation" as defined in section 265(b)(3) of the Code. In furtherance of such designation, the City represents, covenants and warrants the following: (i) that during the calendar year in which the Certificate of Obligation is issued, the City (including any subordinate entities) has not designated nor will designate obligations, which when aggregated with the Certificate of Obligation, will result in more than \$10,000,000 of "qualified tax-exempt obligations" being issued; (ii) that the City reasonably anticipates that the amount of tax-exempt obligations issued, during the calendar year in which the Certificate of Obligation is issued, by the City (or any subordinate entities) will not exceed \$10,000,000; and (iii) that the City will take such action or refrain from such action as necessary, and as more particularly set forth in this Section, in order that the Certificate of Obligation will not be considered a "private activity bond" within the meaning of section 141 of the Code.

**SECTION 15. SALE AND DELIVERY OF CERTIFICATE OF OBLIGATION.** The Certificate of Obligation is hereby initially sold and shall be delivered to **BRANCH BANKING AND TRUST COMPANY** (the "**Purchaser**") for cash for the par value thereof, and no accrued interest, pursuant to the *Purchase Contract and Investment Letter*, attached hereto as Exhibit C, dated the date of the final passage of this Ordinance which the Mayor and Mayor Pro Tem of the City each is hereby authorized to execute and deliver. It is hereby officially found, determined and declared that the terms of this sale are the most advantageous reasonably obtainable. The Certificate of Obligation initially shall be registered in the name of **BRANCH BANKING AND TRUST COMPANY**.

**SECTION 16. NO RULE 15c2-12 UNDERTAKING.** The City has not made an undertaking in accordance with Rule 15c2-12 of the Securities and Exchange Commission (the "**Rule**") in connection with the issuance of the Certificate of Obligation inasmuch as the Purchaser is not acting as an "underwriter in a primary offering of municipal securities" within the meaning of the Rule. The City is not, therefore, obligated pursuant to the Rule to provide any on-going disclosure relating to the City or the Certificate of Obligation; however, so long as the Purchaser or its assignee is the sole Registered Owner of the Certificate of Obligation, unless waived by the Purchaser, the City shall provide the following to the Purchaser:

(a) Audited financial statements, to be provided within 180 days after the close of each fiscal year ending on and after September 30, 2012; and

(b) Such other financial information regarding the City as the Purchaser shall reasonably request.

**SECTION 17. FURTHER PROCEDURES.** The Mayor, Mayor Pro-Tem, and City Secretary of the City, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificate of Obligation, and the initial sale and delivery of the Certificate of Obligation. In case any officer whose signature shall appear on the Certificate of Obligation shall cease to be such officer before the delivery of the Certificate of Obligation, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Furthermore, at any time prior to the delivery of the Certificate of Obligation, the Mayor, Mayor Pro-Tem and City Secretary of the City each is hereby individually authorized and directed to approve any changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transaction contemplated and approved by this Ordinance, or (ii) obtain the approval of the Certificate of Obligation by the Texas Attorney General's office.

**SECTION 18. REMEDIES IN EVENT OF DEFAULT.** In addition to all the rights and remedies provided by the laws of the State of Texas, it is specifically covenanted and agreed particularly that in the event the City (i) defaults in the payment of the principal, premium, if any, or interest on the Certificate of Obligation, (ii) defaults in the deposits and credits required to be made to the Interest and Sinking Fund, or (iii) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance and the continuation thereof for 30 days after the City has received written notice of such defaults, the Registered Owner of the Certificate of Obligation shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

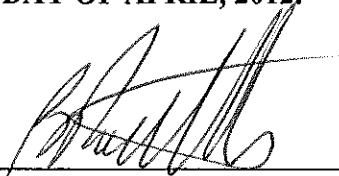
No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedy herein provided shall be cumulative of all other existing remedies, and the specification of such remedy shall not be deemed to be exclusive.

**SECTION 19. INCORPORATION OF RECITALS.** The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.


**SECTION 20. EFFECTIVE DATE.** Pursuant to the provisions of Section 1201.028, Texas Government Code, this Ordinance shall become effective immediately after its adoption.

*[The remainder of this page intentionally left blank]*

**ADOPTED BY THE CITY COUNCIL OF THE TOWN OF ANNETTA, TEXAS AT  
A REGULAR MEETING HELD ON THE 19<sup>TH</sup> DAY OF APRIL, 2012.**

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Secretary

Signature Page to Ordinance Authorizing the Issuance of  
Town of Annetta, Texas Combination Tax and Revenue Certificate of Obligation, Series 2012



**EXHIBIT A**

**FORM OF PAYING AGENT/REGISTRAR AGREEMENT**

*The Paying Agent/Registrar Agreement is omitted at this point as it appears in executed form elsewhere in this Transcript of Proceedings*

## EXHIBIT B

### WRITTEN PROCEDURES RELATING TO CONTINUING COMPLIANCE WITH FEDERAL TAX COVENANTS

A. Arbitrage. With respect to the investment and expenditure of the proceeds of the Certificate of Obligation, the City's chief financial officer (the "*Responsible Person*"), which currently is the City Secretary of the City, will:

- (i) instruct the appropriate person or persons that the construction, renovation or acquisition of the facilities must proceed with due diligence and that binding contracts for the expenditure of at least 5% of the proceeds of the Certificate of Obligation will be entered into within six (6) months of the date of delivery of the Certificate of Obligation (the "*Issue Date*");
- (ii) monitor that at least 85% of the proceeds of the Certificate of Obligation to be used for the construction, renovation or acquisition of any facilities are expended within three (3) years of the Issue Date;
- (iii) restrict the yield of the investments to the yield on the Certificate of Obligation after three (3) years of the Issue Date;
- (iv) monitor all amounts deposited into a sinking fund or funds (e.g., the Interest and Sinking Fund), to assure that the maximum amount invested at a yield higher than the yield on the Certificate of Obligation does not exceed an amount equal to the debt service on the Certificate of Obligation in the succeeding 12 month period plus a carryover amount equal to one-twelfth of the principal and interest payable on the Certificate of Obligation for the immediately preceding 12-month period;
- (v) ensure that no more than 50% of the proceeds of the Certificate of Obligation are invested in an investment with a guaranteed yield for 4 years or more;
- (vi) maintain any official action of the City (such as a reimbursement resolution) stating its intent to reimburse with the proceeds of the Certificate of Obligation any amount expended prior to the Issue Date for the acquisition, renovation or construction of the facilities;
- (vii) ensure that the applicable information return (e.g., IRS Form 8038-G, 8038-GC, or any successor forms) is timely filed with the IRS; and
- (viii) assure that, unless excepted from rebate and yield restriction under section 148(f) of the Code, excess investment earnings are computed and paid to the U.S. government at such time and in such manner as directed by the IRS (A) at least every 5 years after the Issue Date and (B) within 30 days after the date the Certificate of Obligation is retired.

B. Private Business Use. With respect to the use of the facilities financed or refinanced with the proceeds of the Certificate of Obligation the Responsible Person will:

- (i) monitor the date on which the facilities are substantially complete and available to be used for the purpose intended;

- (ii) monitor whether, at any time the Certificate of Obligation is outstanding, any person, other than the City, the employees of the City, the agents of the City or members of the general public has any contractual right (such as a lease, purchase, management or other service agreement) with respect to any portion of the facilities;
- (iii) monitor whether, at any time the Certificate of Obligation is outstanding, any person, other than the City, the employees of the City, the agents of the City or members of the general public has a right to use the output of the facilities (e.g., water, gas, electricity);
- (iv) monitor whether, at any time the Certificate of Obligation is outstanding, any person, other than the City, the employees of the City, the agents of the City or members of the general public has a right to use the facilities to conduct or to direct the conduct of research;
- (v) determine whether, at any time the Certificate of Obligation is outstanding, any person, other than the City, has a naming right for the facilities or any other contractual right granting an intangible benefit;
- (vi) determine whether, at any time the Certificate of Obligation is outstanding, the facilities are sold or otherwise disposed of; and
- (vii) take such action as is necessary to remediate any failure to maintain compliance with the covenants contained in the Ordinance related to the public use of the facilities.

C. Record Retention. The Responsible Person will maintain or cause to be maintained all records relating to the investment and expenditure of the proceeds of the Certificate of Obligation and the use of the facilities financed or refinanced thereby for a period ending three (3) years after the complete extinguishment of the Certificate of Obligation. If any portion of the Certificate of Obligation is refunded with the proceeds of another series of tax-exempt obligations, such records shall be maintained until the three (3) years after the refunding obligations are completely extinguished. Such records can be maintained in paper or electronic format.

D. Responsible Person. The Responsible Person shall receive appropriate training regarding the City's accounting system, contract intake system, facilities management and other systems necessary to track the investment and expenditure of the proceeds and the use of the facilities financed or refinanced with the proceeds of the Certificate of Obligation. The foregoing notwithstanding, the Responsible Person is authorized and instructed to retain such experienced advisors and agents as may be necessary to carry out the purposes of these instructions.

**EXHIBIT C**

**FORM OF PURCHASE CONTRACT AND INVESTMENT LETTER**

*The Purchase Contract and Investment Letter is omitted at this point as it appears in executed form elsewhere in this Transcript of Proceedings*