

ORDINANCE NO. 100782

**SECOND SUPPLEMENTAL ORDINANCE TO THE MASTER ORDINANCE RELATING TO THE ISSUANCE OF OBLIGATIONS SECURED IN WHOLE OR IN PART WITH "PASSENGER FACILITY CHARGES" (THE "MASTER PFC ORDINANCE") AND SEVENTH SUPPLEMENTAL ORDINANCE TO THE MASTER ORDINANCE RELATING TO THE ISSUANCE OF OBLIGATIONS SECURED WITH GROSS REVENUES OF THE CITY'S AIRPORT SYSTEM (THE "MASTER AIRPORT SYSTEM ORDINANCE") AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF *CITY OF SAN ANTONIO, TEXAS PASSENGER FACILITY CHARGE AND SUBORDINATE LIEN AIRPORT SYSTEM REVENUE IMPROVEMENT BONDS, SERIES 2005*; GRANTING A FIRST LIEN ON PASSENGER FACILITY CHARGES UNDER THE MASTER PFC ORDINANCE AND A SUBORDINATE LIEN ON NET REVENUES OF THE AIRPORT SYSTEM UNDER THE MASTER AIRPORT SYSTEM ORDINANCE; APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING THERETO INCLUDING A PURCHASE CONTRACT AND A PAYING AGENT/REGISTRAR AGREEMENT; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE**

\* \* \* \* \*

***WHEREAS***, on March 7, 2002, the City Council of the City of San Antonio, Texas adopted Ordinance No. 95389 titled "*Master Ordinance Establishing the Airport System Revenue Bond Financing Program with Respect to the Issuance of Obligations by the City of San Antonio, Texas Payable in Whole or in Part from "Passenger Facility Charges"*" (referred to herein as the "Master PFC Ordinance"); and

***WHEREAS***, unless otherwise defined herein (including Exhibit A attached hereto), capitalized terms used herein shall have the meaning given in the Master PFC Ordinance; and

***WHEREAS***, the Master PFC Ordinance establishes the program under which revenue supported indebtedness attributable to the Airport System and payable from PFC Revenues can be incurred, and pledges the PFC Revenues to the payment of Parity PFC Obligations to be outstanding under the Master PFC Ordinance; and

***WHEREAS***, in 2002, the City issued the first series of Parity PFC Obligations known as the *City of San Antonio, Texas Passenger Facility Charge and Subordinate Lien Airport System Revenue Improvement Bonds, Series 2002*, which are currently outstanding in the aggregate principal amount of \$36,770,000; and

***WHEREAS***, the City now deems it necessary to issue the second series of Parity PFC Obligations pursuant to this Second Supplement to the Master PFC Ordinance for the purposes hereinafter described; and

***WHEREAS***, the bonds authorized to be issued by this Second Supplement (the "Series 2005 Bonds") are to be issued and delivered pursuant to laws of the State of Texas, including particularly Chapter 22, Texas Transportation Code, and Chapters 1371 and 1503, Texas Government Code; and

**WHEREAS**, on April 19, 2001, the City Council of the City of San Antonio, Texas adopted Ordinance No. 93789 titled "*Master Ordinance Establishing the Airport System Revenue Bond Financing Program With Respect to the Issuance of Obligations by the City of San Antonio, Texas Secured by Gross Revenues of the Airport System*" (referred to herein as the "Master GARB Ordinance") pursuant to which the City is authorized to issue obligations secured with a lien on and pledge of the "Gross Revenues" (as defined in the Master GARB Ordinance) of the Airport System; and

**WHEREAS**, the City has issued and has outstanding six series of "Parity Obligations" (as such term is defined in the Master GARB Ordinance) which are secured with a first lien on and pledge of the Gross Revenues of the Airport System;

**WHEREAS**, pursuant to Section 4(f) of the Master GARB Ordinance, the City reserved the right to issue "Subordinated Debt" (as defined in the Master GARB Ordinance) payable in whole or in part from a subordinate lien on the "Net Revenues" (as defined in the Master GARB Ordinance) of the Airport System; and

**WHEREAS**, Section 2(b) of the Master PFC Ordinance authorizes the City to further secure the payment of any Parity PFC Obligations with a lien on and pledge of any other lawfully available revenues of the Airport System, including the Subordinate Net Revenues; and

**WHEREAS**, the City deems it beneficial and appropriate to additionally secure the Series 2005 Bonds issued pursuant to this Second Supplement with a lien on and pledge of the Subordinate Net Revenues of the Airport System; and

**WHEREAS**, in addition to this Ordinance being considered the Second Supplement to the Master PFC Ordinance, this Ordinance also serves as the Seventh Supplemental Ordinance to the Master GARB Ordinance for purposes of granting a lien on the Subordinate Net Revenues of the Airport System to further secure the Series 2005 Bonds, which will be considered Subordinated Debt under the Master GARB Ordinance; and

**WHEREAS**, on May 5, 2005, a public hearing relating to the issuance of the Series 2005 Bonds and the projects being financed therewith was held in compliance with the provisions of Section 147(f) of the Internal Revenue Code, and

**WHEREAS**, the City Council hereby finds, determines and declares that this Ordinance, the financing contemplated herein, the approval thereof and the authority therefor are necessary and proper to provide for the preservation of public property, and further finds, determines and declares that it is, therefore, necessary and proper that this Ordinance be passed as an emergency measure, to be effective immediately upon approval by eight affirmative votes; and

**WHEREAS**, it is hereby officially found and determined that the meeting at which this Second Supplement 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 CITY OF SAN ANTONIO, TEXAS THAT:**

**SECTION 1. DEFINITIONS.** In addition to the definitions set forth in the preamble of this Second Supplement, the terms used in this Second Supplement (except in the FORM OF SERIES 2005 BONDS) and not otherwise defined shall have the meanings given in the Master PFC Ordinance or in Exhibit A to this Second Supplement attached hereto and made a part hereof.

**SECTION 2. AMOUNT, PURPOSE, AND DESIGNATION OF THE SERIES 2005 BONDS.** The "**CITY OF SAN ANTONIO, TEXAS PASSENGER FACILITY CHARGE AND SUBORDINATE LIEN AIRPORT SYSTEM REVENUE IMPROVEMENT BONDS, SERIES 2005**", are hereby authorized to be issued and delivered in the aggregate principal amount of \$38,085,000 FOR THE PURPOSE OF CONSTRUCTING, IMPROVING, RENOVATING, ENLARGING AND EQUIPPING THE SAN ANTONIO INTERNATIONAL AIRPORT (THE "AIRPORT"), INCLUDING BUT NOT LIMITED TO IMPROVEMENTS TO THE AIRPORT WHICH QUALIFY, AND HAVE BEEN APPROVED BY THE SECRETARY OF THE U.S. DEPARTMENT OF TRANSPORTATION, AS "ELIGIBLE AIRPORT-RELATED PROJECTS" UNDER 49 USC §40117, INCLUDING CONSTRUCTION OF RENOVATIONS AND IMPROVEMENTS TO EXISTING TERMINALS AND CONSTRUCTION OF A NEW TERMINAL (CONCOURSE B), CONSTRUCTION OF AN ELEVATED TERMINAL ROADWAY, UPGRADES TO THE CENTRAL PLANT, APRON REPLACEMENT, AND NEW UTILITIES, FUNDING CAPITALIZED INTEREST AND A DEBT SERVICE RESERVE FUND, AND PAYING COSTS OF ISSUANCE.

**SECTION 3. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF SERIES 2005 BONDS.** (a) *Terms of Series 2005 Bonds.* The Series 2005 Bonds shall be dated the Bond Date, shall be in the denomination of \$5,000, or any integral multiple thereof (an "Authorized Denomination"), and shall mature and be payable on July 1 in each of the years and in the principal amounts, respectively, as set forth in the following schedule:

YEAR OF MATURITY	PRINCIPAL AMOUNT	YEAR OF MATURITY	PRINCIPAL AMOUNT
2006	\$ 825,000	2017	\$ 1,350,000
2007	855,000	2018	1,425,000
2008	890,000	2019	1,500,000
2009	925,000	2020	1,575,000
2010	955,000	2021	1,660,000
2011	1,000,000	2022	1,745,000
2012	1,045,000	2023	1,840,000
2013	1,100,000	2024	1,935,000
2014	1,160,000	2025	2,035,000
2015	1,220,000	*****	
2016	1,285,000	2030	11,760,000

(b) ***Sale of Series 2005 Bonds; Approval of Purchase Contract.*** The Series 2005 Bonds are hereby initially sold and shall be delivered to ***Siebert Brandford Shank & Co., LLC*** (as senior manager of the Underwriters) for cash upon payment of the purchase price of ***\$39,154,660.50*** (which amount is equal to the aggregate principal amount of the Series 2005 Bonds, *plus* a net original issue premium of ***\$1,303,077.45***, and *less* Underwriters' discount of ***\$233,416.95***), plus accrued interest from the Bond Date to the date of delivery, all pursuant to the terms and provisions of the Purchase Contract in substantially the form attached hereto as Exhibit B which is hereby approved and which the Mayor and the City Clerk of the City are hereby authorized and directed to execute and deliver.

(c) ***Initial Bond.*** Initially there shall be issued hereunder one fully registered Series 2005 Bond, without interest coupons, dated the Bond Date, in the aggregate principal amount stated in Section 2 above, numbered T-1 (the "Initial Bond"), and payable in principal installments in the respective principal amounts and maturity dates as shown in Section 3(a) hereof. The Initial Bond shall be registered in the name of ***Siebert Brandford Shank & Co., LLC*** executed by manual or facsimile signature of the Mayor and City Clerk 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, and, upon payment of the purchase price set forth in Section 3(a) hereof, will be delivered to ***Siebert Brandford Shank & Co., LLC***, as representative of the Underwriters. The Underwriters shall have the right to exchange the Initial Bond as provided in Section 5 hereof without cost, with Series 2005 Bonds issued in replacement thereof being in Authorized Denominations and numbered consecutively from R-1 upward, payable to the respective registered owners thereof or to the registered assignees of any of the Series 2005 Bonds.

(d) ***Offering Documents.*** The City hereby approves the form and content of the Preliminary Official Statement, dated April 14, 2005, and the Official Statement, dated May 5, 2005, relating to the Series 2005 Bonds (which shall be substantially in the form of the Preliminary Official Statement with such revisions as are necessary to reflect the final terms of the Series 2005 Bonds) and any addenda, supplement, or amendment thereto, and approves the distribution of the Official Statement in the reoffering of the Series 2005 Bonds by the Underwriters in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his or her execution thereof. The distribution and use of the Preliminary Official Statement for the Series 2005 Bonds prior to the date hereof is hereby ratified and confirmed. The City Council of the City hereby finds, determines and declares that the Preliminary Official Statement, as amended and supplemented by such supplement, and the Official Statement were and are "deemed final" (as the term is defined in 15 C.F.R. Section 240.15c2-12) as of their respective dates.

(e) ***Form of Series 2005 Bonds.*** The form of the Series 2005 Bonds, including the form of the Initial Bond, the form of the Authentication Certificate, the form of Assignment, and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas (which shall be attached only to the Initial Bond), shall be, respectively, substantially as set forth in Exhibit C, with such appropriate variations, omissions, or insertions as are permitted or required by this Second Supplement.

(f) ***Redemption Features.*** The Series 2005 Bonds shall be subject to redemption as set forth in the FORM OF SERIES 2005 BOND attached hereto as Exhibit C to this Second Supplement.

**SECTION 4. INTEREST.** The Series 2005 Bonds shall bear interest, calculated on the basis of a 360-day year composed of twelve 30-day months, from the Bond Date, until Maturity, at the following rates per annum:

YEAR OF MATURITY	INTEREST RATE	YEAR OF MATURITY	INTEREST RATE
2006	4.000%	2017	5.250%
2007	4.000	2018	5.250
2008	4.000	2019	5.250
2009	3.375	2020	5.250
2010	4.000	2021	5.250
2011	5.250	2022	5.250
2012	5.250	2023	5.250
2013	5.250	2024	5.250
2014	5.250	2025	5.250
2015	5.250	*****	
2016	5.250	2030	4.625

Said interest shall be payable to the registered owner of any such Series 2005 Bond in the manner provided and on the dates stated in the FORM OF SERIES 2005 BOND set forth in Exhibit C to this Second Supplement.

**SECTION 5. REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION; BOOK-ENTRY ONLY SYSTEM.** (a) *Registration, Transfer, Conversion and Exchange; Authentication.* The City shall keep or cause to be kept at the trust office designated in the Paying Agent Agreement (the "Designated Trust Office") by JPMorgan Chase Bank, N.A., Dallas, Texas (the "Paying Agent/Registrar"), books or records for the registration of the transfer, conversion and exchange of the Series 2005 Bonds (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, conversions and exchanges under such reasonable regulations as the City and the Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The execution of a Paying Agent is hereby authorized. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Series 2005 Bond to which payments with respect to the Series 2005 Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such 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, conversion, exchange and delivery of a substitute Series 2005 Bond or Series 2005 Bonds. Registration of assignments, transfers, conversions and exchanges of Series 2005 Bonds shall be made in the manner provided and with the effect stated in the FORM OF SERIES 2005 BOND set forth in Exhibit C to this Second Supplement. Each substitute Series 2005 Bond shall bear a letter and/or number to distinguish it from each other Series 2005 Bond.

On each substitute bond issued in exchange for or replacement of any Series 2005 Bond issued under this Second Supplement there shall be printed thereon a Paying Agent/Registrar's Authentication Certificate, in the form hereinafter set forth in the FORM OF SERIES 2005 BOND set forth in Exhibit C to this Second Supplement (the "Authentication Certificate"). It is specifically provided, however, that any Series 2005 Bond delivered in exchange for or replacement of another Series 2005 Bond prior to the first scheduled interest payment date on the Series 2005 Bonds (as stated on the face thereof) shall be dated the same date as such Series 2005 Bond, but each substitute bond so delivered on or after such first scheduled interest payment date shall be dated as of the interest payment date preceding the date on which such substitute bond is delivered, unless such substitute bond is delivered on an interest payment date, in which case it shall be dated as of such date of delivery; provided, however, that if at the time of delivery of any substitute bond the interest on the Series 2005 Bond for which it is being exchanged has not been paid, then such substitute bond shall be dated as of the date to which such interest has been paid in full. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such substitute bond, date such substitute bond in the manner set forth above, and manually sign and date the Authentication Certificate, and no such substitute bond shall be deemed to be issued or outstanding unless the Authentication Certificate is so executed.

The Paying Agent/Registrar promptly shall cancel all paid Series 2005 Bonds and Series 2005 Bonds surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other Person so as to accomplish the foregoing conversion and exchange of any Series 2005 Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Series 2005 Bonds in the manner prescribed herein. Pursuant to Chapter 1206, and particularly Subchapter B thereof, the duty of conversion and exchange of Series 2005 Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the Authentication Certificate, the converted and exchanged Series 2005 Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Series 2005 Bonds which initially were issued and delivered pursuant to this Second Supplement, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) ***Payment of Series 2005 Bonds and Interest.*** The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of, premium, if any, and interest on the Series 2005 Bonds, all as provided in this Second Supplement. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Series 2005 Bonds.

(c) ***In General.*** The Series 2005 Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Series 2005 Bonds to be payable only to the registered owners thereof, (ii) may be redeemed prior to their scheduled maturities, (iii) may be transferred and assigned, (iv) may be converted and exchanged for other Series 2005 Bonds, (v) shall

have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on which shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Series 2005 Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF SERIES 2005 BOND set forth in Exhibit C to this Second Supplement. The Initial Bonds initially issued and delivered pursuant to this Second Supplement is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Series 2005 Bond issued in conversion of and exchange for the Initial Bond and any Series 2005 Bond or Series 2005 Bonds issued under this Second Supplement the Paying Agent/Registrar shall execute the Authentication Certificate, in the manner hereinabove described. In lieu of the executed Authentication Certificate described above, the Initial Bond delivered on the closing date (as further described in subparagraph (i) below) shall have attached thereto the Comptroller's Registration Certificate substantially in the form set forth in the FORM OF SERIES 2005 BOND below, manually executed by the Comptroller of Public Accounts of the State of Texas or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) ***Substitute Paying Agent/Registrar.*** The City covenants with the registered owners of the Series 2005 Bonds that at all times while the Series 2005 Bonds are outstanding a competent and legally qualified entity shall act as and perform the services of Paying Agent/Registrar for the Series 2005 Bonds under this Second Supplement, and that the Paying Agent/Registrar will be one entity. Such entity may be the City, to the extent permitted by law, or a bank, trust company, financial institution, or other agency, as selected by the City. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 60 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 entity to act as Paying Agent/Registrar under this Second Supplement. 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 Series 2005 Bonds, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Series 2005 Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Second Supplement, and a certified copy of this Second Supplement shall be delivered to each Paying Agent/Registrar.

(e) ***Book Entry Only System.*** The Series 2005 Bonds issued on the Issuance Date in exchange for the Series 2005 Bonds initially issued to the Underwriters shall be in the form of a separate single fully registered Series 2005 Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Series 2005 Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC"), and except as provided in subsection (f) hereof, all of the outstanding Series 2005 Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The City heretofore has executed and delivered to DTC a "Blanket Letter of Representations" with respect to the utilization by the City of DTC's book-entry only system.

Notwithstanding any other provision of this Second Supplement to the contrary, so long as any Series 2005 Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Series 2005 Bond and all notices with respect to such Series 2005 Bond shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

With respect to Series 2005 Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any Person on behalf of whom such a DTC Participant holds an interest in the Series 2005 Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Series 2005 Bonds, (ii) the delivery to any DTC Participant or any other Person, other than a registered owner of Series 2005 Bonds, as shown on the Registration Books, of any notice with respect to the Series 2005 Bonds, or (iii) the payment to any DTC Participant or any other Person, other than a registered owner of Series 2005 Bonds, as shown in the Registration Books of any amount with respect to principal of or interest on the Series 2005 Bonds. Notwithstanding any other provision of this Second Supplement to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the Person in whose name each Series 2005 Bond is registered in the Registration Books as the absolute owner of such Series 2005 Bond for the purpose of payment of principal and interest with respect to such Series 2005 Bond, for the purpose of registering transfers with respect to such Series 2005 Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Series 2005 Bonds only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Second Supplement, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Series 2005 Bonds to the extent of the sum or sums so paid. No Person other than a registered owner, as shown in the Registration Books, shall receive a Series 2005 Bond evidencing the obligation of the City to make payments of principal and interest pursuant to this Second Supplement. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Second Supplement with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the words "Cede & Co." in this Second Supplement shall refer to such new nominee of DTC.

(f) ***Successor Securities Depository.*** In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC or that it is in the best interest of the beneficial owners of the Series 2005 Bonds that they be able to obtain certificated Series 2005 Bonds, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Series 2005 Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Series 2005 Bonds and transfer one or more separate Series 2005 Bonds to DTC Participants having Series 2005 Bonds credited to their DTC accounts. In such event, the Series 2005 Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of

DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Series 2005 Bonds shall designate, in accordance with the provisions of this Second Supplement.

(g) **Notice of Redemption.** In addition to the method of providing a notice of redemption set forth in the FORM OF SERIES 2005 BONDS, the Paying Agent/Registrar shall give notice of redemption of Series 2005 Bonds by United States mail, first-class postage prepaid, at least 30 days prior to a redemption date to each registered securities depository and to any national information service that disseminates redemption notices. In addition, in the event of a redemption caused by an advance refunding of the Series 2005 Bonds, the Paying Agent/Registrar shall send a second notice of redemption to the Persons specified in the immediately preceding sentence at least 30 days but not more than 90 days prior to the actual redemption date. Any notice sent to the registered securities depositories or such national information services shall be sent so that they are received at least two days prior to the general mailing or publication date of such notice. The Paying Agent/Registrar shall also send a notice of prepayment or redemption to the registered owner of any Series 2005 Bond who has not sent the Series 2005 Bonds in for redemption 60 days after the redemption date.

Each notice of redemption, whether required in the FORM OF SERIES 2005 BONDS or in this Section, shall contain a description of the Series 2005 Bonds to be redeemed including the complete name of the Series 2005 Bonds, the Series, the date of issue, the interest rate, the maturity date, the CUSIP number, the amounts called of each certificate, the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Series 2005 Bonds may be redeemed, including a contact person and telephone number.

All redemption payments made by the Paying Agent/Registrar to the registered owners of the Series 2005 Bonds shall include a CUSIP number relating to each amount paid to such registered owner.

**SECTION 6. ESTABLISHMENT OF PFC REVENUE BOND FINANCING PROGRAM AND ISSUANCE OF PARITY PFC OBLIGATIONS.** By adoption of the Master PFC Ordinance the City has provided a financing structure for revenue indebtedness supported with PFC Revenues to be issued or incurred for the Airport System. The Master PFC Ordinance is intended to establish a master program under which revenue supported indebtedness attributable to the Airport System and payable in whole or in part from PFC Revenues can be incurred and which will be on a parity with all other Parity PFC Obligations. This Second Supplement provides for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment and redemption, and security of the Series 2005 Bonds, which will be the second issue of Parity PFC Obligations and will be on a parity with the Outstanding PFC Obligations and all Additional Parity PFC Obligations issued in accordance with the Master PFC Resolution and any Supplement. Since the Series 2005 Bonds are the second Series of Parity PFC Obligations issued under the Master PFC Ordinance, they are being issued as Additional Parity PFC Obligations; consequently, it is necessary to satisfy the requirements of Section 15 of the Master PFC Ordinance. The Master PFC Ordinance is incorporated herein by reference and as such made a part hereof for all purposes, except to the extent modified and supplemented hereby. The Series 2005 Bonds are hereby declared to be Parity PFC Obligations under the Master PFC Ordinance.

**SECTION 7. SECURITY.** (a) **PFC Revenues.** The Series 2005 Bonds are special obligations of the City payable from and secured by a first lien on and pledge of the PFC Revenues

pursuant to the Master PFC Ordinance and this Second Supplement. The PFC Revenues are hereby pledged to the payment of the principal of, premium, if any, and interest on the Series 2005 Bonds as the same shall become due and payable.

(b) **Lien on Subordinate Net Revenues.** (i) The Series 2005 Bonds are additionally secured by a lien on and pledge of the Subordinate Net Revenues. As provided in the definition of Subordinate Net Revenues, all payments from Net Revenues to pay debt service on the Series 2005 Bonds shall be subordinated to the timely payment of debt service on all Parity Obligations issued pursuant to the Master GARB Ordinance and any "Supplement" related thereto which are then outstanding or subsequently issued; consequently, the Series 2005 Bonds are considered "Subordinated Debt" as permitted by Section 4(f) of the Master GARB Ordinance.

(ii) This Second Supplement, to the extent that it grants, and for the purpose of (i) additionally securing the Series 2005 Bonds with, a lien on Subordinate Net Revenues as permitted by the Master GARB Ordinance, and (ii) establishing conditions for the issuance of obligations payable in whole or in part with a lien on and pledge of Subordinate Net Revenues, also serves as the "Seventh Supplemental Ordinance" or the "Seventh Supplement" to the Master GARB Ordinance.

(iii) In the event it becomes necessary for the City to use Subordinate Net Revenues of the Airport System to pay all or any portion of any debt service payment on the Series 2005 Bonds, the City will establish a "Subordinated Debt Fund" in the manner contemplated and required by Section 10 of the Master GARB Ordinance (if such Subordinated Debt Fund has not previously been established) and may establish an account within the Subordinated Debt Fund specifically for the purpose of depositing Subordinate Net Revenues to pay all or a portion of the debt service coming due on the Series 2005 Bonds. Each Designated Financial Officer is further authorized from time to time to transfer funds on deposit in the Subordinated Debt Fund relating to the Series 2005 Bonds to the PFC Bond Fund to pay principal, premium, if any, and interest on the Series 2005 Bonds.

(c) **PFC Bond Reserve Fund.** The Series 2005 Bonds are to be secured by the PFC Bond Reserve Fund. On the date of issuance of the Outstanding PFC Obligations, the City deposited \$2,747,178.16 of proceeds of the Outstanding PFC Obligations, which amount was equal to the Required Reserve Amount in connection with such Outstanding PFC Obligations. The City certifies that the amount currently on deposit in the PFC Bond Reserve Fund is at least equal to the Required Reserve Amount relating to the Outstanding PFC Obligations. With respect to the Series 2005 Bonds, the average annual principal and interest requirements on such Bonds is equal to \$2,685,000. In order to comply with the requirements of Section 8(a) of the Master PFC Ordinance, on the date of issuance of the Series 2005 Bonds, the City will purchase a Reserve Fund Credit Facility from Financial Security Assurance having a maximum amount to be drawn thereon equal to \$2,685,000 (the "Series 2005 Reserve Fund Credit Facility"). The Series 2005 Reserve Fund Credit Facility will be credited to the PFC Bond Reserve Fund upon the issuance of the Series 2005 Bonds. For so long as said the Series 2005 Reserve Fund Credit Facility is in effect, the ordinance requirements of Financial Security Assurance, as a condition to the issuance of said Credit Facility, attached hereto as Exhibit D hereto, are incorporated by reference into this Second Supplement and made a part hereof for all purposes, notwithstanding any other provision of this Second Supplement to the contrary. If deemed necessary by the Attorney General's Public Finance Division in connection with their approval of the Series 2005 Bonds, the City Manager is hereby authorized to enter into an agreement with Financial Security Assurance to further evidence the requirements and the City's obligations set forth in Exhibit D.

**SECTION 8. PAYMENTS; PFC BOND FUND.** (a) *Moneys Made Available to Paying Agent.* The City agrees to pay the principal of, premium, if any, and the interest on the Series 2005 Bonds when due, whether by reason of maturity or redemption. The City shall make available to the Paying Agent/Registrar, on or before such principal, redemption, or interest payment date, money sufficient to pay such interest on and such principal of the Series 2005 Bonds as will accrue or mature, or be subject to redemption prior to maturity. The Paying Agent/Registrar shall cancel all paid Series 2005 Bonds and shall furnish the City with an appropriate certificate of cancellation upon the City's request.

(b) *PFC Bond Fund.* Pursuant to Section 6 of the Master PFC Ordinance, moneys in the PFC Revenue Fund shall be applied by the City on the dates and in the amounts, and in the order of priority with respect to the Funds and Accounts that such applications are described in the Master PFC Ordinance, including making monthly deposits into the PFC Bond Fund to provide sufficient funds to pay all principal of and interest on all Parity PFC Obligations, including the Series 2005 Bonds.

**SECTION 9. PFC CONSTRUCTION FUND; REBATE FUND.** (a) *PFC Construction Fund.* There is hereby created and there shall be established and maintained on the books of the City, and accounted for separate and apart from all other funds of the City, a separate fund designated as the PFC Construction Fund. Proceeds from the sale of the Series 2005 Bonds, other than accrued interest, capitalized interest and moneys, if any, for deposit to the credit of the PFC Bond Reserve Fund, shall be deposited to the credit of the PFC Construction Fund for use by the City for payment of all lawful costs associated with the construction, improvement, renovation, enlargement and equipping of the Projects, as hereinbefore provided. Upon payment of all such costs, any moneys remaining on deposit in the PFC Construction Fund shall be transferred FIRST to the Rebate Fund, to the extent the City is liable to pay rebate amounts to the United States of America pursuant to the terms of the Code and NEXT to the PFC Bond Fund. Amounts so deposited to the PFC Bond Fund shall be used in the manner described in the Master PFC Ordinance. Additionally, if the Series 2005 Bonds are optionally or mandatorily redeemed prior to maturity as a whole in accordance with their terms, any amount remaining in the PFC Construction Fund shall be transferred to the Rebate Fund to the extent the amount therein is less than the rebate amount the City is liable to pay the United States of America pursuant to the terms of section 148 of the Code as of the date of such redemption.

(b) *Rebate Fund.* There is hereby created and there shall be established and maintained on the books of the City, and accounted for separate and apart from all other funds of the City, a separate fund designated as the Rebate Fund. The Rebate Fund shall be for the sole benefit of the United States of America and shall not be subject to the lien created by this Second Supplement or to the claim of any other Person, including the Holders of the Series 2005 Bonds. Amounts deposited to the Rebate Fund, together with any investment earnings thereon, shall be held in trust and applied solely as provided in section 148 of the Code.

**SECTION 10. AMENDMENT OF SUPPLEMENT.** (a) *Amendments Without Consent.* This Second Supplement and the rights and obligations of the City and of the owners of the Series 2005 Bonds may be modified or amended at any time without notice to or the consent of any owner of the Series 2005 Bonds or any other Parity PFC Obligations, but with prior notice to the Insurer, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the City contained in this Second Supplement, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the City in this Second Supplement;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Second Supplement, upon receipt by the City of an opinion of Bond Counsel, that the same is needed for such purpose, and will more clearly express the intent of this Second Supplement;

(iii) To supplement the security for the Series 2005 Bonds, replace or provide additional credit facilities, or change the form of the Series 2005 Bonds or make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of the Outstanding Series 2005 Bonds;

(iv) To make any changes or amendments requested by (A) any Credit Rating Agency then rating or requested by the City to rate Parity PFC Obligations, as a condition to the issuance or maintenance of a rating, or (B) as may be necessary or desirable in order to obtain the approval of the Series 2005 Bonds by the Office of the Attorney General of the State of Texas, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the owners of the Outstanding PFC Obligations;

(v) To make such changes, modifications or amendments as are permitted by Section 19(c)(v) of this Second Supplement;

(vi) To make such changes, modifications or amendments as may be necessary or desirable, which shall not adversely affect the interests of the owners of the Outstanding Parity PFC Obligations, in order, to the extent permitted by law, to facilitate the economic and practical utilization of Credit Agreements with respect to the Parity PFC Obligations; or

(vii) To make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of Outstanding Parity PFC Obligations.

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

(b) ***Amendments With Consent.*** Subject to the other provisions of this Second Supplement, the Insurer and the owners of Outstanding Series 2005 Bonds aggregating a majority in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in Subsection (a) of this Section, to this Second Supplement which may be deemed necessary or desirable by the City; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the Outstanding Series 2005 Bonds, the amendment of the terms and conditions in this Second Supplement or in the Series 2005 Bonds so as to:

- (i) Make any change in the maturity of the Outstanding Series 2005 Bonds;
- (ii) Reduce the rate of interest borne by Outstanding Series 2005 Bonds;
- (iii) Reduce the amount of the principal payable on Outstanding Series 2005 Bonds;
- (iv) Modify the terms of payment of principal of or interest on the Outstanding Series 2005 Bonds, or impose any conditions with respect to such payment;
- (v) Affect the rights of the owners of less than all Series 2005 Bonds then Outstanding; or
- (vi) Change the minimum percentage of the Outstanding Principal Amount of Series 2005 Bonds necessary for consent to such amendment.

(c) **Notice.** If at any time the City shall desire to amend this Second Supplement other than pursuant to subsection (a) of this Section, the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in The City of New York, New York, and a newspaper of general circulation in the City, once during each calendar week for at least two successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Registrar for inspection by all owners of Series 2005 Bonds. Such publication is not required, however, if the City gives or causes to be given such notice in writing to each owner of Series 2005 Bonds.

(d) **Receipt of Consents.** Whenever at any time not less than thirty days, and within one year, from the date of the first publication of said notice or other service of written notice of the proposed amendment the City shall receive an instrument or instruments executed by the Insurer and all of the owners or the owners of at least a majority in Outstanding Principal Amount of Series 2005 Bonds, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the City may adopt the amendatory ordinance in substantially the same form.

(e) **Effect of Amendments.** Upon the adoption by the City of any ordinance to amend this Second Supplement pursuant to the provisions of this Section, this Second Supplement shall be deemed to be amended in accordance with the amendatory ordinance, and the respective rights, duties, and obligations of the City and all the owners of then Outstanding Series 2005 Bonds and all future owners of the Series 2005 Bonds shall thereafter be determined, exercised, and enforced under the Master PFC Ordinance and this Second Supplement, as amended.

(f) **Consent Irrevocable.** Any consent given by any owner of Series 2005 Bonds pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Series 2005 Bonds during such period. Such consent may be revoked at any time after six months from the date of the first publication of such notice by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Registrar and the City, but such revocation shall not be effective if the owners of a majority in Outstanding

Principal Amount of Series 2005 Bonds, prior to the attempted revocation, consented to and approved the amendment.

(g) **Ownership.** For the purpose of this Section, the ownership and other matters relating to all Series 2005 Bonds registered as to ownership shall be determined from the Registration Books. The Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Registrar.

**SECTION 11. ISSUANCE OF ADDITIONAL INDEBTEDNESS SECURED WITH SUBORDINATE NET REVENUES.** (a) ***No Superior Lien Permitted.*** No Debt or other obligations of the City may be issued which is secured in whole or in part with a lien on and pledge of Subordinate Net Revenues that is superior to the lien on and pledge of Subordinate Net Revenues that has been granted in this Second Supplement to secure the Series 2005 Bonds (or that may be granted in the future on a parity basis in connection with any Additional Parity PFC Obligations or other indebtedness of the City).

(b) ***Additional Indebtedness Secured in Whole or in Part with Parity Pledge of Subordinate Net Revenues.*** The City reserves the right to secure Debt (including Additional Parity PFC Obligations) or other indebtedness, secured in whole or in part with a lien on and pledge of Subordinate Net Revenues on a parity with the lien on and pledge of Subordinate Net Revenues which has been granted in this Second Supplement to further secure the Series 2005 Bonds, upon satisfaction of the following conditions (which conditions are in addition to satisfaction of the conditions set forth in Section 15 of the Master PFC Ordinance if such additional indebtedness is considered to be Additional Parity PFC Obligations):

- (i) ***No Default.*** The Designated Financial Officer and the Aviation Director certify that, upon incurring, issuing or otherwise becoming liable in respect to such additional indebtedness, the City will not be in default under any term or provision of any ordinance which authorized the issuance of indebtedness then outstanding that is secured in whole or in part with a lien on Subordinate Net Revenues on a parity with the lien on Subordinate Net Revenues which has been granted in this Second Supplement to further secure the Series 2005 Bonds (including, if applicable, the Master PFC Ordinance and any Supplement).
- (ii) ***Proper Fund Balances.*** The Designated Financial Officer certifies that, upon the issuance of such additional indebtedness: (i) the Bond Fund established by the Master GARB Ordinance will have the required amounts on deposit therein; (ii) all other similar debt service funds established in connection with outstanding obligations payable in whole or in part with a lien on and pledge of Subordinate Net Revenues to provide funds to pay the principal and interest on such obligations will have the required amounts on deposit therein; (iii) the Bond Reserve Fund established by the Master GARB Ordinance will contain the applicable Required Reserve Amount or so much thereof as is required to be funded at such time; and (iv) all other similar debt service reserve funds established in connection with the issuance of any obligations payable in whole or in part with a lien on and pledge of Subordinate Net Revenues will contain the amount then required to be funded at such time.

- (iii) ***Subordinate Net Revenue Coverage.*** The Designated Financial Officer certifies that, for either the City's most recent complete Fiscal Year or for any consecutive 12 out of the most recent 18 months, the Subordinate Net Revenues were equal to at least 1.10 times the maximum Annual Debt Service Requirements on all indebtedness of the City which is secured in whole or in part with a lien on and pledge of the Subordinate Net Revenues on parity with the lien on and pledge of Subordinate Net Revenues granted in this Second Supplement to secure the Series 2005 Bonds, and which is scheduled to occur in the then current or any future Fiscal Year after taking into consideration the additional indebtedness proposed to be issued or incurred.

(c) ***Other Indebtedness Secured in Whole or in Part with Junior Pledge of Subordinate Net Revenues.*** The City further reserves the right to issue Debt or other indebtedness secured in whole or in part with a lien on and pledge of Subordinate Net Revenues which is junior and subordinate to the lien on and pledge of Subordinate Net Revenues that has been granted in this Second Supplement to further secure the Series 2005 Bonds without the necessity of complying with any historical or projected revenue requirements unless otherwise required by the ordinance or ordinances which authorize the issuance of such Debt or other indebtedness.

**SECTION 12. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED SERIES 2005 BONDS.** (a) ***Replacement Series 2005 Bonds.*** In the event any outstanding Series 2005 Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new bond of the same series, principal amount, maturity, and interest rate, and in the same form, as the damaged, mutilated, lost, stolen, or destroyed Series 2005 Bond, in replacement for such Series 2005 Bond in the manner hereinafter provided.

(b) ***Application for Replacement Series 2005 Bonds.*** Application for replacement of damaged, mutilated, lost, stolen, or destroyed Series 2005 Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Series 2005 Bond, the applicant for a replacement bond 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 a Series 2005 Bond, the applicant shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Series 2005 Bond, as the case may be. In every case of damage or mutilation of a Series 2005 Bond, the applicant shall surrender to the Paying Agent/Registrar for cancellation the Series 2005 Bond so damaged or mutilated.

(c) ***Payment in Lieu of Replacement.*** Notwithstanding the foregoing provisions of this Section, in the event any such Series 2005 Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Series 2005 Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Series 2005 Bond) instead of issuing a replacement Series 2005 Bond, provided security or indemnity is furnished as above provided in this Section.

(d) ***Charge for Issuing Replacement Series 2005 Bonds.*** Prior to the issuance of any replacement bond, the Paying Agent/Registrar shall charge the owner of such Series 2005 Bond with all legal, printing, and other expenses in connection therewith. Every replacement bond issued pursuant to the provisions of this Section by virtue of the fact that any Series 2005 Bond is lost, stolen, or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Series 2005 Bond shall be found at any time, or be enforceable by anyone, and shall be

entitled to all the benefits of this Second Supplement equally and proportionately with any and all other Series 2005 Bonds duly issued under this Second Supplement.

(e) **Authority for Issuing Replacement Series 2005 Bonds.** In accordance with Chapter 1206, this Section shall constitute authority for the issuance of any such replacement bond without the necessity of further action by the City or any Person, and the duty of the replacement of such Series 2005 Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Series 2005 Bonds in the form and manner and with the effect, as provided in Section 5 of this Second Supplement for Series 2005 Bonds issued in exchange and replacement for other Series 2005 Bonds.

**SECTION 13. COVENANTS REGARDING TAX-EXEMPTION.** (a) **Covenants.** The City intends to issue the Series 2005 Bonds as Tax-Exempt Debt, and to that end hereby covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Series 2005 Bonds as obligations described in section 103 of 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 such action or refrain from such action which would result in the Series 2005 Bonds not being "exempt facility bonds" as the term is defined in section 142 of the Code; in particular, which would result in less than 95 percent of the net proceeds being used to provide an "airport" within the meaning of section 142(a)(1) of the Code;

(2) to take such action to assure at all times while the Series 2005 Bonds remain outstanding, that the facilities, directly or indirectly, financed with the proceeds thereof will be owned by a governmental unit;

(3) that no part of the facilities, directly or indirectly, financed with the proceeds of the Series 2005 Bonds will constitute (A) any lodging facility, (B) any retail facility (including food or beverage facilities) in excess of a size necessary to serve passengers and employees at the exempt facility, (C) any retail facility (other than parking) for passengers or the general public located outside the exempt facility terminal, (D) any office building for individuals who are not employees of a governmental unit or of the operating authority for the exempt facility, or (E) any industrial park or manufacturing facility;

(4) that the maturity of the Series 2005 Bonds does not exceed 120 percent of the economic life of the facilities, directly or indirectly, financed with the proceeds of the Series 2005 Bonds, as more specifically set forth in section 147(b) of the Code;

(5) that fewer than 25 percent of the proceeds of the Series 2005 Bonds will be used for the acquisition of land or an interest therein, unless such land is acquired for noise abatement or wetland preservation or the future use of the Airport, and there is no other significant use of such land;

(6) that any property acquired, directly or indirectly, with the proceeds of the Series 2005 Bonds was not placed-in-service prior to such acquisition unless the provisions of section 147(d) of the Code, relating to rehabilitation, are satisfied;

(7) that the costs of issuance to be financed with the proceeds of the Series 2005 Bonds do not exceed two (2) percent of the proceeds of the Series 2005 Bonds;

(8) to refrain from taking any action that would result in the Series 2005 Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(9) to refrain from using any portion of the proceeds of the Series 2005 Bonds, 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 Series 2005 Bonds, other than investment property acquired with --

(A) proceeds of the Series 2005 Bonds invested for a reasonable temporary period, within the meaning of Section 148 of the Code, of 5 years or less until such proceeds are needed for the purpose for which the Series 2005 Bonds are issued,

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

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Series 2005 Bonds;

(10) to otherwise restrict the use of the proceeds of the Series 2005 Bonds or amounts treated as proceeds of the Series 2005 Bonds, as may be necessary, to satisfy the requirements of section 148 of the Code (relating to arbitrage); and

(11) to create and maintain a Rebate Fund, as required below, to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Series 2005 Bonds) 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 Series 2005 Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code; and

(12) to maintain such records as will enable the City to fulfill its responsibilities under this section and section 148 of the Code and to retain such records for at least six years following the final payment of principal and interest on the Series 2005 Bonds.

In order to facilitate the requirements of subsection (11) of this Section, the Rebate Fund shall be established and maintained 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 Holders and Credit Providers. Amounts on deposit in the Rebate Fund in accordance with section 148 of the Code shall be paid periodically to the United States of America in such amounts and at such times as are required by said section.

(b) **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 Series 2005 Bonds. It is the understanding of the City that the covenants contained in this Supplement 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 Series 2005 Bonds, 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 Bond Counsel, will not adversely affect the exemption from federal income taxation of interest on the Series 2005 Bonds 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 Series 2005 Bonds, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of Bond Counsel, to preserve the exemption from federal income taxation of interest on the Series 2005 Bonds under section 103 of the Code.

(c) **Disposition of Project.** The City covenants that the property constituting the projects financed with the proceeds of the Series 2005 Bonds 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 Bond Counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Series 2005 Bonds. 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 on the Series 2005 Bonds.

(d) **Allocation of, and Limitation on, Expenditures for the Project.** The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 2 of this Supplement (the "Project") on its books and records by allocating proceeds to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed. The foregoing notwithstanding, the City shall not expend sale proceeds or investment earnings thereon more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Series 2005 Bonds, or (2) the date the Series 2005 Bonds are retired, unless the City obtains an opinion of Bond Counsel that such expenditure will not adversely affect the tax-exempt status of the Series 2005 Bonds. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion of Bond Counsel that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest on the Series 2005 Bonds.

(e) **Approval for Purposes of Section 147(f) of the Code.** The City hereby approves the issuance of the Series 2005 Bonds and the Projects to be financed with proceeds of the Series 2005 Bonds for the purposes of section 147(f) of the Code.

**SECTION 14. SECOND SUPPLEMENT AND MASTER PFC ORDINANCE TO CONSTITUTE A CONTRACT; EQUAL SECURITY.** In consideration of the acceptance of the Series 2005 Bonds, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Second Supplement shall be deemed to be and shall constitute a contract between the City and the Holders from time to time of the Series 2005 Bonds and the pledge made

in this Second Supplement by the City and the covenants and agreements set forth in this Second Supplement to be performed by the City shall be for the equal and proportionate benefit, security, and protection of all Holders, without preference, priority, or distinction as to security or otherwise of any of the Series 2005 Bonds authorized hereunder over any of the others by reason of time of issuance, sale, or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Second Supplement.

**SECTION 15. SEVERABILITY OF INVALID PROVISIONS.** If any one or more of the covenants, agreements, or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Series 2005 Bonds issued hereunder.

**SECTION 16. PAYMENT AND PERFORMANCE ON BUSINESS DAYS.** Except as provided to the contrary in the FORM OF SERIES 2005 BONDS, whenever under the terms of this Second Supplement or the Series 2005 Bonds, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Series 2005 Bonds, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Series 2005 Bonds, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

**SECTION 17. LIMITATION OF BENEFITS WITH RESPECT TO THE SECOND SUPPLEMENT.** With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Second Supplement or the Series 2005 Bonds is intended or should be construed to confer upon or give to any Person other than the City, the Holders, the Insurer and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Second Supplement or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Second Supplement and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City, the Holders, the Insurer and the Paying Agent/Registrar as herein and therein provided.

**SECTION 18. CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS, PREAMBLE AND INSURANCE.** The Designated Financial Officer is hereby authorized to have control of the Series 2005 Bonds issued hereunder and all necessary records and proceedings pertaining to the Series 2005 Bonds pending their delivery and approval by the Attorney General of the State of Texas. In accordance with the provisions of Chapter 1202, the Designated Financial Officer is hereby authorized to request that the Attorney General approve the Series 2005 Bonds, in which case the Designated Financial Officer also is authorized to request that the Comptroller of Public Accounts register the Series 2005 Bonds and to cause an appropriate legend reflecting such approval and registration to appear on the Series 2005 Bonds. The legal opinion of Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Series 2005 Bonds and on any Series 2005 Bonds issued and delivered in exchange or replacement of any Series 2005 Bond, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Series 2005 Bonds. The preamble to this

Second Supplement is hereby adopted and made a part of this Second Supplement for all purposes. If insurance is obtained on any of the Series 2005 Bonds, the Series 2005 Bonds shall bear, as appropriate and applicable, a legend concerning insurance as provided by the municipal bond insurance company issuing any such insurance.

**SECTION 19. COMPLIANCE WITH RULE 15c2-12.** (a) **Annual Reports.** (i) The City shall provide annually to each NRMSIR and any SID, within six months after the end of each fiscal year ending in or after 2005, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 3 of this Second Supplement, being the information described in Exhibit E hereto. Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in Exhibit E hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation. If the City commissions an audit of such statements and the audit is completed within the period during which they must be provided, a copy of such audit also shall be provided in accordance with the Rule. If any such audit of such financial statements, if one is commissioned by the City, is not complete within such period, then the City shall provide unaudited financial statements and audited financial statements for the applicable fiscal year to each NRMSIR and any SID, when and if the audit report on such statements become available.

(ii) 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.

(b) **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 Series 2005 Bonds, 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 Series 2005 Bonds;
7. Modifications to rights of holders of the Series 2005 Bonds;
8. Series 2005 Bond calls;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Series 2005 Bonds; 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 (a) of this Section by the time required by such subsection.

**(c) Limitations, Disclaimers, and Amendments.** (i) The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Series 2005 Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with this Second Supplement or applicable law that causes the Series 2005 Bonds no longer to be Outstanding.

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Series 2005 Bonds, 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 Series 2005 Bonds at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY SERIES 2005 BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Second Supplement for purposes of any other provision of this Second Supplement. 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.

(v) The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Series 2005 Bonds in the primary offering of the Series 2005 Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Second Supplement that authorizes such an amendment) of the Series 2005 Bonds then outstanding consent to such amendment or (b) a Person that is unaffiliated with the City (such as Bond Counsel) determines that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Series 2005 Bonds. 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 (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule

are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Series 2005 Bonds in the primary offering of the Series 2005 Bonds.

**SECTION 20. DEFEASANCE OF SERIES 2005 BONDS.** (a) *Defeased Series 2005 Bonds.* Any Series 2005 Bond and the interest thereon shall be deemed to be paid, retired and no longer Outstanding (a "Defeased Series 2005 Bond"), except to the extent provided in subsection (d) of this Section, when payment of the principal of such Series 2005 Bond, 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 similar instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the City with the Paying Agent/Registrar for the payment of its services until all Defeased Series 2005 Bonds shall have become due and payable. At such time as a Series 2005 Bond shall be deemed to be a Defeased Series 2005 Bond hereunder, as aforesaid, such Series 2005 Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the PFC Revenues or the subordinate lien on Net Revenues, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Second Supplement to the contrary, it is hereby provided that any determination not to redeem Defeased Series 2005 Bonds that is made in conjunction with the payment arrangements specified in subsections (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 Series 2005 Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Series 2005 Bonds 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 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 Series 2005 Bonds 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 Defeased Series 2005 Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsections (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 Series 2005 Bonds, with respect to which such money has been so deposited, shall be remitted to the City or deposited as directed in writing by the City.

(c) *Paying Agent/Registrar Services.* Until all Defeased Series 2005 Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Series 2005 Bonds the same as if they had not been defeased, and

the City shall make proper arrangements to provide and pay for such services as required by this Second Supplement.

(d) ***Selection of Series 2005 Bonds for Defeasance.*** In the event that the City elects to defease less than all of the principal amount of Series 2005 Bonds of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Series 2005 Bonds by such random method as it deems fair and appropriate.

**SECTION 21. FURTHER PROCEDURES.** The Mayor, any Designated Financial Officer, and all other officers, employees, and agents of the City, and each of them, 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 Second Supplement, the Series 2005 Bonds, the sale and delivery of the Series 2005 Bonds and fixing all details in connection therewith, and to approve any Official Statement, or supplements thereto, in connection with the Series 2005 Bonds. Specifically, but not by way of limitation, the Designated Financial Officer shall execute a certificate detailing the use of the proceeds of the Series 2005 Bonds.

**SECTION 22. BOND INSURANCE.** On the Issuance Date, the City will obtain from the Insurer a municipal bond insurance policy in support of the Series 2005 Bonds. To that end, for so long as said policy is in effect, the ordinance requirements of the Insurer, as a condition to the issuance of said policy, attached hereto as Exhibit F hereto, are incorporated by reference into this Second Supplement and made a part hereof for all purposes, notwithstanding any other provision of this Second Supplement to the contrary. If deemed necessary by the Attorney General's Public Finance Division in connection with their approval of the Series 2005 Bonds, the City Manager is hereby authorized to enter into an agreement with the Insurer to further evidence the requirements and the City's obligations set forth in Exhibit F.

**SECTION 23. RULES OF CONSTRUCTION.** For all purposes of this Second Supplement, unless the context requires otherwise, all references to designated Sections and other subdivisions are to the Sections and other subdivisions of this Second Supplement. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Second Supplement as a whole and not to any particular Section or other subdivision. Except where the context otherwise requires, terms defined in this Second Supplement to impart the singular number shall be considered to include the plural number and vice versa. References to any named Person means that party and its successors and assigns. References to any constitutional, statutory or regulatory provision means such provision as it exists on the date this Second Supplement is adopted by the City and any future amendments thereto or successor provisions thereof. Any reference to the payment of principal in this Second Supplement shall be deemed to include the payment of any mandatory sinking fund redemption payments as described herein.

**SECTION 24. INTERPRETATIONS.** The titles and headings of the Sections and subsections of this Second Supplement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof.

**SECTION 25. INCORPORATION OF RECITALS.** The City hereby finds that the statements set forth in the recitals of this Second Supplement are true and correct, and the City hereby incorporates such recitals as a part of this Second Supplement.

**SECTION 26. SEVERABILITY.** If any provision of this Second Supplement or the application thereof to any circumstance shall be held to be invalid, the remainder of this Second Supplement and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Second Supplement would have been enacted without such invalid provision.

**SECTION 27. DELEGATION OF AUTHORITY.** In respect to the delegation by the City of any authority to an officer or employee of the City under Chapter 1371 to perform any duty or responsibility hereunder, the City hereby finds that a finding or determination made by such officer or employee has the same force and effect as a finding or determination made by the governing body of the City.

**SECTION 28. REPEAL OF CONFLICTING ORDINANCES.** All ordinances and all parts of any ordinances (other than the Master PFC Ordinance and the Master GARB Ordinance) which are in conflict or inconsistent with this Second Supplement are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

**SECTION 29. EFFECTIVE DATE.** Pursuant to Section 1201.028, Texas Government Code, this Second Supplement shall be effective immediately upon adoption.

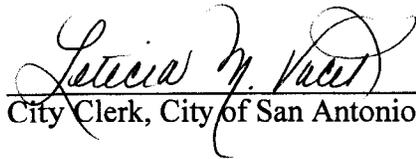
*[The remainder of this page intentionally left blank.]*

**PASSED AND APPROVED AS AN EMERGENCY MEASURE TO BE EFFECTIVE IMMEDIATELY BY AN AFFIRMATIVE VOTE OF \_\_\_\_\_ MEMBERS OF THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS AT A REGULAR MEETING ON THIS ON THIS 5<sup>TH</sup> DAY OF MAY, 2005.**



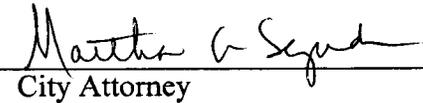
MAYOR

ATTEST:

  
\_\_\_\_\_  
City Clerk, City of San Antonio, Texas

(CITY SEAL)

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
City Attorney

\*\* \*\* \* \*\* \*

[SIGNATURE PAGE TO SECOND SUPPLEMENTAL ORDINANCE TO MASTER PFC ORDINANCE AND SEVENTH SUPPLEMENTAL ORDINANCE TO MASTER AIRPORT SYSTEM ORDINANCE]

# Agenda Voting Results

**Name:** 4.2B.

**Date:** 05/05/05

**Time:** 02:17:45 PM

**Vote Type:** Multiple selection

**Description:** Second Supplemental Ordinance to the Master Ordinance relating to the issuance of obligations secured in whole or in part with "Passenger Facility Charges" (the "Master PFC Ordinance") and Seventh Supplemental Ordinance to the Master Ordinance relating to the issuance of obligations secured with Gross Revenues of the City's Airport System (the "Master Airport System Ordinance") authorizing the issuance, sale, and delivery of City of San Antonio, Texas Passenger Facility Charge and Subordinate Lien Airport System Revenue Improvement Bonds, Series 2005; granting a first lien on Passenger Facility Charges under the Master PFC Ordinance and a lien on Subordinate Net Revenues of the Airport System under the Master Airport System Ordinance; approving and authorizing instruments and procedures relating thereto including a Purchase Contract and a Paying Agent/Registrar Agreement; and providing for an immediate effective date.

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
JOEL WILLIAMS	DISTRICT 2		x		
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		