

O-2009-18

AN ORDINANCE

AUTHORIZING THE ISSUANCE AND SALE OF \$3,800,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF LAKEWOOD, COLORADO, SALES AND USE TAX REVENUE REFUNDING BONDS, SERIES 2009 FOR THE PURPOSE OF REFUNDING THE CITY'S OUTSTANDING SALES AND USE TAX REVENUE REFUNDING BONDS, SERIES 1998 MATURING ON AND AFTER DECEMBER 1, 2010; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS; PROVIDING OTHER COVENANTS AND DETAILS IN CONNECTION THEREWITH; AND RATIFYING ACTION PREVIOUSLY TAKEN BY CITY OFFICIALS RELATING THERETO

WHEREAS, the City of Lakewood (the "**City**") is a legal and regularly created, established, organized and existing municipal corporation under the provisions of Article XX of the Constitution of the State of Colorado and the City Charter (the "**Charter**"); and

WHEREAS, pursuant to Ordinance No. 0-92-36 (the "**1992 Ordinance**"), the City issued \$16,095,000 aggregate principal amount of its Sales and Use Tax Revenue Bonds, Series 1992A (the "**Series 1992A Bonds**") for the purposes of (a) defraying the costs of (i) acquiring a public parking facility at the Westland Shopping Center, (ii) constructing, acquiring and installing certain capital improvements related to such facility and to certain surrounding City streets, (iii) constructing, acquiring and installing certain capital improvements at the municipal golf course known as Fox Hollow Golf Course, and (iv) acquiring approximately 10.5 acres of real property to be used for the expansion of the City's maintenance shops, and (b) paying costs of issuance thereof; and

WHEREAS, pursuant to Ordinance No. 0-97-75 (the "**1997 Ordinance**"), the City issued \$12,015,000 aggregate principal amount of its Sales and Use Tax Revenue Bonds, Series 1998 (the "**Series 1998 Bonds**") for the purpose of providing funds to provide for the refunding of the Series 1992A Bonds in accordance with the 1992 Ordinance; and

WHEREAS, the following 1998 Bonds, bearing interest at the rates designated below, payable semiannually on June 1 and December 1 each year, and maturing on December 1 in each of the years and amounts, remain outstanding under the terms of the 1997 Ordinance:

<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2009	\$ 1,140,000	5.25%
2010	1,200,000	4.55%
2011	1,255,000	4.65%
2012	1,315,000	4.70%

WHEREAS, the Series 1998 Bonds maturing on and after December 1, 2010 are redeemable in whole prior to their respective maturities, at the option of the City, on December 1, 2009, upon payment of the principal amount of each 1992 Bond so redeemed plus accrued interest, if any, thereon, without a premium; and

WHEREAS, the City is not delinquent in the payment of the principal of, premium of, or interest on any of the Series 1998 Bonds; and

WHEREAS, Article X, Section 20 of the Colorado Constitution permits the issuance of bonds without an election to refinance bonds at a lower rate of interest; and

WHEREAS, the City Council has determined and hereby declares that it is advantageous and favorable to the City to redeem on December 1, 2009 (the "**Redemption Date**") the outstanding 1998 Bonds maturing on and after December 1, 2010 (the "**Refunded Bonds**"); and

WHEREAS, the City Council determines to authorize and issue its Sales and Use Tax Revenue Refunding Bonds, Series 2009 (the "**Series 2009 Bonds**") in the aggregate principal amount of \$3,800,000 for the purpose of providing the moneys to pay the redemption price of the Refunding Bonds on the Redemption Date (the "**Refunding Project**"); and

WHEREAS, the City has received a written commitment from JPMorgan Chase Bank, N.A. (the "**Purchaser**"), Denver, Colorado, to purchase of the Series 2009 Bonds on the Redemption Date; and

WHEREAS, the City Treasurer has determined, and the City Council hereby determines and ratifies that, because of market conditions and the interest rate sensitivity of the Refunding Project, the Series 2009 Bonds shall be sold by negotiated sale pursuant to a bond purchase agreement between the City and the Purchaser (the "**Series 2009 Bond Purchase Agreement**") reflecting the terms for the Series 2009 Bonds set forth in the Purchaser's commitment, and that such sale is to the best advantage of the City; and

WHEREAS, a substantially final form of the Series 2009 Bond Purchase Agreement has been filed with the City Clerk; and

WHEREAS, it is necessary to provide for the form and details of the Series 2009 Bonds, the payment of the Series 2009 Bonds, the payment and discharge of the Refunded Bonds, and other provisions relating to the authorization, issuance and terms of the Series 2009 Bonds.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado:

SECTION 1.

ARTICLE 1. DEFINITIONS

Section 1.1. Definitions. As used herein, unless defined in the recitals to this Ordinance or the context requires otherwise, the capitalized terms below shall have the following meanings:

Additional Bonds: bonds, notes, certificates, contracts, or other similar obligations hereafter issued in accordance with Section 5.2 hereof, payable in whole or in part from the Pledged Revenues and having a lien thereon on a parity with the lien of the Series 2009 Bonds.

Bond Counsel: a nationally recognized bond counsel licensed to practice law in the State, the name of which is listed under Colorado in the Municipal Bond Attorneys section of the then most recent edition of The Bond Buyer's Municipal Marketplace, also known as the "Red Book", engaged by the City at its discretion.

Bond Fund: the "City of Lakewood, Colorado, Sales and Use Tax Bond Fund" created in Section 4.2(a) hereof.

Bonds: the Series 2009 Bonds and any Additional Bonds.

Business Day: a day on which banks located in the city or other jurisdiction in which the Paying Agent is located are not required or authorized to be closed and on which The New York Stock Exchange is not closed.

Charter: the home rule charter of the City, as it may be amended from time to time.

City: the City of Lakewood, Colorado.

City Clerk: the duly appointed and acting Clerk of the City.

City Code: means the Lakewood Municipal Code, as the same may from time to time be amended and supplemented.

City Council: the City Council of the City.

City Treasurer: the duly appointed and acting Treasurer of the City.

Commercial Bank: any national banking association organized under the laws of the United States of America, or any commercial bank, savings bank or trust company organized under the laws of any state of the United States of America or the District of Columbia, that is a lawful depository for public funds under the laws of the State for political subdivisions of the State, has a capital and surplus of \$10,000,000 or more, and is located within the United States of America.

Event of Default: one or more of the events set forth in Section 8.1 of this Ordinance.

Federal Securities: direct general obligations of, or obligations the full and timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

Fiscal Year: the twelve months commencing on the first (1st) day of January of any calendar year and ending on the thirty-first (31st) day of December of such calendar year, or such other twelve month period as may from time to time be designated by the City Council as the Fiscal Year of the City.

Maximum Annual Debt Service Requirement: as of any date of calculation, the maximum amount of all required payments of principal and interest on the Bonds Outstanding thereafter coming due in the then current or any future Fiscal Year.

Ordinance: this Ordinance, as it may be amended or supplemented from time to time.

Outstanding: as of any date of calculation, all Bonds theretofore executed, issued and delivered by the City except:

(1) Bonds theretofore canceled by the City, Registrar or Paying Agent, or surrendered to the City, Registrar or Paying Agent for cancellation;

(2) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the City and authenticated by the Registrar unless proof satisfactory to the Registrar is presented that any such Bonds are duly held by the lawful registered owners thereof; or

(3) Bonds deemed to have been paid as provided in Section 6.1 hereof.

Owner: when used with respect to a Bond or Bonds Outstanding, means the registered owner of such Bond.

Paying Agent: the City Treasurer, or, if the City appoints a Commercial Bank to serve as the Paying Agent under this Ordinance, such Commercial Bank or its successor.

Permitted Investments: any of the following investments or deposits which are at the time permitted by the Charter and applicable ordinances or other provisions of applicable statutes:

- (1) Federal Securities;
- (2) Bonds or other interest bearing obligations which are direct obligations of the State, or any city, county, city and county, or school district of the State which are rated at least "AA" by S & P;
- (3) Repurchase agreements which are fully secured by Federal Securities which are in the physical possession of the City or the trust department of any bank, trust company or national banking association insured by the Federal Deposit Insurance Corporation (or any successor thereto) pursuant to a written agreement with the City or in which Federal Securities the City or such trust department has the sole, fully perfected first priority security interest; and
- (4) Time deposits or demand deposits in and certificates of deposits of Commercial Banks appropriately secured according to the laws of the State.

Pledged Revenues: collectively, any and all of the following:

- (1) the revenues derived from the Sales and Use Tax;
- (2) any additional taxes (other than a general ad valorem tax), funds or revenues which the City hereafter pledges to the payment of the Bonds;
- (3) proceeds of the Bonds or other legally available moneys deposited into and held in any fund created under this Ordinance; and
- (4) interest or investment income on any fund created under this Ordinance.

Principal Operations Office: initially, the office of the City Treasurer, or, if a commercial bank is appointed to serve as the Registrar and the Paying Agent under this Ordinance, the principal operations office of the Registrar or the Paying Agent as designated from time to time.

Purchaser: with respect to the Series 2009 Bonds, JPMorgan Chase Bank, N.A., Denver, Colorado, as the original purchaser of the Series 2009 Bonds pursuant to the Bond Purchase Agreement; and, with respect to any Additional Bonds, the original purchaser or purchasers thereof set forth in or pursuant to the Supplemental Ordinance relating to such Additional Bonds.

Rebate Fund: the "City of Lakewood, Colorado, Sales and Use Tax Rebate Fund" created in Section 4.4 hereof.

Record Date: the fifteenth day of the calendar month next preceding each

interest payment date, whether or not a Business Day.

Registrar: the City Treasurer, or, if the City appoints a Commercial Bank to serve as the Registrar under this Ordinance, such Commercial Bank or its successor.

S&P: Standard & Poor's, a division of The McGraw-Hill Companies, Inc., or its successor; provided, however, if such company or service no longer issues credit ratings for the securities as to which this Ordinance sets forth a S&P rating requirement, S&P shall be deemed to mean a nationally recognized credit rating agency that provides such credit ratings, identified in a written notice by the City to the Paying Agent, subject, with respect to the Series 2009 Bonds, to the prior written consent of the Owners of two-thirds in aggregate principal amount of the Series 2009 Bonds then Outstanding.

Sales and Use Tax: collectively, (i) the sales tax levied (as of the date of the adoption of this Ordinance) by the City pursuant to Section 3.01.140(B) of the City Code on all sales of commodities and services specified in Section 3.01.120 of the City Code, at the rate of two percent (2%) of the amount of the sale, and (ii) two-thirds (2/3) of the three percent (3%) use tax levied (as of the date of the adoption of this Ordinance) by the City pursuant to Section 3.01.210 of the City Code for the privilege of storing, using, or consuming in the City any articles of tangible personal property or taxable services purchased at retail. The term "**Sales and Use Tax**" does not include:

- (i) incremental sales or use taxes which may be pledged to the payment of bonds pursuant to an urban renewal plan as defined in Colorado Revised Statutes § 31-25-103(a), as amended, or a plan of development as defined in Colorado Revised Statutes § 31-25-802 (6.4), as amended;
- (ii) amounts withheld by retailers and vendors to cover their expenses in collecting and remitting the Sales and Use Tax;
- (iii) amounts collected by the City and subsequently determined, pursuant to the Sales and Use Tax Ordinances, to be subject to valid claims for refunds;
- (iv) amounts collected by the City from the sales tax levied (as of the date of the adoption of this Ordinance) by the City pursuant to Section 3.01.140(D) of the City Code; or
- (v) the proceeds of any increase in the Sales and Use Tax which may be approved in the future, unless such increase is expressly pledged by the City. The term "Sales and Use Tax" does not include amounts in or required to be paid into the Rebate Fund or any similar arbitrage rebate fund for the Series 1998 Bonds, the Series 2009 Bonds or any Additional Bonds.

The term "**Sales and Use Tax**" does include the proceeds derived by the City

from any legally available tax or taxes or fees (other than a general ad valorem tax) which replace or supersede the Sales and Use Tax, regardless of whether such tax or taxes or fees are imposed by the City or the State or other political subdivision thereof.

Sales and Use Tax Ordinances: the ordinances adopted by the City Council for the purpose of adopting and enforcing the Sales and Use Tax and which are in effect on the date of this Ordinance and codified as Chapter 3.01 of the City Code, as such ordinances may later be amended or supplemented.

“SIFMA Index” means the Securities Industry and Financial Markets Association Municipal Swap Index, produced by Municipal Market Data, or if such index is not published, then such other index selected by the Treasurer which reflects the yield of tax-exempt seven-day variable rate demand bonds.

Special Record Date: a special date fixed to determine the names and addresses of registered Owners of Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest.

State: the State of Colorado.

Subordinate Lien Bonds: bonds, notes, certificates, contracts, or other similar obligations, issued in accordance with Sections 5.2(d) and (e) hereof, payable in whole or in part from the Pledged Revenues and having a lien thereon which is subordinate to the lien of the Series 2009 Bonds and any Additional Bonds, including, without limitation, certain obligations of the City under various contracts as may be in effect from time to time pursuant to which the City agrees to rebate portions of its sales and use tax revenues to other parties to such contracts which contracts are expressly subordinate to the lien of the Series 2009 Bonds on the Pledged Revenues.

Supplemental Act: the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes, as amended.

Supplemental Ordinance: an ordinance enacted after the original adoption of this Ordinance that supplements or amends such original, as then amended and supplemented.

Tax Code: the Internal Revenue Code of 1986, as amended, and applicable regulations and rulings thereunder or under any predecessor thereto.

Tax Exempt Bonds: Bonds with respect to which, upon the original issuance thereof, the City has received, in accordance with the Bond Purchase Agreement relating thereto, an opinion of Bond Counsel to the effect that the interest on such Bonds is excludable from gross income for federal income tax purposes.

Trust Bank: a Commercial Bank which is authorized to exercise and is exercising trust powers.

ARTICLE 2. THE SERIES 2009 BONDS

Section 2.1. Authority for this Ordinance. This Ordinance is adopted pursuant to the City's powers as a home rule city organized and operating under the Charter and Article XX of the State Constitution and pursuant to the Supplemental Act, the provisions of which the City hereby elects to apply to the issuance of the Series 2009 Bonds; and the City hereby determines that each and every matter and thing as to which provision is made herein is necessary in order to carry out and to effect the purposes hereof.

Section 2.2. Authorization of the Series 2009 Bonds. In accordance with the Charter, the constitution and laws of the State, including the Supplemental Act, and the provisions of this Ordinance, for the purpose of financing the Refunding Project, the City hereby authorizes the issuance of its sales and use tax revenue bonds, each to be designated "City of Lakewood, Colorado, Sales and Use Tax Revenue Refunding Bond, Series 2009," in the aggregate principal amount of \$3,800,000.

Section 2.3. Series 2009 Bond Details.

(a) The Series 2009 Bonds shall be issued in fully registered form (*i.e.*, registered as to payment of both principal and interest). The Series 2009 Bonds shall be issuable in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. The Series 2009 Bonds shall be numbered in such manner as the Registrar shall determine.

(b) The Series 2009 Bonds shall be initially dated their date of original issuance, shall mature on December 1, 2012 in the principal amount of \$3,800,000, subject to prior mandatory sinking fund redemption pursuant to Section 2.4(b) hereof, and shall bear interest (based on a 360-day year consisting of twelve 30-day months) at 2.53% per annum from their date until maturity, payable semiannually on each June 1 and December 1, commencing on June 1, 2010, except that any Series 2009 Bond that is reissued upon transfer, exchange or other replacement shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from the date of the Series 2009 Bonds.

(c) Notwithstanding Section 3.4 hereof or any other provision in this Ordinance to the contrary, the Series 2009 Bonds may be transferred in whole or in part by any Owner, only to (i) any "accredited investor" (as defined in Rule 501(a)(1), (2), (3), (4), (7) or (8) Regulation D promulgated under the Securities Act of 1933, as amended), or (ii) any Qualified Institutional Buyer (as defined in Rule 144A promulgated under the Securities Act of 1933, as amended). The Registrar shall not register any transfer or exchange of any Series 2009 Bonds unless an Owner's prospective transferee delivers to the Registrar the form of an investor's letter substantially in the form set forth in Exhibit A to this Ordinance. The Registrar shall be entitled to rely, without any further inquiry, on any investor's letter delivered to it and shall be fully protected in registering any transfer or exchanges of any Series 2009 Bonds in reliance on any such investor's

letter which appears on its face to be correct and of which the Registrar has no actual knowledge otherwise. The term "actual knowledge" means the fact of knowledge without any duty to investigate. ANY SUCH OWNER DESIRING TO EFFECT SUCH TRANSFER SHALL AGREE TO INDEMNIFY THE CITY AND THE REGISTRAR FROM AND AGAINST ANY AND ALL LIABILITY, COSTS OR EXPENSES (INCLUDING ATTORNEYS' FEES) THAT MAY ARISE OR RESULT FROM ANY ACTUAL OR THREATENED LITIGATION, CLAIMS, PROCEEDINGS, INVESTIGATIONS OR OTHERWISE BASED ON SUCH TRANSFER OR THE UNSUITABILITY OF THE TRANSFERRED SERIES 2009 BONDS FOR OWNERSHIP BY THE TRANSFEREE IF THE REPRESENTATIONS OF THE TRANSFEREE CONTAINED IN THE INVESTOR'S LETTER ACCOMPANYING SUCH TRANSFER ARE FALSE IN ANY MATERIAL RESPECT. THE REGISTRAR IS AUTHORIZED AND DIRECTED TO PUT A STOP ORDER ON THE BOND REGISTRATION BOOKS IT MAINTAINS IN REGARDS TO THE FOREGOING RESTRICTIONS ON THE TRANSFER OF THE SERIES 2009 BONDS.

Section 2.4. Prior Redemption of Series 2009 Bonds.

(a) Optional Redemption. The Series 2009 Bonds shall not be subject to optional redemption prior to maturity.

(b) Mandatory Sinking Fund Redemption. The Series 2009 Bonds shall be subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of the Series 2009 Bonds, there shall be redeemed (after any credits hereinafter provided for) on December 1 in the following years the following principal amounts of Series 2009 Bonds:

<u>Year</u>	<u>Principal Amount</u>
2010	\$ 1,235,000
2011	1,265,000

The remaining \$1,300,000 of the Series 2009 Bonds maturing on December 1, 2012 shall be paid upon presentation and surrender at maturity in accordance with the Bond Ordinance.

The City shall not be required to provide any notice of mandatory sinking fund redemption to the Owner or Owners of the Series 2009 Bonds. The principal amount of the Series 2009 Bonds subject to mandatory sinking fund redemption shall be reduced by the principal amount of Series 2009 Bonds or portions thereof that have been purchased by the City or Series 2009 Bonds or portions thereof that the Registrar has canceled upon tender and delivery thereof by an Owner for such purpose. If and to the extent the principal amount of a Series 2009 Bond shall be reduced through mandatory sinking fund redemption, the Owner thereof may surrender and present such Series 2009 Bond to the Registrar for a replacement Series 2009 Bond in the principal amount

remaining after such redemption, or may note on such Series 2009 Bond or affix to such Series 2009 Bond a statement indicating said remaining principal amount; provided, however, if the Owner of such Series 2009 Bond shall note thereon or affix thereto a statement indicating said remaining principal amount and such notation or statement contains an error, the records of the Paying Agent shall control the determination of the principal amount of such Series 2009 Bond Outstanding.

Section 2.5. Form and Execution of Series 2009 Bonds. The Series 2009 Bonds shall be signed with the facsimile or manual signature of the Mayor or Mayor Pro Tem of the City, sealed with a facsimile or manual impression of the seal of the City, countersigned by the facsimile or manual signature of the City Treasurer, and attested by the facsimile or manual signature of the City Clerk. Should any officer whose facsimile or manual signature appears on the Series 2009 Bonds cease to be such officer before delivery of the Series 2009 Bonds to the Purchaser, such facsimile or manual signature shall nevertheless be valid and sufficient for all purposes.

The Series 2009 Bonds shall be in substantially the following form (provided that any of the text of the Series 2009 Bonds may, with appropriate reference, be printed on the back of the Series 2009 Bonds) with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Ordinance, or be consistent with this Ordinance and necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:

[Form of Series 2009 Bond]

THE ORIGINAL ISSUANCE OF THIS BOND WAS MADE IN A PRIMARY OFFERING THAT WAS EXEMPT FROM THE REQUIREMENTS OF RULE 15c2-12 PROMULGATED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED; THEREFORE, THE ISSUER OF THIS BOND WAS NOT REQUIRED TO UNDERTAKE, AND HAS NOT UNDERTAKEN, TO PROVIDE CONTINUING DISCLOSURE OF ANNUAL FINANCIAL INFORMATION AND NOTICES OF ANY MATERIAL EVENTS WITHIN THE MEANING OF RULE 15c2-12.

THIS BOND MAY BE TRANSFERRED IN WHOLE OR IN PART BY THE OWNER, ONLY AS PROVIDED IN SECTION 2.3(c) OF THE HEREINAFTER-DEFINED BOND ORDINANCE. EXCEPT AS OTHERWISE PROVIDED IN THE BOND ORDINANCE, THE REGISTRAR (AS DEFINED IN THE BOND ORDINANCE) SHALL NOT REGISTER ANY TRANSFER OF THIS BOND UNLESS SUCH OWNER'S PROSPECTIVE TRANSFEREE DELIVERS TO THE TRUSTEE AN INVESTOR'S LETTER SUBSTANTIALLY IN THE FORM SET FORTH IN EXHIBIT A TO THE BOND ORDINANCE.

No. R- _____

\$ _____

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF JEFFERSON

CITY OF LAKEWOOD

SALES AND USE TAX REVENUE REFUNDING BOND, SERIES 2009

INTEREST RATE

MATURITY DATE

DATED AS OF

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The City of Lakewood, in the County of Jefferson and State of Colorado, a municipal corporation duly organized and operating under the City Charter and the constitution and laws of the State of Colorado (the "**City**"), for value received, hereby promises to pay from the special funds and accounts hereafter designated, but not otherwise, to the Registered Owner named above, or registered assigns, on the Maturity Date specified above (unless called for earlier redemption), the Principal Amount specified above, and in like manner to pay interest on such principal amount at the Interest Rate per annum specified above, payable semiannually on June 1 and December 1 each year, commencing on June 1, 2010, until such principal amount is paid, unless this Bond shall have been previously called for redemption and payment

shall have been duly made. Except as otherwise provided in Ordinance O-2009-18 adopted by the City Council of the City on April 27, 2009, authorizing the Series 2009 Bonds (the "**Bond Ordinance**"), the principal of this Bond is payable upon presentation and surrender hereof at the principal operations office of the paying agent (the "**Paying Agent**") for the City's Excise Tax Revenue Refunding Bonds, Series 2009 (the "**Series 2009 Bonds**"), presently the City Treasurer of the City. Interest on this Bond will be paid on each interest payment date (or, if such interest payment date is not a Business Day, on the next succeeding Business Day), by check or draft mailed by the Paying Agent to the person in whose name this Bond is registered (the "**Owner**") in the registration records of the City's bond registrar (the "**Registrar**"), presently the City Treasurer of the City, and at the address appearing thereon at the close of business on the fifteenth day of the calendar month (whether or not a Business Day) next preceding such interest payment date (the "**Record Date**"). Any such interest not so timely paid shall cease to be payable to the person who is the Owner hereof at the close of business on the Record Date (defined in the Bond Ordinance) and shall be payable to the person who is the Owner hereof at the close of business on a Special Record Date (as defined in the Bond Ordinance) for the payment of defaulted interest. Such Special Record Date and the date for the payment of such interest shall be fixed by the Registrar whenever moneys become available for payment of the defaulted interest.

Notice of the Special Record Date and the date for the payment of such interest shall be given to the Owners of the Series 2009 Bonds not less than ten days prior to the Special Record Date. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or Registrar.

Notwithstanding the foregoing, mandatory sinking fund installments on this Bond (unless the Owner hereof elects to present and surrender this Bond for payment), and interest hereon, shall be paid by wire transfer of immediately available funds to the Owner hereof on the applicable principal payment date or interest payment date, as the case may be, if the Owner hereof (i) is the Owner of Series 2009 Bonds Outstanding in an aggregate principal amount at least equal to \$1,000,000 or all of the Series 2009 Bonds Outstanding, and (ii) prior to the Record Date with respect to such applicable principal payment date or interest payment date, provides a written request to the City, the Paying Agent (as defined in the Bond Ordinance) and the Registrar to receive such mandatory sinking fund installment(s) and interest payments by such wire transfer, and the name, address and ABA identification number of the bank, the bank account, and the routing number to accomplish such wire transfer are included, to the satisfaction of the Paying Agent, in such request.

The Series 2009 Bonds of which this Bond is one are all of like date, tenor, and effect except as to number, principal amount, interest rate, and date of maturity, and are issued by the City for the purpose of refunding certain bonds of the City under the authority of and in full conformity with the City's home rule charter, the constitution and laws of the State of Colorado, and pursuant to the duly adopted Bond Ordinance.

The principal of and interest on this Bond are payable only from the proceeds to be derived by the City from the Sales and Use Tax (as defined in the Bond Ordinance) and from any taxes which hereafter may be imposed by the City in addition thereto or in substitution therefor, any taxes, funds or revenues which the City hereafter pledges to the payment of the Series 2009 Bonds, certain other moneys held in the Bond Fund (as defined in the Bond Ordinance), and investment income on certain funds, all to the extent that such moneys are at any time required to be deposited into and held in the Bond Fund created by, and as provided in, the Bond Ordinance, subject to certain exceptions and exclusions as provided in the Bond Ordinance (the "**Pledged Revenues**"). This Bond constitutes a first and prior lien, but not necessarily an exclusively first lien, on the Pledged Revenues. Obligations in addition to the Series 2009 Bonds may be issued and made payable from the Pledged Revenues, having a lien thereon subordinate and junior to the lien of the Series 2009 Bonds of this issue (including, without limitation, certain existing subordinate obligations described in the Bond Ordinance); or, subject to expressed conditions, having a lien on the Pledged Revenues on a parity with the lien of the Series 2009 Bonds, in accordance with the provisions of the Bond Ordinance.

It is hereby recited, certified, and warranted that for the payment of this Bond, the City has created and will maintain the special funds and accounts referred to above, and will deposit therein the Pledged Revenues, and out of said special funds, as an irrevocable charge thereon, will pay the principal of and interest on this Bond in the manner provided by the Bond Ordinance. For a description of such funds and accounts, the Pledged Revenues, the manner in which the Bond Ordinance may be amended, and the nature and extent of the security afforded thereby for the payment of this Bond, reference is made to the Bond Ordinance.

This Bond is payable solely from such Pledged Revenues, does not constitute a debt of the City within the meaning of any constitutional, home rule charter, or statutory limitation, and shall not be considered or held to be a general obligation of the City.

It is further hereby recited, certified, and warranted that the City has fully complied with all the requirements of law in issuing this Bond.

The Series 2009 Bonds shall not be subject to optional redemption prior to maturity.

The Series 2009 Bonds shall be subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. As and for a sinking fund for the redemption of the Series 2009 Bonds, there shall be redeemed (after any credits hereinafter provided for) on December 1 in the following years the following principal amounts of Series 2009 Bonds:

<u>Year</u>	<u>Principal Amount</u>
2010	\$ 1,235,000
2011	1,265,000

The remaining \$1,300,000 of the Series 2009 Bonds maturing on December 1, 2012 shall be paid upon presentation and surrender at maturity in accordance with the Bond Ordinance.

The City shall not be required to provide any notice of mandatory sinking fund redemption to the Owner or Owners of the Series 2009 Bonds. The principal amount of the Series 2009 Bonds subject to mandatory sinking fund redemption shall be reduced by the principal amount of Series 2009 Bonds or portions thereof that have been purchased by the City or Series 2009 Bonds or portions thereof that the Registrar has canceled upon tender and delivery thereof by an Owner for such purpose. If and to the extent the principal amount of this Bond shall be reduced through mandatory sinking fund redemption, the Owner hereof may surrender and present this Bond to the Registrar for a replacement Bond in the principal amount remaining after such redemption, or may note on this Bond or affix to this Bond a statement indicating said remaining principal amount; provided, however, if the Owner of this Bond shall note on this Bond or affix to this Bond a statement indicating said remaining principal amount and such notation or statement contains an error, the records of the Paying Agent shall control the determination of the principal amount of this Bond Outstanding. Unless, on or before an applicable Record Date in respect of any December 1 on which the City shall be required to reduce the principal amount of this Bond through a mandatory sinking fund redemption payment, the Owner of this Bond provides written notice to the Paying Agent that it elects to present and surrender this Bond for payment of the applicable mandatory sinking fund redemption installment, the Paying Agent shall deem the person in whose name this Bond is registered on the registration books kept by the Registrar on the fifteenth (15th) day prior to such principal payment date as the Owner hereof on such mandatory sinking fund redemption date, and shall make payment of the applicable mandatory sinking fund installment by check or draft mailed by the Paying Agent, on or before the applicable December 1 (or, if such December 1 is not a Business Day, on or before the next succeeding Business Day) to the Owner of this Bond at his or her address as it last appears on the registration records kept by the Registrar on such fifteenth (15th) day prior to such principal payment date.

The City and the Registrar shall not be required to transfer or exchange any Series 2009 Bond subject to mandatory sinking fund redemption during the period beginning at the opening of business on the fifteenth (15th) day prior to the applicable principal payment date for such mandatory sinking fund redemption installment and such principal payment date, unless the Owner of such Series 2009 Bond shall have elected to receive payment of the applicable mandatory sinking fund redemption upon presentation and surrender of such Series 2009 Bond to the Paying Agent. Except as

otherwise provided with respect to record dates for the payment of interest, the City, the Paying Agent and the Registrar may deem and treat the Owner of any Series 2009 Bond as the absolute Owner thereof for all purposes (whether or not such Bond shall be overdue) and any notice to the contrary shall not be binding upon the City, the Paying Agent or the Registrar.

Upon surrender of this Bond at the principal operations office of the Registrar with a written instrument satisfactory to the Registrar duly executed by the Owner or his duly authorized attorney, this Bond may, at the option of the Owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such Bonds of the same maturity but of other authorized denominations, subject to the terms and conditions and upon payment of the charges provided in the Bond Ordinance.

Except as stated above and subject to satisfaction of the transfer restrictions set forth in Section 2.3(c) of the Bond Ordinance, this Bond is fully transferable by the Owner hereof in person or by his or her duly authorized attorney on the registration records kept by the Registrar upon surrender of this Bond together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered Bond of authorized denomination or denominations of the same aggregate principal amount and maturity will be issued to the transferee in exchange for this Bond, subject to the terms and conditions and upon payment of the charges provided in the Bond Ordinance.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the certificate of authentication hereon shall have been manually signed by the Registrar.

IN TESTIMONY WHEREOF, the City Council of the City of Lakewood has caused this Bond to be signed by the manual or facsimile signature of the Mayor [or Mayor Pro Tem] of the City, sealed with a manual or facsimile impression of the seal of the City, countersigned by the manual or facsimile signature of the City Treasurer, and attested by the manual or facsimile signature of the City Clerk, all as of the 1st day of December, 2009.

CITY OF LAKEWOOD, COLORADO

(SEAL OR FACSIMILE)

Bob Murphy, Mayor

COUNTERSIGNED:

Larry Dorr, City Treasurer

ATTESTED:

Margy Greer, City Clerk

[Form of Registrar's Certificate of Authentication]

CERTIFICATE OF AUTHENTICATION

Date of Registration
and Authentication:

This Bond is one of the Series 2009 Bonds of the issue described in the within-mentioned Bond Ordinance, and this Bond has been duly registered in the registration records kept by the undersigned as Registrar.

**CITY TREASURER, CITY OF LAKEWOOD,
COLORADO**, as Registrar

By: _____
Larry Dorr, City Treasurer

[Form of Transfer]

ASSIGNMENT

FEES AND TAXES MAY BE CHARGED
FOR TRANSFER OR EXCHANGE OF THIS BOND.

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto _____
_____ the within Bond and does hereby irrevocably constitute and
appoint _____ attorney, to transfer said Bond on the
records kept for registration thereof with full power of substitution in the premises

Signature of Owner:

NOTICE: The signature to this
assignment must correspond with the
name of the Owner as it appears upon
the face of the within Bond in every
particular, without alteration or
enlargement or any change whatever.

Dated: _____

Signature guaranteed:

(Bank, Trust Company, or Firm)
Signature must be guaranteed by a
member of the Medallion Signature Program

Address or transferee:

Social Security or other tax identification
number of transferee:

Section 2.6. Delivery of Series 2009 Bonds. On or prior to the closing date for the issuance and sale of the Series 2009 Bonds, the City shall execute the Series 2009 Bonds and deliver them to the Registrar, and the Registrar shall authenticate the Series 2009 Bonds and deliver them to the Purchasers, as directed by the City, in accordance with the Series 2009 Bond Purchase Agreement.

Section 2.7. Disposition of Series 2009 Bond Proceeds. The Series 2009 Bonds, when executed and registered as provided by law, shall be delivered to the Purchaser as directed by the Mayor or the City Treasurer of the City, and proceeds derived therefrom shall be used exclusively for the purposes of: (i) paying to the paying agent for the Refunded Bonds an amount sufficient to pay the Redemption Price of the Refunded Bonds on the Redemption Date, and (ii) paying the costs of the Refunding Project. After the payment of such costs of the Refunding Project, any unexpended balance of Bond proceeds may be deposited into the Bond Fund for the payment of the principal of the Series 2009 Bonds next due or applied to other lawful uses. Neither the Purchaser nor any subsequent Owners of the Series 2009 Bonds shall be responsible for the application or disposal by the City or any of its officers of the funds derived from the sale thereof.

ARTICLE 3. GENERAL TERMS OF BONDS

Section 3.1. Special Obligations; Pledge; Negotiability.

(a) All of the Bonds, together with the interest thereon, shall be secured by, and payable only out of, the Pledged Revenues. The Owner or Owners of the Bonds may not look to any *ad valorem* property taxes levied or collected by the City or any general funds of the City for the payment of the principal of and interest on the Bonds, and the Bonds shall not constitute a debt or an indebtedness of the City within the meaning of any constitutional, Charter, or statutory provision or limitation; nor shall they be considered or held to be general obligations of the City. None of the covenants, agreements, representations and warranties contained herein or in the Bonds shall ever impose or be construed as imposing any liability, obligation or charge against the City (except to the extent of the Pledged Revenues which are to be deposited in the Bond Fund and, if applicable, any debt service reserve fund for Additional Bonds as provided in the Supplemental Ordinance authorizing such Additional Bonds) or its general credit, payable out of its general funds or out of any funds derived from *ad valorem* property taxation. The payment of the Bonds is not secured by an encumbrance, mortgage or other pledge of any property, except the Pledged Revenues which are to be deposited in the Bond Fund and, if applicable, any reserve fund established for any Additional Bonds as provided in the Supplemental Ordinance authorize such Additional Bonds.

(b) The City hereby irrevocably pledges the Pledged Revenues which are to be deposited on the terms provided herein, for the payment of the principal of and interest on the Bonds. Such pledge shall create an irrevocable and first lien (but not an exclusive first lien) on the Pledged Revenues.

(c) The covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the registered Owners of any and all of the Outstanding Bonds, all of which, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction, except as otherwise expressly provided in or pursuant to this Ordinance.

(d) The issuance of the Bonds of a series by the City shall constitute a warranty by and on behalf of the City for the benefit of each and every Owner of any of the Bonds of such series that such Bonds have been issued for valuable consideration in full conformity with law. Subject to the bond registration provisions hereof, the Bonds authorized by this Ordinance shall be fully negotiable and shall have all the qualities of negotiable paper, and the registered Owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Colorado Uniform Commercial Code. The principal of and interest on the Bonds shall be paid, and the Bonds shall be transferable, free from and without regard to any equities between the City and the original or any intermediate Owner of any Bonds or any setoffs or cross-claims.

Section 3.2. Payment of Bonds; Paying Agent and Registrar.

(a) The principal of the Bonds shall be payable to the Owner of each Bond upon maturity or prior redemption thereof and, except as otherwise provided herein with respect to payments of principal upon mandatory sinking fund redemption, upon presentation and surrender at the Principal Operations Office of the Paying Agent. Unless, on or before an applicable Record Date in respect of any December 1 on which the City shall be required to reduce the principal amount of a Bond through a mandatory sinking fund redemption payment, the Owner of such Bond provides written notice to the Paying Agent that it elects to present and surrender such Bond pursuant to the immediately preceding sentence, the Paying Agent shall deem the person in whose name such Bond is registered on the registration books kept by the Registrar on the Record Date as the Owner thereof on such mandatory sinking fund redemption date, and shall make payment of the applicable mandatory sinking fund installment by check or draft mailed by the Paying Agent, on or before the applicable December 1 (or, if such December 1 is not a Business Day, on or before the next succeeding Business Day) to the Owner of such Bond at his or her address as it last appears on the registration records kept by the Registrar on the Record Date. If any Bond shall not be paid when due, it shall continue to draw interest at the interest rate borne by said Bond until the principal thereof is paid in full. Payment of interest on any Bond shall be made to the Owner thereof by check or draft mailed by the Paying Agent, on or before each interest payment date (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to the Owner thereof at his or her address as it last appears on the registration records kept by the Registrar on the Record Date; but any such interest not so timely paid shall cease to be payable to the person who is the Owner thereof at the close of business on the Record Date and shall be payable to the person who is the Owner thereof at the close of business on a Special Record Date for the payment of such defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for payment of the defaulted interest,

and notice of the Special Record Date shall be given to the Owners of the Bonds not less than ten days prior to the Special Record Date by first-class mail to each such Owner as shown on the Registrar's registration records on a date selected by the Registrar, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Paying Agent; provided, however, if the Paying Agent is not the City Treasurer, the City shall not be required to make funds available to the Paying Agent prior to the payment dates stated in this Ordinance. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or the Registrar. Notwithstanding the foregoing, mandatory sinking fund installments on any Bond of a series (other than a Bond as to which the Owner thereof elects to present and surrender such Bond for payment), and interest on any Bond of a series, shall be paid by wire transfer of immediately available funds to the Owner thereof on the applicable principal payment date or interest payment date, as the case may be, if such Owner (i) is the Owner of Bonds Outstanding of such series in an aggregate principal amount at least equal to \$1,000,000 or all of the Bonds Outstanding of such series, and (ii) prior to the Record Date with respect to such applicable principal payment date or interest payment date, provides a written request to the City, the Paying Agent and the Registrar to receive such mandatory sinking fund installment(s) and interest payments by such wire transfer, and the name, address and ABA identification number of the bank, the bank account, and the routing number to accomplish such wire transfer are included, to the satisfaction of the Paying Agent, in such request.

(b) If the Registrar or the Paying Agent is not the City Treasurer, the Registrar or Paying Agent may resign on thirty days prior written notice to the City, provided that no such resignation shall be effective until a successor Registrar and Paying Agent is appointed, which may be the City Treasurer. Whenever the Registrar or the Paying Agent is not the City Treasurer, the City at any time may reasonably determine that the Registrar or Paying Agent is incapable of fulfilling its duties hereunder and may remove it upon thirty (30) days prior written notice. If the City Treasurer shall substitute another Registrar or Paying Agent for the City Treasurer in such capacity or if another Registrar or Paying Agent shall resign, or shall be removed by the City, the City may appoint, upon notice mailed to each Owner at his or her address last shown on the registration records maintained by the Registrar, a successor to such Registrar or Paying Agent. Every such successor Registrar or Paying Agent shall be a Commercial Bank organized and in good standing under the laws of the United States of America, a state thereof or the District of Columbia. If the Registrar or the Paying Agent is not the City Treasurer, the same Commercial Bank shall not be required to serve as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

Section 3.3. Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication on such Bond substantially in the form required for such

Bond under this Ordinance shall have been duly manually executed by the Registrar, and such executed certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The Registrar's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Registrar, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder. By authenticating any of the Bonds initially delivered pursuant to this Ordinance, the Registrar and Paying Agent shall be deemed to have assented to the provisions of, and to have agreed to abide by and to perform the respective duties provided for them in, this Ordinance.

Section 3.4. Registration, Transfer and Exchange.

(a) Records for the registration and transfer of the Bonds shall be kept by the Registrar, which is hereby appointed by the City as registrar and transfer agent for the Bonds. Except as otherwise provided herein, upon the surrender for transfer of any Bond at the Principal Operations Office of the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney duly authorized in writing, the Registrar shall enter such transfer on the registration records and shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not previously assigned. Bonds may be exchanged at the Principal Operations Office of the Registrar for an equal aggregate principal amount of Bonds of the same maturity of other authorized denominations. The Registrar shall authenticate and deliver a Bond or Bonds which the Owner making the exchange is entitled to receive, bearing a number or numbers not previously assigned. The Registrar may impose reasonable charges in connection with such exchanges and transfers of Bonds, which charges (as well as any tax or other governmental charge required to be paid with respect to such exchange or transfer) shall be paid by the Owner requesting such exchange or transfer.

(b) The Registrar shall not be required to transfer or exchange (i) all or any portion of any Bond subject to prior redemption during the period beginning at the opening of business fifteen (15) days before the day of the mailing by the Registrar of notice calling any Bonds for prior redemption as herein provided and ending at the close of business on the day of such mailing, or (ii) all or any portion of a Bond after the mailing of notice calling such Bond or any portion thereof for prior redemption. In addition, if a Bond permits an Owner to receive payment of a mandatory sinking fund redemption installment without presentation and surrender of such Bond to the Paying Agent, the Registrar shall not be required to transfer or exchange such Bond subject to mandatory sinking fund redemption during the period beginning at the opening of business on the fifteenth (15th) day prior to the applicable principal payment date for such mandatory sinking fund redemption installment and such principal payment date, unless the Owner of such Bond shall have elected to receive payment of the applicable mandatory sinking fund redemption upon presentation and surrender of such Bond to the Paying Agent.

(c) The person in whose name any Bond shall be registered on the registration records kept by the Registrar shall be deemed and regarded as the absolute Owner thereof for the purpose of making payment of the principal thereof, and premium, if any, and interest thereon, and for all other purposes; and payment of or on account of principal of and interest on any Bond shall be made only to or upon the written order of the Owner thereof or his or her legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

(d) The officers of the City are authorized to deliver to the Registrar fully executed but unauthenticated Bonds in such quantities as may be convenient to be held in custody by the Registrar pending use as herein provided.

Section 3.5. Cancellation and Destruction of Bonds. Whenever any Outstanding Bond shall be delivered to the Registrar for payment pursuant to this Ordinance and upon payment of the principal amount and interest represented thereby, such Bond shall be canceled and destroyed by the Registrar and recorded as such in the records of the Registrar. Whenever any Outstanding Bond shall be delivered to the Registrar for transfer pursuant to the provisions hereof, such Bond shall be canceled by the Registrar and counterparts of a certificate of cancellation shall be furnished by the Registrar to the City.

Section 3.6. Lost Bonds. If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar may, upon receipt of such evidence, information or indemnity relating thereto as it or the City may reasonably require, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not previously assigned. If such lost, stolen, destroyed or mutilated Bond shall have matured or shall have been called for redemption, the Registrar may direct that such Bond be paid by the Paying Agent in lieu of replacement. The Registrar and the City may require that the Owner of any such Bond pay their reasonable fees, charges and expenses relating to their activities pursuant to this Section.

ARTICLE 4. FUNDS AND ACCOUNTS

Section 4.1. Payment of Principal and Interest. The Pledged Revenues shall be accounted for separately and shall be identifiable at all times. The Pledged Revenues shall be applied in the following manner and order:

(i) First, to the payment of the principal of, and redemption premium, if any, and interest on the Bonds when due, or to make deposits to the Bond Fund in the amounts and at the times set forth in Section 4.2 hereof if and to the extent required thereunder;

(ii) Second, to make deposits to any reserve funds established with respect to Additional Bonds under the respective Supplemental Ordinances authorizing such Additional Bonds;

(iii) Third, to the Rebate Fund, in the amounts and at the times set forth in Section 4.3 hereof;

(iv) Fourth, to the payment of subordinate obligations in accordance with Section 4.4 hereof; and

(v) Fifth, to any other lawful purpose in accordance with Section 4.5 hereof.

Section 4.2. Bond Fund.

(a) Deposits to the Bond Fund. If either (i) an Event of Default has occurred, or (ii) for any Fiscal Year the amount of Sales and Use Tax in such Fiscal Year is less than 400% of the Maximum Annual Debt Service Requirement of the Outstanding Bonds, determined in accordance with Section 5.2(b) hereof, then for so long as such Event of Default is continuing and has not been waived in accordance this Ordinance, or until the City furnishes to the Owners of the Bonds a certification by a certified public accountant who is not an employee of the City that the amount of the Sales and Use Tax for a subsequent Fiscal Year is at least 400% of the Maximum Annual Debt Service Requirement of the Outstanding Bonds, determined as aforesaid, the City covenants to create and designate the "City of Lakewood, Colorado, Sales and Use Tax Revenue Refunding Bonds, Series 2009" (the "**Bond Fund**"), and to deposit into the Bond Fund from the Pledged Revenues the following amounts:

(i) Interest Payments: On the first day of each calendar month, an amount equal to one-sixth (1/6) of the sum necessary, together with any moneys therein and available therefore, to pay the interest due and payable on the Outstanding Bonds on the next succeeding interest payment date; provided, however, if between the date of issuance of Bonds of a series (exclusive of the calendar month in which such Bonds are issued) and the next succeeding interest payment date there are less than six (6) calendar months, the amount payable on each such month on or prior to the first of the calendar month immediately preceding such interest payment date shall equal the product of the interest coming due on such date and a fraction, the numerator of which equals 1 and the denominator of which equals such number of calendar months.

(ii) Principal Payments: On the first day of each calendar month, commencing on the date of issuance of the Bonds, an amount equal to one-twelfth (1/12) of the sum necessary, together with any moneys therein and available therefor, to pay the principal due and payable on the Outstanding Bonds on the next succeeding principal payment date; provided, however, if between the date of issuance of Bonds of a series (exclusive of the calendar month in which such Bonds are issued) and the next succeeding principal

payment date there are less than twelve (12) calendar months, the amount payable on each such month on or prior to the first of the calendar month immediately preceding such interest payment date shall equal the product of the interest coming due on such date and a fraction, the numerator of which equals 1 and the denominator of which equals such number of calendar months.

Notwithstanding the foregoing provisions, if the Bond Fund is created and the City would otherwise be required to make deposits therein pursuant to the requirements set forth above, no payment need be made into the Bond Fund if the amount in the Bond Fund is at least equal to the entire amount of the Outstanding Bonds, both as to principal and interest to their respective maturities, or, if applicable, to the redemption date on which the City shall have exercised its option to redeem Bonds then Outstanding and thereafter maturing, including any prior redemption premiums then due, and both accrued and not accrued, in which case moneys in said fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue, and any moneys in excess thereof in said two funds may be withdrawn and used for any lawful purpose.

(b) Uses of the Bond Fund. The moneys on deposit in the Bond Fund shall be used only to pay the principal of, and prior redemption premium, if any, and interest on, the Bonds as the same become due. If the Bond Fund is created in accordance with Section 4.2(a) hereof, but, subsequent to its creation, it is determined that the City no longer is required to make deposits therein pursuant said Section 4.2(a), the City shall apply, or cause to be applied, all amounts on deposit in the Bond Fund to the payment of the principal of or interest on the Bonds Outstanding, as the case may be, next coming due.

Section 4.3. Reserve Funds. After making the payments required to be made to the Bond Fund pursuant to Section 4.1(i) hereof, the City shall deposit Pledged Revenues into the debt service reserve fund(s), if any, established for any Additional Bonds at the times and in the amounts required in accordance with the Supplemental Ordinance(s) authorizing the issuance of such Additional Bonds. Moneys on deposit in such reserve funds shall be applied to the payment of the principal of or interest on the Bonds to which such reserve funds relate, to the extent amounts on deposit in the Bond Fund are insufficient therefor, or to the reimbursement of moneys drawn or paid under any debt service reserve fund insurance policy or similar surety bond, guaranty or agreement, in accordance with such Supplemental Ordinance(s).

Section 4.4. Rebate Funds. After making the payments required to be made to pursuant to Sections 4.1(i) and (ii) hereof, the City shall deposit any remaining Pledged Revenues to a fund to be created and designated the "City of Lakewood, Colorado, Sales and Use Tax Revenue Refunding Bonds, Series 2009, Rebate Fund" (the "**Rebate Fund**") and any similar funds established with respect to the Series 1992A Bonds, the Series 1998 Bonds and any Additional Bonds, in amounts if and to the extent necessary to make arbitrage rebate payments to the United States of America as required under Section 148 of the Tax Code and the regulations promulgated thereunder. Moneys on deposit in such rebate funds shall be applied at the times and

in the amounts so required. Notwithstanding any provision herein to the contrary, the City shall withdraw from the Bond Fund or such other fund or account for deposit into the Rebate Fund such additional amounts necessary to provide for sufficient funding of the Rebate Fund. Upon receipt of an opinion of Bond Counsel that the balance in the Rebate Fund or any other arbitrage rebate fund is in excess of the amount required by this Ordinance to be included therein, such excess shall be withdrawn therefrom and applied in accordance with Section 4.1 hereof.

Section 4.5. Subordinate Lien Bonds. After making the payments required by Sections 4.1(i) through (iii) hereof, any remaining Pledged Revenues shall be used for the payment of the principal of and interest on any Subordinate Lien Bonds, and for funding or replenishing any reserve fund which may be established as additional security for the payment of such Subordinate Lien Bonds. Nothing in this Ordinance shall prevent the establishment of priorities or parity relationships among Subordinate Lien Bonds, whether now existing or hereafter issued (including, without limitation, any subordination of existing Subordinate Lien Bonds to other Subordinate Lien Bonds hereafter issued).

Section 4.6. Application of Remaining Pledged Revenues. On December 1 of each Fiscal Year, after compliance with Sections 4.1(i) through (iv) hereof, the remaining Pledged Revenues may be used for any lawful purpose as the City may direct, subject to applicable ordinances and other law, free and clear of any lien thereon, pledge thereof or security interest therein created by this Ordinance as security for the payment of the principal of, and redemption premium, if any, and interest on, the Bonds Outstanding.

Section 4.7. Appropriation of Moneys. The sums provided to make the payments specified in this Article IV are hereby appropriated for said purposes, and said amounts for each Fiscal Year shall be included in the annual budget and the appropriation ordinance or measures to be adopted or passed by the City Council in each Fiscal Year, respectively, while any of the Bonds are Outstanding and unpaid. No provision of any constitution, statute, charter, ordinance, resolution or other order or measure enacted after the issuance of the Bonds shall in any manner be construed as limiting or impairing the obligation of the City to keep and perform the covenants contained in this Ordinance so long as any of the Bonds remain Outstanding and unpaid. Nothing herein shall prohibit the City Council, at its sole option, from appropriating and applying other funds of the City legally available for such purpose to the Bond Fund or any other fund established under this Ordinance or a Supplemental Ordinance authorizing Additional Bonds.

Section 4.8. Custody of Funds and Accounts. If and to the extent created, the Bond Fund and the Rebate Fund shall be held in the custody of the City in a Commercial Bank kept separate and apart from all other accounts or funds of the City as trust accounts solely for the purposes herein designated therefor. For purposes of investment of moneys, nothing herein prevents the commingling of moneys accounted for in any two or more such book accounts pertaining to the Pledged Revenues or to such funds and any other funds of the City to be established under this Ordinance.

Such book account shall be continuously secured to the fullest extent required by the laws of the State for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes of such funds or accounts. Each periodic payment shall be credited to the proper fund or account not later than the date designated therefor, except that when any such date shall be a day which is not a Business Day, then such payment shall be made on or before the next succeeding Business Day.

Section 4.9. Investments.

(a) Pledged Revenues not immediately needed for application thereof in accordance with this Ordinance may be deposited or invested and reinvested by the City, in deposits or investments which are at the time of initial investment Permitted Investments, subject to the provisions under the caption "Tax Covenants" in Section 5.3 hereof. Amounts on deposit in the Rebate Fund, if required to be created hereunder, and any arbitrage rebate fund established pursuant to any Supplemental Ordinance shall not be invested.

(b) The City shall have no obligation to make any investment or reinvestment hereunder, unless any moneys on hand and accounted for in any one account exceed \$5,000 and at least \$5,000 therein will not be needed for a period of not less than sixty (60) days. In such event, the City shall invest or reinvest not less than substantially all of the amount which will not be needed during such sixty day period, except for any moneys on deposit in an interest bearing account in a Commercial Bank, without regard to whether such moneys are evidenced by a certificate of deposit or otherwise; but the City is not required to invest, or so to invest in such a manner, any moneys accounted for hereunder if any such investment would contravene the covenant concerning arbitrage in Section 5.3 hereof.

(c) The moneys in any fund or account herein provided for shall consist of lawful money of the United States of America or Permitted Investments or a combination thereof. Securities or obligations purchased as an investment of moneys in any such fund or account shall be deemed at all times to be a part of such fund or account, except to the extent otherwise provided herein. Moneys deposited in a demand or time deposit account in or evidenced by a certificate of deposit of a commercial bank, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States of America.

(d) Neither the City nor any officer or employee of the City shall be liable or responsible for any loss resulting from any investment or reinvestment made in accordance with this Ordinance; provided, however, no such loss shall diminish, abate, cancel, terminate or otherwise modify the City's obligation to pay the principal of, and redemption premium, if any, and interest on, the Bonds when due in accordance with their terms or the City's obligation to pay any other amounts due in accordance with the terms hereof.

(e) Income earned from the investment of moneys held in the Bond Fund and any other funds and accounts established under this Ordinance, or attributable to the Pledged Revenues, shall be deemed to be Pledged Revenues, except that income earned from the investment of moneys in any arbitrage rebate fund created to comply with Section 148 of the Tax Code and the regulations promulgated thereunder (including the Rebate Fund) shall be retained such fund and shall not be deemed to be Pledged Revenues unless and until any excess moneys are transferred for application in accordance with Section 4.1 hereof pursuant to Section 4.4 hereof.

ARTICLE 5. COVENANTS

Section 5.1. Covenants of the City. The City hereby irrevocably covenants and agrees with each and every Owner of the Bonds that so long as any of the Bonds remain Outstanding:

(a) Payment of Amounts Due. The City will promptly pay the principal of and prior redemption premium, if any, and interest on every Bond issued hereunder and secured hereby on the dates and in the manner specified herein and in said Bonds according to the true intent and meaning hereof, such principal and interest being payable solely from the Pledged Revenues.

(b) Sales and Use Tax Ordinances. The Sales and Use Tax Ordinances are in full force and effect and have not been repealed or amended. The City will not repeal or amend the Sales and Use Tax Ordinances in any manner which would diminish the proceeds of the Sales and Use Tax by an amount which would materially adversely affect the rights of the Owners of the Bonds. The City agrees that any law, ordinance or resolution of the City, in any manner affecting the Pledged Revenues or the Bonds, or otherwise appertaining thereto, shall not be repealed or otherwise directly or indirectly modified in such manner as to materially adversely affect any Bonds Outstanding, unless the required consent is obtained, all as provided in this Ordinance. Notwithstanding any other provision of this Section or this Ordinance, the City shall retain the right to make changes, without any consent of Owners, in the Sales and Use Tax Ordinances, or any ordinance supplemental thereto or in substitution therefor, concerning the use of proceeds of the Sales and Use Tax remaining after the current requirements of all ordinances authorizing bonds (including the 1992A Bonds, the 1998 Bonds, the Bonds and any Additional Bonds) or other securities payable from the Sales and Use Tax, or any portion thereof, have been met; or concerning changes in applicability, exemptions, administration, collection or enforcement of the Sales and Use Tax, if such changes do not materially adversely affect the security for the Bonds; but the City shall not reduce the present rate of the Sales and Use Tax, without the consent of the owners of 66% in aggregate principal amount of the then Outstanding Bonds. The foregoing covenants are subject to compliance by the City with orders of courts of competent jurisdiction concerning the validity, constitutionality or collection of such tax revenues, any legislation of the United States of America or the State or any regulation or other action taken by the federal government or any State agency or any political subdivision of the State pursuant to such legislation, in the exercise of the

police power thereof for the public, welfare, which legislation, regulation or action applies to the City as a Colorado home rule city and limits or otherwise inhibits the amount of such tax revenues due to the City. All of the Pledged Revenues resulting from the imposition and collection of the Sales and Use Tax shall be subject to the payment of the principal of and redemption premium, if any, and interest on all securities payable from the Pledged Revenues, including reserves therefor, as provided herein or in any instrument supplemental or amendatory hereof.

(c) Adverse Legal Proceedings; Defense of Sales and Use Tax Ordinances. There is not pending or threatened any suit, action or proceeding against or affecting the City before or by any court, arbitrator, administrative agency or other governmental authority which affects the validity or legality of this Ordinance, or the Sales and Use Tax Ordinances or the imposition and collection of the Sales and Use Tax, any of the City's obligations under this Ordinance or any of the transactions contemplated by this Ordinance or the Sales and Use Tax Ordinances. The City shall, to the extent permitted by law, defend the validity and legality of this Ordinance, the Sales and Use Tax and the Sales and Use Tax Ordinances against all claims, suits and proceedings which would diminish or impair the Pledged Revenues. Furthermore, the City shall amend from time to time the provisions of any ordinance or resolution of the City, as necessary to prevent impairment of the Pledged Revenues as required to meet the principal of, interest on, and prior redemption premium, if any, with respect to the Bonds when due.

(d) Preservation and Protection of Pledged Revenues. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge, deliver and file or record all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Pledged Revenues and other funds and accounts hereby pledged or assigned, or intended so to be, or which the City may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Ordinance. The City, acting by and through its officers, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of said Pledged Revenues and other funds and accounts pledged hereunder and all the rights of every owner of any of the Series 2009 Bonds against all claims and demands of all persons whomsoever.

(e) Satisfaction of Conditions Precedent and Compliance with Laws. Upon the issuance of any of the Bonds of a series, all conditions, acts and things required by the Constitution or laws of the United States of America, the Constitution or laws of the State, the Charter or this Ordinance, to exist, to have happened, and to have been performed precedent to or in the issuance of such Bonds shall exist, have happened and have been performed, and such Bonds, together with all other obligations of the City, shall not contravene any debt or other limitation prescribed by the Constitution or laws of the United States of America, the Constitution or laws of the State or the Charter.

(f) Administration and Enforcement of Sales and Use Tax. The City will administer, enforce, and collect, or cause to be administered, enforced, and collected, the Sales and Use Tax, and shall take such necessary action to collect delinquent payments as shall be authorized by the Sales and Use Tax Ordinances and in accordance with law.

(g) Maintenance and Inspection of Books and Records. The City will keep such books and records showing the proceeds of the Sales and Use Tax, in which complete entries shall be made in accordance with standard principles of accounting, and any Owner of any of the Bonds shall have the right at all reasonable times to inspect the records and accounts relating to the collection and receipt of the Sales and Use Tax.

(h) Audits. The City will, at least once a year, cause an audit to be performed of the records relating to the collection and receipt of the Sales and Use Tax (which may be performed as a part of the City's general annual audit), and upon request, make available at cost the report of the auditor or accountant, to any Owner of any of the Bonds, and shall mail a copy of such audit report to such Owner, such audit may be made part of and included within the general audit of the City, and made at the same time as the general audit.

(i) Corporate Existence. The City shall maintain its corporate identity and existence so long as any of the Bonds remain Outstanding, unless another body corporate and politic by operation of law succeeds to the liabilities and rights of the City without materially and adversely affecting the privileges and rights of any Owner of any Bond.

Section 5.2. Additional Obligations.

(a) No bonds, notes, certificates, contracts, or other similar obligations shall be issued payable from the Pledged Revenues and having a lien thereon which is prior or superior to the lien of the Bonds, except as otherwise may be permitted by an amendment of this Ordinance pursuant to Section 7.2 hereof.

(b) Nothing in this Ordinance shall be construed in such manner as to prevent the issuance by the City of Additional Bonds, provided (i) the City is current in the payment of principal and interest on the Bonds Outstanding, and no Event of Default has occurred and is continuing, and (ii) for the Fiscal Year immediately preceding the issuance of any Additional Bonds, the amount of Sales and Use Tax in such Fiscal Year must equal or exceed 400% of the Maximum Annual Debt Service Requirement of the Outstanding Bonds and the Additional Bonds proposed to be issued. For the purpose of satisfying the aforementioned 400% test, any increase in the rate of the Sales and Use Tax which increase is imposed during the Fiscal Year preceding the issuance of Additional Bonds or any such increase which is to be imposed immediately prior to the issuance of Additional Bonds can be considered for its estimated effect on the amount of the Sales and Use Tax as if such increase had been in effect for the Fiscal Year immediately preceding the issuance of such Additional Bonds. A written certification by

a certified public accountant who is not an employee of the City that the foregoing requirements have been met shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver said Additional Bonds on a parity with the Series 2009 Bonds herein authorized.

For all purposes, variable rate Additional Bonds issued under this Ordinance shall be assumed to bear interest at the highest of: (i) the actual rate on the date of calculation, or if the indebtedness is not yet Outstanding, the initial rate (if established and binding), (ii) if the indebtedness has been Outstanding for at least twelve (12) months, the average rate over the twelve (12) months immediately preceding the date of calculation, and (iii)(1) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Tax Code, the average of the SIFMA Index during the preceding twelve (12) months plus one hundred (100) basis points, or (ii) if interest is not so excludable, the interest rate on direct Federal Securities with comparable maturities plus fifty (50) basis points. Notwithstanding the foregoing, for purposes of any rate covenant measuring actual debt service coverage during a test period, variable rate indebtedness shall be deemed to bear interest at the actual rate per annum applicable during the test period. It is to be further assumed that any such variable rate indebtedness that may be tendered prior to maturity for purchase at the option of the owner thereof will mature on their stated maturity dates or mandatory redemption dates, as the case may be. The City shall be permitted to treat any fixed rate payable on an interest rate exchange agreement or "swap" contract as the interest rate on any such issue of variable rate indebtedness if the counterparty to such agreement or contract has unconditionally agreed to pay all interest due on such variable rate indebtedness or a notional amount that corresponds to such variable rate indebtedness.

(c) If at any time Bonds remain Outstanding, the City shall find it desirable to refund any outstanding obligations payable from the Pledged Revenues, said obligations, or any part thereof, may be refunded, subject to the following provisions. Any refunding obligations payable in whole or in part from the Pledged Revenues shall be issued with such details as the City Council may provide, so long as there is no impairment of any contractual obligations imposed upon the City; but if only a part of the outstanding obligations payable from the Pledged Revenues is refunded, then such securities may not be refunded unless:

(i) the City first receives the consent of the owner or owners of the unrefunded obligations; or

(ii) the refunding obligations do not increase by more than \$25,000, for any Fiscal Year in which any Bonds will be Outstanding, the aggregate principal and interest requirements evidenced by such refunding obligations and by the outstanding obligations payable from the Pledged Revenues and not refunded, and the lien of the refunding obligations on the Pledged Revenues is not raised to a higher priority than the lien thereon of the obligations thereby refunded; or

(iii) the lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any Bonds not refunded; or

(iv) the refunding obligations are issued in compliance with paragraph (b) of this Section.

(d) Nothing herein shall prevent the City from issuing Subordinate Lien Bonds.

(e) Any Additional Bonds (including any refunding obligations) and any Subordinate Lien Bonds issued in compliance with the terms hereof shall bear interest on the terms provided in the Supplemental Ordinance authorizing such Additional Bonds or the ordinance authorizing such Subordinate Lien Bonds, or in a sale certificate executed by officers of the City pursuant to the Charter and the Supplemental Act, provided that interest thereon shall be payable June 1 and December 1 in each year, except that the first interest payment date may be for interest accruing for any period not in excess of twelve (12) months. Such Additional Bonds and Subordinate Lien Bonds shall mature on December 1 in such years as shall be designated by the City in such applicable authorizing ordinance or such sale certificate. Any Additional Bonds or Subordinate Lien Bonds shall be payable from the Pledged Revenues subject to Section 4.1 hereof, provided that any Additional Bonds may be secured by a debt service reserve fund as provided in Supplemental Ordinance authorizing such Additional Bonds.

Section 5.3. Tax Covenants relating to the Series 2009 Bonds. The City covenants for the benefit of the Owners of the Series 2009 Bonds that it will not take any action or omit to take any action with respect to the Series 2009 Bonds, the proceeds thereof, or any other funds of the City if such action or omission (i) would cause the interest on the Series 2009 Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the Series 2009 Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income, or (iii) would cause interest on the Series 2009 Bonds to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Series 2009 Bonds until the date on which all obligations of the City in fulfilling the above covenant under the Tax Code have been met.

ARTICLE 6. DEFEASANCE

Section 6.1. Defeasance. When all principal of and interest on the Bonds have been duly paid, and all other fees, expenses and obligations owing under this Ordinance have been fully paid, the pledge and lien and all obligations hereunder shall

thereby be discharged and the Bonds shall no longer be deemed to be Outstanding within the meaning of this Ordinance. Such principal and interest on the Bonds of a series shall be deemed to be paid when the City has placed in escrow and in trust with a Trust Bank an amount of moneys, or Federal Securities maturing at such times and in such amounts, or a combination thereof, sufficient to meet all requirements of principal and interest as the same become due to their final maturities or upon designated prior redemption dates; and, if Bonds of a series are to be redeemed prior to maturity, when the City has given to the Registrar irrevocable written instructions to give notice of prior redemption of such Bonds in accordance with the Supplemental Ordinance authorizing such Bonds. The Federal Securities shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the City and such Trust Bank at the time of the creation of the escrow. The investment of the amounts deposited in the escrow shall comply with Section 15 hereof. In the event that there is a defeasance of only part of the Bonds of any series and maturity, the Registrar shall, if requested by the City, institute a system to preserve the identity of the individual Bonds or portions thereof so defeased, regardless of changes in Bond numbers attributable to transfers and exchanges of Bonds; and the Registrar (if other than the City Treasurer) shall be entitled to reasonable compensation and reimbursement of expenses from the City in connection with such system.

Section 6.2. Failure to Present Bonds. Anything in this Ordinance to the contrary notwithstanding, but subject to any applicable escheat or unclaimed property laws of the State, any moneys held by the Paying Agent or any Trust Bank referred to in Section 6.1 hereof in trust for the payment and discharge of any of the Bonds that remain unclaimed for such period of time, after the date when such Bonds have become due and payable, either at their stated maturity dates or, if applicable, by call for earlier redemption, that the Owner thereof shall no longer be able to enforce the payment thereof, the Paying Agent or such Trust Bank shall at the written request of the City received at least ten (10) days prior to the expiration and/or running of any applicable escheat or unclaimed property laws of the State, pay such money to the City as its absolute property and free from trust, and the Paying Agent or such Trust Bank shall thereupon be released and discharged with respect thereto and the Owners shall look only to the City for the payment of such Bonds; provided, however, before being required to make any such payment to the City, the Paying Agent or such Trust Bank, as the case may be, shall, at the written direction and expense of the City, mail or cause to be mailed to the Owners of the Bonds entitled to such moneys, a notice that such moneys remain unclaimed and that, after a date named in said notice at the City's written direction, which date shall be not less than thirty (30) days after the date of the mailing of such notice but shall not on or after the date the moneys would otherwise be transferred under said escheat or unclaimed property laws of the State, the balance of such money then unclaimed will be returned to the City as provided in this Section.

ARTICLE 7. AMENDMENTS

Section 7.1. Amendments Not Requiring Bondowner Consent. The City may, without the consent of the Owners of Bonds, adopt such Supplemental Ordinances

(which upon enactment in compliance with the terms hereof and the Charter shall form a part hereof) for any one or more or all of the following purposes:

- (i) To cure any ambiguity, or to cure, correct or supplement any formal defect or inconsistent provision, contained in this Ordinance;
- (ii) To grant or to confer upon the Owners of the Bonds any additional rights, remedies, powers, authority or security that may be lawfully granted or conferred;
- (iii) To appoint a Paying Agent or a Registrar other than the City Treasurer;
- (iv) To issue Additional Bonds in accordance with Section 5.2 hereof; or
- (v) To make any provisions with respect to matters arising under this Ordinance or for any other purpose if such provisions are necessary or desirable and do not adversely affect the interests of the Owners of the Bonds.

Section 7.2. Amendments Requiring Bondowner Consent. Exclusive of the Supplemental Ordinances permitted by Section 7.1 hereof, this Ordinance may be amended or supplemented by ordinance adopted by the City Council in accordance with the law, without receipt by the City of any additional consideration but with the written consent of the Owners of 66% in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such Supplemental Ordinance; provided, however, that, without the written consent of the owners of all of the Bonds adversely affected thereby, no such Supplemental Ordinance shall have the effect of permitting:

- (i) Extend the maturity of any Bond;
- (ii) Reduce the principal amount or interest rate of any Bond;
- (iii) Create a lien upon the Pledged Revenues ranking prior to the lien created by this Ordinance securing the Bonds;
- (iv) Reduce the principal amount of the Bonds required for consent to any waiver or modifications; or
- (v) Establish priorities between Bonds.

In addition to any other consent required in this Article VII, any Supplemental Ordinance that adversely affects the rights or the obligations of the Registrar or the Paying Agent shall not take effect without the prior written consent of the Registrar or the Paying Agent, as the case may be.

Section 7.3. Requirements for Supplemental Ordinances.

- (a) A Supplemental Ordinance within the meaning of Section 7.1 or 7.2

hereof shall not take effect unless (i) it complies with the Charter and this Section, and (ii) there shall have been filed with the City Treasurer an opinion of Bond Counsel, in form and substance satisfactory to the City, stating that such Supplemental Ordinance has been duly and lawfully adopted by the City in accordance with the provisions of this Ordinance and applicable law, is authorized or permitted by this Ordinance, is valid and binding upon the City and enforceable in accordance with its terms, is in accordance with this Ordinance and will not adversely affect the excludability of interest on any Tax-Exempt Bonds from gross income for federal income tax purposes; provided, however, such opinion may take exception for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally and principles of government law and equity.

(b) For any Supplemental Ordinance for which Owner consent is not required under Section 7.1 hereof, the City shall mail, or cause to be mailed, to the Owners of the Bonds a copy of such Supplemental Ordinance (or a brief summary thereof or reference thereto in form approved by the City Council) and notice of the effective date thereof, as provided in Section 10.1 hereof.

(c) In addition, for any Supplemental Ordinance for which Owner consent is required under Section 7.2 hereof, (i) the City shall mail, or cause to be mailed, to the Owners of the Bonds a copy of such Supplemental Ordinance (or a brief summary thereof or reference thereto in form approved by the City Council), together with a request to Owners for their consents thereto in form satisfactory to the City Council, as provided in Section 10.1 hereof; and (ii) any such Supplemental Ordinance will be effective if and when there shall have been filed with the City Treasurer the written consent of such Owners of the percentages of Outstanding Bonds specified in Section 7.2 hereof required to consent to such Supplemental Ordinance. Each such written consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 10.1 hereof. A certificate or certificates by the Registrar filed with the City Council that it has examined such proof and that such proof is sufficient in accordance with Section 10.1 hereof shall be conclusive that the consents have been given by the Owners of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Owner of the Bonds giving such consent and, anything in Section 10.1 hereof to the contrary notwithstanding, upon any subsequent Owner of such Bonds and of any Bonds issued in exchange therefore (whether or not such subsequent Owner thereof has notice thereof) unless such consent is revoked in writing by the Owner of such Bonds giving such consent or a subsequent Owner thereof by filing with the Registrar, prior to the time when the written statement of the Registrar hereinafter in this Section provided for is filed, such revocation. The fact that any consent has not been revoked may likewise be proved by a certificate of the Registrar filed with the City Council to the effect that no revocation thereof is on file with the Registrar. At any time after the Owners of the required percentages of Bonds shall have filed their consents to the Supplemental Ordinance, the Registrar shall make and file with the City Council a written statement that the Owners of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive evidence that such consents have been so filed. Upon

receipt of the requisite consents, filing of the written statement of the Registrar required hereunder and the execution of such amendment by the parties thereto, the City shall give or cause to be given (by first class mail, postage prepaid) written notice to Owners of the Bonds, stating in substance that the Supplemental Ordinance (which may be referred to as a Supplemental Ordinance adopted by the City Council as of a stated date, a copy of which is on file with the Clerk of the City) has been consented to by the Owners of the required percentages of Bonds and will be effective as provided in this Section. Proof of the mailing of such notice shall be filed with the Registrar. A record, consisting of the papers required or permitted by this Section to be filed with the Registrar, shall be proof of the matters therein stated. Such Supplemental Ordinance shall be deemed conclusively binding upon the City, the Registrar, the Paying Agent and the Owners of all Bonds after the filing with the Registrar of the proof of the mailing of such last mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Ordinance in a legal action or equitable proceeding for such purpose commenced prior to such mailing; provided, however, the Registrar, the Paying Agent and the City prior to such mailing and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Ordinance as they may deem expedient.

Section 7.4. Notice of Supplemental Ordinance to Rating Agency. Any rating agency that the City (or any issuer of a financial guaranty insurance policy or similar instrument or agreement insuring or guaranteeing the payment of the principal of and interest on Bonds of a series when due) has engaged to provide a credit rating for the Bonds of any series shall also receive written notice of each proposed Supplemental Ordinance and a copy thereof at least fifteen (15) days in advance of any action taken by City Council to adopt such Supplemental Ordinance.

ARTICLE 8. EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Events of Default. The occurrence of any of the following events shall constitute an "Event of Default" under this Ordinance:

- (i) The City fails to pay the principal of any Bond when due at maturity or upon prior redemption.
- (ii) The City fails to pay the interest on any Bond when due.
- (iii) The City is not capable of fulfilling its obligations hereunder.
- (iv) The City defaults in the punctual performance of any of its other covenants hereunder (other than its covenant in Section 17(j)) for 60 days after written notice shall have been given by the Owners of 25% of the Outstanding Bonds.

Section 8.2. Remedies. Upon the happening of any Event of Default, the Owner or Owners of not less than 25% in aggregate principal amount of the Outstanding

Bonds, or a trustee therefor, may protect and enforce their rights hereunder by proper legal or equitable remedy, to the extent permitted by law, deemed most effectual including mandamus, specific performance of any covenants, the appointment of a receiver (the consent of such appointment being hereby granted), injunctive relief, or requiring the City Council to act as if it were the trustee of an express trust, or any combination of such remedies. All proceedings shall be maintained for the equal benefit of all Owners. The failure of any Owner to proceed does not relieve the City or any person of any liability for failure to perform any duty hereunder. The foregoing rights are in addition to any other right available to Owners of Bonds and the exercise of any right by any Owner shall not be deemed a waiver of any other right.

ARTICLE 9. RELATED SERIES 2009 BOND AUTHORIZATIONS

Section 9.1. Acceptance of Series 2009 Bond Purchase Agreement. The City Council hereby accepts the offer made by the Purchaser set forth in the Series 2009 Bond Purchase Agreement as submitted by the City Council, and hereby authorizes the sale of the Series 2009 Bonds to the Purchaser at a price equal to 100% of the aggregate principal amount thereof, and otherwise upon the terms, conditions, and provisions as set forth in the Series 2009 Bond Purchase Agreement, with such insertions, deletions, and other modifications consistent with this Ordinance as the Mayor or the City Treasurer shall approve (such approval to be conclusively evidenced by the execution and delivery thereof). The City Council hereby determines that the sale of the Series 2009 Bonds as provided herein and in the Series 2009 Bond Purchase Agreement is to the best advantage of the City.

Section 9.2. Authorization to Execute Collateral Documents. The officers of the City and members of the City Council are authorized and directed to take any and all other actions necessary or appropriate to effectuate the provisions of this Ordinance, the execution of such certificates and affidavits as may be reasonably required by the Purchaser in accordance with the Series 2009 Bond Purchase Agreement or by Bond Counsel engaged by the City to render its opinions required by the Series 2009 Bond Purchase Agreement as conditions precedent to the issuance and sale of the Series 2009 Bonds.

Section 9.3. Exercise of Option. The City Council hereby determines to exercise on the behalf and in the name of the City its option to redeem the Refunded Bonds on December 1, 2009.

Section 9.4. Ratification and Approval of Prior Action. All actions heretofore taken by the officers of the City and the members of the City Council, consistent with the provisions of this Ordinance, relating to the authorization, issuance, and delivery of the Series 2009 Bonds, are hereby ratified, approved, and confirmed.

ARTICLE 10. MISCELLANEOUS PROVISIONS

Section 10.1. Evidence of Signatures of Owners and Ownership of Bonds.

(a) Any request, consent, revocation of consent or other instrument which this Ordinance may require or permit to be signed and executed by the Owners shall meet the following requirements: (i) it may be in one or more instruments of similar tenor, and (ii) it shall be signed or executed by such Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Ordinance (except as otherwise herein expressly provided) if made in the following manner, or in any other manner satisfactory to the Registrar, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

(i) The fact and date of the execution by any Owner or such Owner's attorney of such instruments may be proved by a guarantee of the signature thereon by a bank or trust company or member of a national securities exchange or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instrument acknowledged the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution by an officer of a corporation or association or a member of a partnership, purports to be on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of such officer's or member's authority.

(ii) The amount of Bonds transferable by delivery held by any person executing any instrument as an Owner, the date of such person's holding such Bonds, and the numbers and other identification of such Bonds, may be proved by a certificate, which need not be acknowledged or verified, in form satisfactory to the Registrar, executed by the Registrar or by a member of a financial firm or by an officer of a bank, trust company, insurance company or financial corporation or other depository wherever situated, showing at the date mentioned that such person exhibited to such member or officer or had on deposit with such depository the Bonds described in such certificate. Such certificate may be given by a member of a financial firm or by an officer of any bank, trust company, insurance company or financial corporation or depository with respect to Bonds owned by it, if acceptable to the Registrar. In addition to the foregoing provisions, the Registrar from time to time may make such reasonable regulations as it may deem advisable permitting other proof of holding of Bonds transferable by delivery.

(b) The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be provided by the Registrar.

(c) Any request or consent by the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the

City, the Paying Agent or the Registrar in accordance herewith.

(d) In determining whether the Owners of the requisite percentage of the Bonds have been met for any request, consent, approval or other action required hereunder from such Owners, such requisite percentage shall be based upon the principal amount of all of the Bonds then Outstanding, excluding any Bonds then registered in the name of the City.

Section 10.2. Costs and Expenses. All costs and expenses incurred in connection with the issuance and payment of the Bonds of a series shall be paid either from the proceeds of such Bonds or other legally available moneys of the City, or from a combination thereof.

Section 10.3. Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Ordinance, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

Section 10.4. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 10.5. Repealer. All orders, resolutions, bylaws, ordinances or regulations of the City, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency.

Section 10.6. Ordinance Irrepealable. After the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the City and the Owners of the Bonds, and shall be and remain irrepealable until the Bonds and the interest thereon shall have been fully paid, satisfied, and discharged. No provisions of any constitution, statute, charter, ordinance, resolution or other measure enacted after the issuance of any Bonds shall in any manner be construed as impairing the obligations of the City to keep and perform the covenants contained in this Ordinance.

Section 10.7. Recording and Authentication. This Ordinance, immediately on its final passage and adoption, shall be numbered and recorded in the Permanent Ordinance Record of the City kept for that purpose, with a certificate of adoption and publication authenticated by the signatures of the Mayor or Mayor pro tem and the City Clerk. The City Council hereby authorizes and directs publication of this Ordinance required by the Charter, which may be by title, in The Denver Post, a newspaper published, printed and of general circulation in the City.

Section 10.8. Statutes Superseded. Pursuant to Article XX of the Colorado Constitution and the Charter, all statutes of the State of Colorado which might otherwise apply in connection with the City's sales and use tax or the Series 2009 Bonds are hereby superseded to the extent of any inconsistency with the Charter or City ordinances.

SECTION 2. This Ordinance shall take effect thirty (30) days after final publication.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 13th day of April 2009; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 16th day of April 2009; set for public hearing on the 27th day of April 2009; read, finally passed and adopted by the City Council on the 27th day of April, 2009, and signed, and approved by the Mayor on the 28th day of April, 2009.

Bob Murphy, Mayor

ATTEST:

Margy Greer, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney

Date

EXHIBIT A

FORM OF INVESTOR'S LETTER FOR TRANSFERS OF SERIES 2009 BONDS

[Transfer Date]

City of Lakewood, Colorado
480 South Allison Parkway
Lakewood, Colorado 80226-3105

[Name of Registrar], as Registrar
[Address of Registrar]

**Re: City of Lakewood, Colorado Sales and Use Revenue Refunding Bonds,
Series 2009**

Ladies and Gentlemen:

The undersigned purchaser (the "**Purchaser**") of the above-referenced bonds (the "**Series 2009 Bonds**") on this date Outstanding as defined in, and under, Ordinance 0-2009-18 (the "**Bond Ordinance**") adopted by the City Council of the City of Lakewood, Colorado (the "**City**") on April 27, 2009, does hereby certify, represent and warrant for the benefit of the City and the Registrar (defined in the Bond Ordinance), that the Purchaser is either (i) an "accredited investor" as defined in Rule 501(a)(1), (2), (3), (4), (7), or (8) Regulation D promulgated under the Securities Act of 1933, as amended (an "**Accredited Investor**"), or (ii) a "qualified institutional buyer" as defined in Rule 144A under the Securities Act of 1933, as amended (a "**QIB**").

The Purchaser hereby acknowledges, represents, and warrants to, and agrees with, the Issuer and the Registrar, as follows:

(a) The Purchaser has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment in the Series 2009 Bonds.

(b) The Purchaser is purchasing the Series 2009 Bonds with its own funds (or with funds from accounts over which it has sole investment authority) and not the funds of any other person, and for its own account (or for accounts over which it has sole investment authority) and not as nominee or agent for the account of any other person and not with a view to any distribution thereof, other than deposit of the Series 2009 Bonds in a custodial or trust arrangement each of the beneficial owners of which shall be required to be a QIB or an Accredited Investor unless such custodial certificates payments are rated, or the guarantor thereof is rated, "A" or better (or its equivalent) by Moody's Investors Service Inc. or Standard & Poor's, a division of The McGraw-Hill Companies, Inc.

(c) The Purchaser acknowledges that (i) it has made an independent investigation of the merits and risks involved with purchasing and owning the Series 2009 Bonds and such other matters in connection therewith that it, as an Accredited Investor or a QIB, has deemed appropriate for its decision to purchase the Series 2009 Bonds; (ii) as part of such investigation, it has been supplied with, or has had access to, the City's financial statements and such other information, and has had the opportunity to ask questions and receive answers from representatives of the City concerning the City, its operations, its financial condition, the Bond Ordinance, the Series 2009 Bonds and the Pledged Revenues securing the Series 2009 Bonds under the Bond Ordinance that the Purchaser, as an Accredited Investor or a QIB, has deemed appropriate for the its decision to purchase the Series 2009 Bonds.

(d) The Purchaser understands that (i) none of the covenants, agreements, representations and warranties contained in the Bond Ordinance or in the Series 2009 Bonds shall ever impose or be construed as imposing any liability, obligation or charge against the City, except to the extent payable from Pledged Revenues as provided in the Bond Ordinance; (ii) none of the covenants, agreements, representations and warranties contained in the Bond Ordinance or in the Series 2009 Bonds shall ever impose or be construed as imposing any liability, obligation or charge against the City's general credit, payable out of its general funds or out of any other funds except the Pledged Revenues; and (iii) the payment of the Series 2009 Bonds is not secured by an encumbrance, mortgage or other pledge of any property, except the Pledged Revenues to the extent provided in the Bond Ordinance.

(e) The Purchaser understands that in connection with any proposed transfer or exchange of the Series 2009 Bonds, the transfer restrictions set forth in Section 2.3(c) of the Bond Ordinance must be satisfied.

(f) The Purchaser acknowledges that:

(i) the original issuance of the Series 2009 Bonds was made in a primary offering that was exempt from the requirements of Rule 15c2-12 promulgated by the U.S. Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended;

(ii) the City has not undertaken to provide continuing disclosure of annual financial information and notices of any material events within the meaning of Rule 15c2-12;

(iii) pursuant to Section 5.1(g) of the Bond Ordinance, the City is required to keep such books and records showing the proceeds of the Sales and Use Tax (as defined in the Bond Ordinance), with complete entries therefore made in accordance with standard principles of accounting, and any Owner of any of the Series 2009 Bonds has the right at all reasonable times to inspect the records and accounts relating to the collection and receipt of the Sales and Use Tax;

(iv) pursuant to Section 5.1(h) of the Bond Ordinance, the City will be required to cause, at least once a year, an audit to be performed of the records relating to the collection and receipt of the Sales and Use Tax (which may be performed as a part of the City's general annual audit), and upon request, to provide (by mail) at cost a copy of the report of the auditor or accountant to any Owner of any of the Series 2009 Bonds; and

(v) Sections 5.1(g) and (h) of the Bond Ordinance constitute the only ongoing reporting requirements of the City made in the Bond Ordinance for the benefit of the Owners of the Series 2009 Bonds.

(g) THE PURCHASER SHALL INDEMNIFY THE CITY AND THE REGISTRAR FROM AND AGAINST ANY AND ALL LIABILITY, COSTS OR EXPENSES (INCLUDING ATTORNEYS' FEES) THAT MAY ARISE OR RESULT FROM ANY ACTUAL OR THREATENED LITIGATION, CLAIMS, PROCEEDINGS, INVESTIGATIONS OR OTHERWISE BASED ON SUCH TRANSFER OR THE UNSUITABILITY OF THE TRANSFERRED SERIES 2009 BONDS FOR OWNERSHIP BY THE TRANSFEREE IF THE REPRESENTATIONS OF THE TRANSFEREE CONTAINED IN THE INVESTOR'S LETTER ACCOMPANYING SUCH TRANSFER ARE FALSE IN ANY MATERIAL RESPECT.

This letter and the representations and agreements contained herein are made for your benefit.

IN WITNESS WHEREOF, I have hereunto set my hand the _____ day of _____.

PURCHASER:

By:

Name: _____

Title: _____

**MUST BE SIGNED BY ACTUAL PURCHASER.
MAY NOT BE SIGNED BY NOMINEE OR AGENT.**