

**ORDINANCE NO. 2010-08-24-001**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF KEMPNER, TEXAS LIMITED TAX NOTES, SERIES 2010"; AND ENACTING PROVISIONS INCIDENT AND RELATED TO THE ISSUANCE OF SAID NOTES**

WHEREAS, the City Council of the City of Kempner, Texas has determined that tax notes should be issued in accordance with the laws of the State of Texas, including Chapter 1431, Texas Government Code, as amended, for the purpose of paying contractual obligations incurred to construct a new City Hall, including the acquisition of a site therefor, city street improvements, and to pay costs of issuance; and

WHEREAS, Chapter 1431, Texas Government Code (the "Act"), authorizes municipalities to issue anticipation notes the proceeds of which may be used to (1) pay a contractual obligation incurred or to be incurred for the construction of any public work; (2) pay a contractual obligation incurred or to be incurred for the purchase of materials, supplies, equipment, machinery, buildings, land, and rights-of-way for an issuer's authorized needs; (3) pay a contractual obligation incurred or to be incurred for professional services, including services provided by tax appraisal engineers, engineers, architects, attorneys, mapmakers, auditors, financial advisors, and fiscal agents; (4) pay operating expenses or current expenses; or (5) fund the issuer's cumulative cash flow deficit; and

WHEREAS, on the 24<sup>th</sup> day of August, 2010, the City Council of Kempner, Texas (the "City" or "Issuer"), convened at 7:00 p.m. and considered passage of an ordinance authorizing the issuance of said tax notes (the "Ordinance"); and

WHEREAS, the City has determined that the anticipation notes should be sold for cash in accordance with the provisions of Chapter 1431.010, Texas Government Code; and

WHEREAS, this City hereby finds and determines that anticipation notes in the par amount of \$425,000 should be issued at this time; and

WHEREAS, the City desires to issue notes under the Act the proceeds of which are to be used for the purposes described below.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEMPNER, TEXAS THAT:

Section 1. DEFINITIONS. Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

"City" means City of Kempner, Texas.

"City Council" means the City Council of the City.

"Code" means the Internal Revenue Code of 1986, as amended, including the regulations and published rulings thereunder.

"Construction Fund" means the construction fund established by Section 8 of this Ordinance.

"Designated Payment/Transfer Office" means the office of the Paying Agent which is designated for the presentment of the Notes.

"Initial Note" means the initial note described in Sections 4 and 6 of this Ordinance.

"Initial Purchaser" means Citizens National Bank.

"Interest and Sinking Fund" means the interest and sinking fund established by Section 7 of this Ordinance.

"Interest Payment Date" means the date or dates upon which interest on each Note is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being February 15 and August 15 of each year, commencing February 15, 2011.

"Note" or "Notes" means the Notes authorized to be issued by Section 2 of this Ordinance and designated as "City of Kempner, Texas Limited Tax Notes, Series 2010" in the aggregate principal amount of \$425,000, and includes all substitute Notes exchanged therefor, as well as all other substitute Notes and replacement Notes issued pursuant to this Ordinance.

"Paying Agent/Registrar" means initially Wells Fargo Bank, N.A., Austin, Texas, or any successor thereto as provided in this Ordinance.

"Private Placement Letter" means the agreement between the Initial Purchaser and the City prescribing the terms and conditions under which the Notes are sold to the Initial Purchaser.

"Record Date" means the close of business on the last business day of the month preceding the month in which an Interest Payment Date occurs.

"Register" means the register specified in Section 5 of this Ordinance.

"Registered Owner" or "Owner" means the person who is the registered owner of a Note or Notes, as shown in the Register.

Section 2. AUTHORIZATION, AMOUNT AND PURPOSE OF NOTES. The Issuer's tax notes (the "Notes") are hereby authorized to be issued in the aggregate principal amount of \$425,000 for the purpose of paying contractual obligations incurred to construct a new City Hall, including the acquisition of a site therefor, City street improvements and to pay costs of issuance.

Section 3. DESIGNATION. The Notes shall be designated as the "City of Kempner, Texas Limited Tax Notes, Series 2010."

Section 4. GENERAL TERMS AND PROVISIONS OF NOTES.

(a) Dates, Denominations, Maturities and Interest Rates. There shall be issued, sold, and delivered registered Notes, without interest coupons, dated as of August 15, 2010 (which date shall be the Dated Date noted on the Notes), in the respective denominations and principal amounts hereinafter stated, numbered separately from R-1 upward, payable to the respective Registered Owners thereof, except the Initial Note which shall be numbered I-1 and registered in the name of the Initial Purchaser (as designated in Section 18 hereof), or to the registered assignee or assignees of said Notes or any portion or portions thereof (in each case, the "Registered Owner"), and the Notes shall mature serially and be payable on August 15 in each of the years and in the respective amounts as set forth below and the Notes shall bear interest from the Initial Date of Delivery to the Initial Purchaser at the following rates per annum based upon a 360-day year of twelve 30-day months:

<u>Maturity Date</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>
2011	\$40,000	1.250%
2012	35,000	1.460%
2013	35,000	1.810%
2014	40,000	2.030%
2015	90,000	2.600%
2016	90,000	3.010%
2017	95,000	3.340%

(b) Optional Redemption.

The Notes may be prepaid, at the option of the City, in whole or in part, and if in part, in the principal amount of \$5,000 or any integral multiple thereof, on August 15, 2011 or on any date thereafter, at par value plus accrued interest on unpaid principal to the prepayment date if, at least 45 days before the prepayment date, the City provides the Paying Agent/Registrar with written notice of such prepayment stating the date of such prepayment. The Paying Agent/Registrar shall give notice of such prepayment to the Registered Owner by mailing such notice by first class United States mail, postage paid, at least 30 days prior to the prepayment date, to the record address of the Registered Owner. Such notice shall state the prepayment date, the prepayment amount (including

any accrued interest), and the place of prepayment. Failure of the Paying Agent to give (or to properly give) such notice of prepayment to the Registered Owner shall not affect the validity of the prepayment.

(c) Partial Redemption.

(1) If less than all of the Notes are to be redeemed and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Notes, or portions thereof, within such maturity to be redeemed.

(2) A portion of a single Note of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Note is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Note as though it were a single Note for purposes of selection for redemption.

(3) Upon surrender of any Note for redemption in part, the Paying Agent/Registrar, in accordance with Section 5 of this Ordinance, shall authenticate and deliver an exchange Note or Notes in an aggregate principal amount equal to the unredeemed portion of the Note so surrendered.

(4) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Note as to which only a portion thereof is to be redeemed.

(d) Notice of Redemption to Owners.

(1) The Paying Agent/Registrar shall give notice of any redemption of Notes by sending notice by first class United States mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each Note (or part thereof) to be redeemed, at the address shown on the Register.

(2) The notice shall state the redemption date, the redemption price, the place at which the Notes are to be surrendered for payment, and, if less than all the Notes outstanding are to be redeemed, an identification of the Notes or portions thereof to be redeemed.

(3) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

(e) Payment Upon Redemption.

(1) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Notes to be

redeemed on such date by setting aside and holding in trust such amounts received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of, redemption premium, if any, and accrued interest on the Notes being redeemed.

(2) Upon presentation and surrender of any Note called for redemption at the Designated Payment/Transfer Office of the Paying Agent/Registrar on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of, redemption premium, if any, and accrued interest on such Notes to the date of redemption from the money set aside for such purpose.

(f) Effect of Redemption.

(1) Notice of redemption having been given as provided in section (d) above, the Notes or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof, redemption premium, if any, or accrued interest thereon, such Notes or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Notes are presented and surrendered for payment on such date.

(2) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Note or portion thereof called for redemption shall continue to bear interest at the rate stated on the Note until paid or until due provision is made for the payment of same by the City.

(g) Unclaimed Amounts.

Any money deposited with the Paying Agent/Registrar for the payment of the principal of, premium, if any, or interest on any Note will be subject to the unclaimed property laws of the State of Texas. If any security or interest check shall not be presented for payment within three (3) years following the stated maturity, the amount shall be reported and disposed of by the Paying Agent/Registrar in accordance with the applicable provisions of Texas law including, to the extent applicable, Title 6 of the Texas Property Code, as amended. Once the Paying Agent/Registrar has complied with the applicable unclaimed property law, the Holder of such Security shall thereafter look only to the procedures in the unclaimed property law for payment thereof, and all liability of the Paying Agent/Registrar with respect to such money shall thereupon cease.

## Section 5. CHARACTERISTICS OF THE NOTES.

(a) Registration, Transfer, Conversion, and Exchange; Authentication. The Issuer shall keep or cause to be kept at the Designated Payment/Transfer Office of Wells Fargo Bank, N.A. (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion, and exchange of the Notes (the "Register"), and the Issuer hereby

appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions, and exchanges under such reasonable regulations as the Issuer and the Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions, and exchanges as herein provided. Attached hereto as Exhibit A is a copy of the Paying Agent/Registrar Agreement between the Issuer and the Paying Agent/Registrar which is hereby approved in substantially final form, and the Mayor and City Secretary of the Issuer are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

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

(c) In General. The Notes (i) shall be issued in the principal amount of \$5,000 or any integral multiple thereof, (ii) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Notes to be payable only to the Registered Owners thereof, (iii) may be redeemed prior to their scheduled maturities, (iv) may be transferred and assigned, (v) may be converted and exchanged for other Notes, (vi) shall have the characteristics, (vii) shall be signed, sealed, executed, and authenticated, (viii) shall be payable as to the principal and interest, and (ix) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Notes, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF NOTE set forth in this Ordinance. The Notes initially issued and delivered pursuant to this Ordinance (on which is printed or to which Notes is attached the Registration Certificate of the Comptroller of Public Accounts) are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Note issued in conversion of and exchange for any Note or Notes issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF NOTE.

(d) Substitute Paying Agent/Registrar. The Issuer covenants with the Registered Owners of the Notes that at all times while the Notes are outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Notes under this Ordinance, and that the Paying Agent/Registrar will be one entity. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 120 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or Interest Payment Date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial

institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Register (or a copy thereof), along with all other pertinent books and records relating to the Notes, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Notes, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying/Agent Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

## Section 6. FORMS.

(a) Forms Generally. The Notes, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Authentication Certificate of Paying Agent/Registrar, and the Assignment form to appear on each of the Notes, (i) shall be substantially in the form set forth in this Section, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the Issuer or by the officers executing such Notes, as evidenced by their execution thereof.

(b) Placement of Text. Any portion of the text of any Notes may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Notes.

(c) Definitive Notes. The Notes shall be typed, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Notes, as evidenced by their execution thereof.

(d) Initial Note. The Initial Note submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

(e) Form of the Notes. The form of the Notes, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Authentication Certificate of Paying Agent/Registrar and the form of Assignment appearing on the Notes, shall be substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Ordinance.





improvements and to pay costs of issuance, by virtue of the laws of the State of Texas, including particularly Chapter 1431, Texas Government Code, as amended.

THE NOTES are issued pursuant to the Ordinance whereunder the City Council of the City has levied a continuing, direct, annual ad valorem tax on all taxable property within the City, within the limits prescribed by law, for each year while any part of the Notes are considered outstanding under the provisions of the Ordinance, in sufficient amount to pay interest on each Note as it becomes due, to provide a sinking fund for the payment of the principal of the Notes when due, and to pay the expenses of assessing and collecting such tax. Reference is hereby made to the Ordinance for provisions with respect to the custody and application of the City's funds, remedies in the event of a default hereunder or thereunder, and the other rights of the Registered Owner. By acceptance of this Note, the Registered Owner consents to all of the provisions of the Ordinance, a certified copy of which is on file in the office of the City Secretary.

THE NOTES may be prepaid, at the option of the City, in whole or in part, on August 15, 2011 or any date thereafter, in the principal amount of any integral multiple of \$5,000, plus accrued interest on unpaid principal to the prepayment date if, at least 45 days before the prepayment date, the City provides the Paying Agent/Registrar with written notice of such prepayment stating the date of such prepayment. The Paying Agent/Registrar shall give notice of such prepayment to the Registered Owner by mailing such notice by first class United States mail, postage paid, at least 30 days prior to the prepayment date, to the record address of the Registered Owner. Such notice shall state the prepayment date, the prepayment amount (including any accrued interest), and the place of prepayment. Failure of the Paying Agent to give (or to properly give) such notice of prepayment to the Registered Owner shall not affect the validity of the prepayment.

IF THIS NOTE (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Note (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

IN THE EVENT of a partial redemption of the principal amount of this Note, payment of the redemption price of such principal amount shall be made to the Registered Owner only upon presentation and surrender of this Note to the Paying Agent/Registrar at its Designated Payment/Transfer Office, and there shall be issued to the Registered Owner hereof, without charge, a new Note or Notes of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum hereof. If this Note is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer this Note to an assignee of the Registered Owner within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange

by the Registered Owner of the unredeemed balance hereof in the event of its redemption in part.

THIS NOTE IS TRANSFERABLE OR EXCHANGEABLE only upon presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar. If this Note is being transferred, it shall be duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner, or his authorized representative, subject to the terms and conditions of the Ordinance. If this Note is being exchanged, it shall be in the principal amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance. The Registered Owner of this Note shall be deemed and treated by the City and the Paying Agent/Registrar as the absolute owner hereof for all purposes, including payment and discharge of liability upon this Note to the extent of such payment, and the City and the Paying Agent/Registrar shall not be affected by any notice to the contrary.

ANY INTEREST DUE at maturity of this Note or upon redemption thereof prior to maturity as herein provided shall be paid to the Registered Owner upon presentation and surrender of this Note for payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Note that on or before each principal payment date and Interest Payment Date for this Note it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Notes, when due.

IF THE DATE for the payment of the principal of or interest on this Note shall be a Saturday, a Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, or the United States Postal Service is not open for business, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close, or the United States Postal Service is not open for business; and payment on such date shall have the same force and effect as if made on the original date payment was due.

ALL NOTES OF THIS SERIES are issuable solely as fully registered Notes, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Ordinance, this Note, or any unredeemed portion hereof, may, at the request of the Registered Owner, or the assignee or assignees hereof, be assigned, transferred, and exchanged for a like aggregate principal amount of fully registered Notes, without interest coupons, payable to the appropriate Registered Owner, assignee, or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee, or assignees, as the case may be, upon surrender of this Note to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Note must be presented

and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Note or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Note or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Note may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Note or any portion or portions hereof from time to time by the Registered Owner. The person requesting such transfer and exchange shall pay the Paying Agent/Registrar's reasonable standard or customary fees and charges for transferring and exchanging any Note or portion thereof. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the person requesting such assignment, transfer, or exchange, as a condition precedent to the exercise of such privilege. The foregoing notwithstanding, in the case of the exchange of a portion of a Note which has been redeemed prior to maturity, as provided herein, and in the case of the exchange of an assigned and transferred Note or Notes or any portion or portions thereof, such fees and charges of the Paying Agent/Registrar will be paid by the City.

IN THE EVENT OF A NON-PAYMENT OF INTEREST on a scheduled payment date and for 30 days thereafter, a new Record Date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of the Registered Owner appearing on the Register of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

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

IT IS HEREBY CERTIFIED, COVENANTED, AND REPRESENTED that all acts, conditions, and things necessary to be done precedent to the issuance of the Notes in order to render the same legal, valid, and binding obligations of the City have happened and have been accomplished and performed in regular and due time, form, and manner, as required by law; that provision has been made for the payment of the principal of and interest on the Notes by the levy of a continuing, direct, annual ad valorem tax upon all taxable property within the City, within the limits prescribed by law; and that issuance of the Notes does not exceed any constitutional or statutory limitation.

BY BECOMING the Registered Owner of this Note, the Registered Owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, and agrees that the terms and provisions of this Note and the Ordinance constitute a contract between each Registered Owner and the City.

IN WITNESS WHEREOF this Note has been signed with the manual or facsimile signature of the Mayor of the City, countersigned with the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed, or placed in facsimile on this Note.

CITY OF KEMPNER, TEXAS

COUNTERSIGNED:

\_\_\_\_\_  
City Secretary  
City of Kempner, Texas

\_\_\_\_\_  
Mayor  
City of Kempner, Texas

[CITY SEAL]

FORM OF REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS\*

\*Print on or attach to Initial Note only

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. \_\_\_\_\_  
STATE OF TEXAS:

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has examined and finds that this Note has been issued in conformity with the laws of the State of Texas and is a valid and binding obligation of the City of Kempner, Texas, and further that this Note has been registered this day by me.

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

(COMPTROLLER'S SEAL)

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

FORM OF AUTHENTICATION CERTIFICATE\*\*

\*\*Print on Definitive Notes only

AUTHENTICATION CERTIFICATE

This Note is one of the Notes described in and delivered pursuant to the within-mentioned Ordinance, and this Note has been issued in conversion of and exchanged for, or replacement of, a Note, Notes, or a portion of a Note or Notes, which was originally approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

WELLS FARGO BANK, N.A.  
Austin, Texas

Registration Date: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signature

FORM OF ASSIGNMENT

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
(Please print or typewrite name and address, including zip code, of Transferee) (Please insert Social Security or Taxpayer Identification Number)

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

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

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution as defined by SEC Rule 17Ad-15 (17 CFR 240-17Ad-15).

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

(f) Form of Initial Note. The Initial Note shall be in the form set forth in subsection (e) of this Section, except the following shall replace the heading and the first paragraph:

NO. I-1

\$425,000

United States of America  
State of Texas  
CITY OF KEMPNER, TEXAS  
LIMITED TAX NOTE  
SERIES 2010

Dated Date: August 15, 2010

Initial Date of Delivery: September 15, 2010

Registered Owner:

Principal Amount: FOUR HUNDRED TWENTY-FIVE THOUSAND DOLLARS

CITY OF KEMPNER, TEXAS (the "City"), a political subdivision of the State of Texas, promises to pay to the Registered Owner, specified above, or registered assigns (the "Registered Owner"), on August 15 in each of the years, and bearing interest at the per annum rates in accordance with the following schedule:

<u>YEARS OF STATED MATURITIES</u>	<u>PRINCIPAL INSTALLMENTS</u>	<u>INTEREST RATES</u>
2011	\$40,000	1.250%
2012	35,000	1.460%
2013	35,000	1.810%
2014	40,000	2.030%
2015	90,000	2.600%
2016	90,000	3.010%
2017	95,000	3.340%

upon presentation and surrender of this Note to Wells Fargo Bank, N.A., or its successor (the "Paying Agent/Registrar"), at its Designated Payment/Transfer Office in Austin, Texas, the Principal Amount, specified above, in lawful money of the United States of America, and to pay interest thereon at the Interest Rate, specified above, calculated on the basis of a 360-day year of twelve 30-day months, from the later of the Initial Date of Delivery or the most recent date to which interest has been paid or duly provided for. Interest on this

Note is payable by check on February 15, 2011 and on each February 15 and August 15 thereafter, mailed to the Registered Owner of record as shown on the Register kept by the Paying Agent/Registrar, as of the date which is the last business day of the month next preceding the Interest Payment Date (the "Record Date"), or in such other manner as may be acceptable to the Registered Owner and the Paying Agent/Registrar.

Section 7. INTEREST AND SINKING FUND. The "City of Kempner, Texas Limited Tax Notes, Series 2010 Interest and Sinking Fund" (the "Interest and Sinking Fund"), is hereby authorized and shall be established and maintained in a depository bank of the Issuer, so long as the Notes, or interest thereon, are outstanding and unpaid for the purpose described in Section 9.

#### Section 8. CONSTRUCTION FUND.

(a) Establishment of Construction Fund. A special fund or account, to be designated the "City of Kempner, Texas Limited Tax Notes, Series 2010 Construction Fund" (the "Construction Fund") is hereby created and shall be established and maintained by the Issuer at the official Issuer depository. The Construction Fund shall be kept separate and apart from all other funds and accounts of the Issuer. The proceeds from the sale of the Notes shall be deposited in the Construction Fund and payments from the Construction Fund shall be made as provided below.

(b) Payments from Construction Fund. Payments from the Construction Fund shall be made solely for the purpose of paying contractual obligations incurred to construct a new City Hall, including the acquisition of a site therefor, City street improvements and to pay costs of issuance.

(c) Surplus Construction Funds. Any moneys remaining in the Construction Fund after completion of the entirety of the contractual obligations authorized hereby shall be deposited into the Interest and Sinking Fund.

Section 9. TAX LEVY. During each year while any of the Notes are outstanding and unpaid, the City Council shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Notes as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Notes as such principal matures (but never less than 2% of the original principal amount of the Notes as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Notes are outstanding and unpaid; and said tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Notes, as such interest comes due and such principal matures, are hereby pledged to such payment, within the limits prescribed by law.

Section 10. EFFECT OF PLEDGE. Chapter 1208, Government Code, applies to the issuance of the Notes and the pledge of the taxes granted by the Issuer under Section 9 of this Ordinance, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Notes are outstanding and unpaid such that the pledge of the taxes granted by the Issuer under Section 9 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the Registered Owners of the Notes the perfection of the security interest in said pledge, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

Section 11. SECURITY FOR FUNDS. All Funds created by this Ordinance shall be secured in the manner and to the fullest extent permitted or required by law for the security of public funds, and such Funds shall be used only for the purposes and in the manner permitted or required by this Ordinance.

#### Section 12. DEFEASANCE OF NOTES.

(a) Any Note and the interest thereon shall be deemed to be paid, retired, and no longer outstanding (a "Defeased Note") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section 12, when payment of the principal of such Note, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Government Obligations (hereinafter defined) which mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Notes shall have become due and payable. At such time as a Note shall be deemed to be a Defeased Note hereunder, as aforesaid, such Note and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Government Obligations.

(b) Any money so deposited with the Paying Agent/Registrar may at the written direction of the Issuer also be invested in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from such Government Obligations received by the Paying Agent/Registrar which is not required for the payment of the Notes and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer.



(c) The term "Government Obligations" as used in this Section 12, shall mean (i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; or (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

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

### Section 13. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED NOTES.

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

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

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section 13, in the event any such Note shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on this Note, the Issuer may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Note) instead of issuing a

replacement Note, provided security or indemnity is furnished as above provided in this Section 13.

(d) Charge for Issuing Replacement Notes. Prior to the issuance of any replacement Note, the Paying Agent/Registrar shall charge the Registered Owner of such Note with all legal, printing, and other expenses in connection therewith. Every replacement Note issued pursuant to the provisions of this Section 13 by virtue of the fact that any Note is lost, stolen, or destroyed shall constitute an obligation of the Issuer whether or not the lost, stolen, or destroyed Note shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Notes duly issued under this Ordinance.

(e) Authority for Issuing Replacement Notes. In accordance with Chapter 1431, Texas Government Code, this Section 13 of this Ordinance shall constitute authority for the issuance of any such replacement Note without necessity of further action by the Issuer or any other body or person, and the duty of the replacement of such Notes is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Notes in the form and manner and with the effect, as provided in Section 5(a) of this Ordinance for Notes issued in conversion and exchange of other Notes.

Section 14. CUSTODY, APPROVAL, AND REGISTRATION OF NOTES; BOND COUNSEL OPINION, CUSIP NUMBERS. The Mayor is hereby authorized to have control of the Notes initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Notes pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Notes said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Notes, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The legal opinion of the Issuer's Bond Counsel, and the assigned CUSIP numbers may, at the option of the Issuer, be printed on or attached to the Notes issued and delivered under this Ordinance, but none of such opinion, statement, or number shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Notes.

Section 15. REMEDIES IN EVENT OF DEFAULT. In addition to all of the rights and remedies provided by the laws of the State of Texas, the Issuer covenants and agrees that in the event of default in payment of principal of or interest on any of the Notes when due, or, in the event it fails to make the payments required to be made into the Interest and Sinking Fund or defaults in the observance of performance of any other of the contracts, covenants, conditions, or obligations set forth in this Ordinance or in the Notes, the following remedies shall be available:

(a) the Registered Owners shall be entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the Issuer and the officials thereof to observe and perform the contracts, covenants, obligations, or conditions prescribed in this Ordinance; and

(b) any delay or omission to exercise any right or power accruing upon any default shall not impair any such right or power nor be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

#### Section 16. FEDERAL TAX COVENANTS.

(a) The Issuer hereby represents that the proceeds of the Notes are needed at this time for the purposes specified in Section 2 hereof; that based on current facts, estimates and circumstances, it is reasonably expected that final disbursement of the proceeds of the Notes will occur within three years after the closing date, that substantial binding obligations to commence such acquisitions will be incurred within six months of the closing date and that the accomplishment of the projects for which the Notes are hereby issued will proceed with due diligence to completion; that it is not reasonably expected that the proceeds of the Notes or money deposited in the Interest and Sinking Fund will be used or invested in a manner that would cause the Notes to be or become "arbitrage bonds," within the meaning of Section 148 of the Code; and that, except for the Interest and Sinking Fund, no other funds or accounts have been established or pledged to the payment of the Notes.

(b) The Issuer will not take any action or fail to take any action with respect to the investment of the proceeds of the Notes or any other funds of the Issuer, including amounts received from the investment of any of the foregoing, which act or omission based upon the facts, estimates, and circumstances known on the closing date, would result in constituting the Notes "arbitrage bonds," within the meaning of Section 148 of the Code, and the Issuer will not take any deliberate action motivated by arbitrage that would have such result.

(c) The Issuer will comply with the provisions of Section 148(f) of the Code (relating to paying certain excess earnings of investment proceeds of the Notes to the United States) and the regulations promulgated thereunder.

(d) The Issuer will not take any action or fail to take any action which act or omission would result in the interest on the Notes being includable in gross income for federal tax purposes.

(e) The Issuer will not take any action or fail to take any action which act or omission would result in the Notes being treated as "private activity bonds" within the meaning of Section 141(a) of the Code.

(f) The Issuer will not take any action or fail to take any action which act or omission would result in the Notes being treated as "federally guaranteed" within the meaning of Section 149(b) of the Code.

(g) Proper officers of the Issuer charged with the responsibility of issuing the Notes are hereby directed to make, execute and deliver certifications as to facts, estimates and circumstances in existence as of the closing date and stating whether there are any facts, estimates or circumstances that would materially change the Issuer's current expectations.

(h) The covenants and representations made or required by this Section are for the benefit of the Owners and may be relied upon by the Owners and Bond Counsel for the Issuer.

It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor to execute any documents, certificates, or reports required by the Code and to make such elections, on behalf of the Issuer, which may be permitted by the Code as are consistent with the purpose for the issuance of the Notes. In the event that regulations or rulings are hereafter promulgated which modify, or expand provisions of the Code, as applicable to the Notes, the Issuer will not be required to comply with any covenant contained herein to the extent that such modification or expansion, in the opinion of nationally-recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Notes under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Notes, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally-recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Notes under section 103 of the Code.

Section 17. QUALIFIED TAX-EXEMPT OBLIGATIONS. The Issuer hereby designates the Notes as "qualified tax-exempt obligations" as defined in section 265(b)(3) of the Code. In furtherance of such designation, the Issuer represents, covenants, and warrants the following: (a) during the calendar year in which the Notes are issued, the Issuer (including any subordinate entities) has not designated nor will designate bonds or other obligations, which when aggregated with the Notes, will result in more than \$30,000,000 of "qualified tax-exempt obligations" being issued; (b) the Issuer reasonably anticipates that the amount of tax-exempt obligations issued during the calendar year in which the Notes are issued, by the Issuer (or any subordinate entities) will not exceed \$30,000,000; and (c) the Issuer will take such action or refrain from such action as necessary in order that the Notes will not be considered "private activity bonds" within the meaning of section 141 of the Code.

Section 18. SALE OF NOTES. The Notes are hereby sold for a purchase price of par (\$425,000) and the Initial Note I-1 shall be delivered to Citizens National Bank in accordance with the terms of a Private Placement Letter contract dated August 24, 2010. The Mayor is authorized to execute the acceptance of the Initial Purchaser's Private Placement Letter contract. It is further officially found and declared that the Initial Purchaser has purchased the Initial Note at a price which is the price most reasonably obtainable by the City. The Mayor and other appropriate officials of the City are hereby authorized and directed to execute such Private Placement Letter contract on behalf of the City, and the Mayor and all other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Notes.

Section 19. USE OF PROCEEDS. The Issuer hereby covenants that the proceeds of the sale of the Notes will be used as soon as practicable for the purposes for which the Notes are issued. Obligations purchased as an investment of money in a fund shall be deemed to be a part of such fund.

Section 20. AUTHORITY FOR OFFICERS TO EXECUTE DOCUMENTS. The Mayor, City Secretary and all other officers, employees, and agents of the Issuer, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the official seal of the City and on behalf of the Issuer all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Notes, the Private Placement Letter contract, and the Paying Agent/Registrar Agreement.

Section 21. NO CONTINUING DISCLOSURE UNDERTAKING.

(a) The Notes are being issued in authorized denominations of \$100,000 or more, and the securities are being sold to no more than thirty-five persons, each of whom the City reasonably believes: (A) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the Notes, and (B) is not purchasing for more than one account or with a view to distributing the securities. Accordingly, the Notes are exempt from SEC Rule 15c2-12, and the City does not intend to make any contract to provide continuing disclosure information after the issuance of the Notes.

(b) While the Notes remain outstanding, unless waived by the Initial Purchaser, the City shall provide to the Initial Purchaser Annual Financial Reports within 180 days after the close of each City fiscal year ending on and after September 30, 2010.

Section 22. ORDINANCE A CONTRACT; AMENDMENTS. The Ordinance shall constitute a contract with the Owners, from time to time, of the Notes, binding on the City and its successors and assigns, and shall not be amended or repealed by the City as long as any Note remains outstanding except as permitted in this Section. The City may amend

the Ordinance without the consent of or notice to any Owners in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission therein. In addition, the City may, with the written consent of the holders of a majority in aggregate principal amount of the Notes then outstanding affected thereby, amend, add to, or rescind any of the provisions of the Ordinance; except that, without the consent of the Owners of all the Notes affected, no such amendment, addition, or rescission may (1) change the date specified as the date on which the principal of any installment of interest on any Note is due and payable, reduce the principal amount thereof, or the rate of interest thereon, change the place or places at or the coin or currency in which any Note or interest thereon is payable, or in any other way modify the terms of payment of the principal of or interest on the Notes, (2) give any preference to any Note over any other Note, or (3) reduce the aggregate principal amount of the Notes required for consent to any amendment, addition, or waiver.

Section 23. RESERVED.

Section 24. RELATED MATTERS. The Mayor and City Secretary, and all other officers, employees, and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Notes, the sale of the Notes and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Notes, the Mayor and City Secretary, and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance, (ii) obtain a rating from any of the national bond rating agencies or satisfy any requirements of the provider of a municipal bond insurance policy, if any, or (iii) obtain the approval of the Notes by the Attorney General's office. In case any officer whose signature shall appear on any Note shall cease to be such officer before the delivery of such Note, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 25. NO PERSONAL LIABILITY. No recourse shall be had for payment of the principal of or interest on any Notes or for any claim based thereon, or on this Ordinance, against any official or employee of the City or any person executing any Notes.

Section 26. INCORPORATION OF RECITALS. The Issuer hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Issuer hereby incorporates such recitals as a part of this Ordinance.

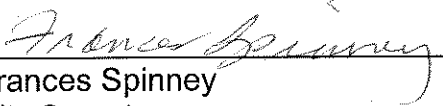
Section 27. EFFECTIVE DATE. This Ordinance shall take effect and be in full force and effect upon and after its passage.

PASSED AND APPROVED this 24th day of August, 2010.



Gene Isenhour, Mayor  
City of Kempner, Texas

ATTEST:



Frances Spinney  
City Secretary  
City of Kempner, Texas

[CITY SEAL]

[SIGNATURE PAGE]

**EXHIBIT A**

Form of Paying Agent/Registrar Agreement