

CITY OF HORSESHOE BAY

ORDINANCE NO. ORD 08-09-16C

**APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE
ESCONDIDO PUBLIC IMPROVEMENT REVENUE BONDS**

AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE ESCONDIDO PUBLIC IMPROVEMENT OF THE CITY OF HORSESHOE BAY, TEXAS SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2008; APPROVING AND AUTHORIZING AN INDENTURE OF TRUST, A BOND PURCHASE CONTRACT; A LIMITED OFFERING MEMORANDUM, A CONTINUING DISCLOSURE AGREEMENT AND OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION THEREWITH; MAKING FINDINGS WITH RESPECT TO THE ISSUANCE OF SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Horseshoe Bay, Texas (the “City”), pursuant to and in accordance with the terms, provisions and requirements of the Public Improvement District Assessment Act, Chapters 372 and 108, Texas Local Government as amended (collectively, the “Act”), has previously established the Escondido Public Improvement of the City of Horseshoe Bay (the “District”), pursuant to Resolution Nos. RES 07-10-16B and RES-07-11-13B and adopted by the City Council of the City (the “City Council”) on October 16, 2007 and November 13, 2007, respectively; and

WHEREAS, pursuant to the Act, the City Council published notice and held a public hearing on March 26, 2008 regarding the levy of special assessments within the District and at that public hearing adopted Ordinance No. ORD 08-03-26A (the “Assessment Ordinance”); and

WHEREAS, in the Assessment Ordinance, the City Council approved and accepted the “Service and Assessment Plan” (as defined and described in the Assessment Ordinance, the “Service and Assessment Plan”) relating to the District and levied the “Assessments” (as defined in the Assessment Ordinance, the “Assessments”) against the “Assessment Roll” (as defined and described in the Assessment Ordinance, the “Assessment Roll”). Capitalized terms used in this preamble and not otherwise defined shall have the meaning assigned thereto in the Service and Assessment Plan; and

WHEREAS, the City is authorized by the Act to issue its revenue bonds payable from the Assessments for the purposes of (i) paying the costs of the Authorized Improvements identified in the Service and Assessment Plan, (ii) paying interest on bonds during and after the period of acquisition and construction of the improvement projects, and (iii) establishing such other funds and accounts as

described in the Indenture (defined below) or as may be required in connection with the issuance of such bonds; and

WHEREAS, the City Council has found and determined that it is in the best interests of the citizens of the City to issue its bonds in a single series to be designated “Escondido Public Improvement of the City of Horseshoe Bay, Special Assessment Revenue Bonds, Series 2008” (the “Bonds”), such series to be payable solely from and secured by the Assessments; and

WHEREAS, the City Council has found and determined to (i) approve the issuance of the Bonds to finance the Authorized Improvements identified in the Service and Assessment Plan on the terms described herein, (ii) approve the form, terms and provisions of an indenture of trust securing the City’s bonds authorized hereby, (iii) approve the form, terms and provisions of a Bond Purchase Agreement between the City and the purchasers of the Bonds, (iv) approve a Limited Offering Memorandum, and (v) approve a Continuing Disclosure Agreement relating to the Bonds and the Assessments between the City, Municap Inc., and Escondido Partners Ltd.; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS, THAT:

I. FINDINGS

The findings and determinations set forth in the preamble hereof are hereby incorporated by reference for all purposes as if set forth in full herein.

II. APPROVAL OF ISSUANCE OF BONDS AND INDENTURE OF TRUST

The issuance of the Bonds in the principal amount of \$5,475,000 for the purpose of providing funds for (i) paying the costs of the Authorized Improvements identified in the Service and Assessment Plan, and (ii) establishing such other funds and accounts as described in the Indenture (defined below) or as may be required in connection with the issuance of such Bonds, is hereby authorized and approved.

(a) The Bonds shall be issued and secured under an indenture of trust, the form, terms and provisions of which are hereby approved in the substantially final form presented at this meeting of that certain Indenture of Trust (the “Indenture”), dated as of September 1, 2008, between the City and Regions Bank as trustee (the “Trustee”), with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the Mayor of the City, such approval to be evidenced by the execution and delivery of the Indenture. The Mayor of the City is hereby authorized and directed to execute the Indenture and the City Secretary is hereby authorized and directed to attest such signature of the Mayor.

(b) The Bonds shall be dated, shall mature on the date or dates and in the principal amounts, shall bear interest, shall be subject to redemption and shall have such other terms and provisions as set forth in the Indenture. The Bonds shall be in substantially the form set forth in the Indenture with such insertions, omissions and modifications as may be required to conform the form of bond to the actual terms of the Bonds. Each series of the Bonds shall be payable from and secured solely by the Assessments and other assets of the “Trust Estate” (as defined in the Indenture) pledged to such series, and shall never be payable from ad valorem taxes.

III. SALE OF BONDS; APPROVAL OF BOND PURCHASE CONTRACT

The Bonds shall be sold to the Underwriter at the price and on the terms and provisions set forth in that certain Bond Purchase Agreement (the “Bond Purchase Agreement”), dated the date hereof, between the City and the Underwriter. The form, terms and provisions of the Bond Purchase Agreement are hereby authorized and approved and the Mayor of the City is hereby authorized and directed to execute and deliver the Bond Purchase Agreement.

IV. LIMITED OFFERING MEMORANDUM

The form and substance of the Preliminary Limited Offering Memorandum for the Bonds and any addenda, supplement or amendment thereto and the final Limited Offering Memorandum presented to and considered at this meeting are hereby in all respects approved and adopted. The Mayor is hereby authorized and directed to execute such Limited Offering Memorandum with such changes and alterations therein as the Mayor may approve, such approval to be conclusively evidenced by such execution thereof. The Limited Offering memorandum as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Mayor of the City and the Underwriter, may be used by the Underwriter in the offering and sale of the Bonds. The City Secretary is hereby authorized and directed to include and maintain a copy of the Preliminary Limited Offering Memorandum and Limited Offering Memorandum and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Limited Offering Memorandum in the offering of the Bonds is hereby ratified, approved and confirmed. Notwithstanding the execution, approval and delivery of such Preliminary Limited Offering Memorandum and Limited Offering Memorandum by the Mayor, the Mayor and this City Council are not responsible for and proclaim no specific knowledge of the information contained in the Preliminary Limited Offering Memorandum and Limited Offering Memorandum pertaining to the Escondido Development, the Developer or its financial ability, the builders, or the landowners.

V. CONTINUING DISCLOSURE AGREEMENT

The form, terms and provisions of that certain Continuing Disclosure Agreement (the “Continuing Disclosure Agreement” dated as of September 16, 2008 between the City, Municap, Inc. and Escondido Partnership, L.P. is hereby authorized and approved in substantially final form presented at this meeting and the Mayor of the City is hereby authorized and directed to execute and deliver such Continuing Disclosure Agreement with such changes as may be required to carry out the purpose of this Ordinance and approved by the Mayor, such approval to be evidenced by the execution thereof. The Mayor’s signature on the Agreement may be attested by the City Secretary.

VI. ADDITIONAL ACTIONS

The Mayor, the City Administrator and each other officer, employee and agent of the City are hereby authorized and directed to take any and all actions on behalf of the City necessary or desirable to carry out the intent and purposes of this Ordinance and to issue the Bonds in accordance with the terms of this Ordinance. The Mayor, the City Administrator and each other officer, employee and agent of the City are hereby authorized and directed to execute and deliver any and all certificates, agreements, notices, instruction letters, requisitions, and other documents which may be necessary or advisable in connection with the sale, issuance and delivery of the Bonds and the carrying out of the purposes and intent of this Ordinance.

VII. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption by the City Council of the City.

ADOPTED AND APPROVED on this the 16th day of September, 2008 by a vote of the City Council of the City of Horseshoe Bay, Texas.

CITY OF HORSESHOE BAY, TEXAS

/S/

Robert W. Lambert, Mayor

ATTEST:

/S/

Teresa L. Moore, City Secretary