ORDINANCE NO. 2010-66

AN ORDINANCE CONSENTING TO A PROPOSED BOND RESOLUTION AND CONTINUING DISCLOSURE AGREEMENT TO BE ADOPTED BY THE LA PORTE AREA WATER AUTHORITY

WHEREAS, the Board of Directors of the La Porte Area Water Authority (the "Authority") has informed the City Council of the City of Shoreacres, Texas (the "City") that the Authority desires to issue and sell its Contract Revenue Refunding Bonds, Series 2010, in the aggregate principal amount not to exceed \$4,500,000 (the "Bonds") in order to refund and defease its Contract Revenue Refunding Bonds, Series 1998, for the purpose of achieving debt service savings; and,

WHEREAS, the City has entered into a Water Supply Contract, dated as of November 23, 1987, as amended July 24, 2000 (the "Contract") with the Authority which allows the City to purchase treated water from the Authority; and,

WHEREAS, the Authority has delivered to the City pursuant to Section 3.02 of the Contract the proposed bond resolution attached hereto as <u>Exhibit A</u> (the "Bond Resolution") and a schedule containing an estimate of the amounts described in such Section 3.02, attached hereto as Exhibit B;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHOREACRES, TEXAS:

- Section 1. That the City Council of the City hereby consents, pursuant to Section 3.03 of the contract, to the adoption by the Authority of the Bond Resolution and the execution by the City of the Continuing Disclosure Agreement substantially in the form attached hereto as Exhibit C.
- <u>Section 2</u>. That all filing, notice or time requirements or other conditions precedent to the adoption of this Ordinance and the approval of the Bond Resolution are hereby waived and the adoption of this Ordinance shall be all the action necessary for the City to consent and approve the issuance of the Bonds by the Authority.
- Section 3. That if any section, sentence, phrase, clause or any part of any section, sentence, phrase or clause of this Ordinance shall for any reason be held invalid, such invalidity shall not affect the remaining portions of the Ordinance, and it is hereby declared to be the intention of the City Council to have passed each section, sentence, phrase or clause, or part thereof, irrespective of the fact that any other section, sentence, phrase or clause, or part thereof, may be declared invalid.
- Section 4. That the City Council hereby officially finds, determines, recites and declares that sufficient written notice of the date, hour, place and subject matter of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has

been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

<u>Section 5</u>. That this Ordinance shall take effect and be in full force immediately upon and after its adoption.

PASSED AND APPROVED THIS ZZNd day of MARCH , 2010.

CITY OF SHOREACRES, TEXAS

Mayor

ATTEST:

Ву:

City Secretary

CERTIFICATE FOR ORDINANCE

THE STATE OF TEXAS COUNTY OF HARRIS CITY OF SHOREACRES	\$ \$ \$			
We, the undersigned officers of the City of Shoreacres, Texas (the "City"), hereby certify as follows:				
1. The City Council of the City convened in a regular meeting on March 22, 2010, at the regular meeting place thereof, within the City, and the roll was called of the duly constituted officers and members of the City Council, to wit:				
Jayo Washington Dolly Arons Gerry Victor Richard Adams Robert Plant Dana Woodruff	Mayor Mayor Pro Tem Council Member Council Member Council Member Council Member			
and all of such persons were present except—				
AN ORDINANCE CONSENTING TO A PROPOSED BOND RESOLUTION AND CONTINUING DISCLOSURE AGREEMENT TO BE ADOPTED BY THE LA PORTE AREA WATER AUTHORITY				
(the "Ordinance") was duly introduced for the consideration of the City Council. It was then duly moved and seconded that the Ordinance be adopted; and, after due discussion, such motion, carrying with it the adoption of the Ordinance, prevailed and carried by the following vote:				
AYES: 5 NAYS: _	ABSTENTIONS: O			
2. That a true, full and correct copy of the Ordinance adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that the Ordinance has been duly recorded in the City Council's minutes of such meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of such meeting pertaining to the adoption of the Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and subject of the aforesaid meeting, and that the Ordinance would be introduced and considered for adoption at such meeting, and each of such officers and members consented, in advance, to the holding of such meeting for such purpose; that such meeting was open to the public as required				

by law; and that public notice of the date, hour, place and subject of such meeting was given as required by the Open Meetings Law, Chapter 551, Texas Government Code.

SIGNED AND SEALED this ZZAC JAY OF MARCH, 2010.

City Secretary

City of Shoreacres, Texas

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CONTINUING DISCLOSURE AGREEMENT

La Porte Area Water Authority Contract Revenue Refunding Bonds Series 2010

THIS CONTINUING DISCLOSURE AGREEMENT (this "Disclosure Agreement"), dated as of May 13, 2010 (this "Disclosure Agreement"), is executed and delivered by the City of Shoreacres, Texas (the "City"), and the La Porte Area Water Authority (the "Authority") in connection with the issuance by the Authority of its Contract Revenue Refunding Bonds, Series 2010. The City, the Dissemination Agent and the Trustee covenant and agree as follows:

Section 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the City and the Authority for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriters in complying with, and constitutes the written undertaking of the City for the benefit of the Bondholders required by, Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 C.F.R. § 240.15c2-12) (the "Rule").

The City, as an "obligated person" within the meaning of the Rule, undertakes to provide the following information as provided in this Disclosure Agreement:

(1) Annual Financial Information.

Section 2. Definitions. In addition to the definitions set forth in the Trust Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Financial Information" means, in the case of the City, the financial information or operating data, provided at least annually, of the type included in Exhibit A hereto, which Annual Financial Information may, but is not required to, be audited. Annual Financial Information shall be prepared in accordance with Generally Accepted Accounting Principals.

"Beneficial Owners" means any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds, including persons holding Bonds through nominees or depositories.

"Holders" means either the registered owners of the Bonds, or, if the Bonds are registered in the name of The Depository Trust Company or another recognized depository, any applicable participant in its depository system.

"Material Event" means any of the following events with respect to the Bonds, if material:

(i) Principal and interest payment delinquencies;

- (ii) Non-payment related Events of Default under and as defined in the Trust Indenture;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
 - (vii) Modifications to rights of Bondholders;
 - (viii) Bond calls (other than mandatory sinking fund redemptions);
 - (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Bonds; and
 - (xi) Rating changes.

"MSRB" means the Municipal Securities Rulemaking Board.

"Participating Underwriters" means the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Report Date" has the meaning set forth in Section 3(a) hereof.

Section 3. Provision of Annual Reports.

(a) While any Bonds are outstanding, the City shall provide the Annual Financial Information on or before December 31 of each year (the "Report Date"), beginning on or before December 31, 2010, to the MSRB. In addition, not later than 15 Business Days prior to said date, the City shall provide the Annual Financial Information to the Authority. In each case, the Annual Financial Information may be submitted as a single document or as a set of documents, and all or any part of such Annual Financial Information may be provided by specific cross-reference to other documents previously provided to the MSRB or filed with the Securities and Exchange Commission.

The City shall also provide notice to the MSRB of any failure to provide Annual Financial Information by the applicable Report Date.

- **Section 4.** Reporting of Material Events. The City and the Authority hereby acknowledge and agree that any reporting of Material Events in connection with the Bonds as required by the Rule will be undertaken by the Authority by separate agreement.
- **Section 5. Termination of Reporting Obligation**. The City's obligations under this Disclosure Agreement shall automatically terminate once the Bonds are no longer outstanding.
- Section 6. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the City and the Authority may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived by the parties hereto, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws, acceptable to the City and the Authority, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule, provided that the Authority shall have provided notice of such delivery and of the amendment to the MSRB. Any such amendment shall satisfy, unless otherwise permitted by the Rule, the following conditions:
 - (i) The amendment may only be made in connection with a change in circumstances that arises from, a change in legal requirements, change in law or change in the identity, nature or status of the obligated person or type of business conducted;
 - (ii) This Disclosure Agreement, as amended, would have complied with the requirements of the Rule at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and
 - (iii) The amendment does not materially impair the interests of Beneficial Owners and Holders of any of the Bonds, as determined either by parties unaffiliated with the City and the Authority (such as counsel expert in federal securities laws), or by approving vote of Bondholders pursuant to the terms of the Bond Resolution at the time of the amendment. The initial Annual Financial Information after the amendment shall explain, in narrative form, the reasons for the amendment and the effect of the change, if any, in the type of operating data or financial information being provided.
- Section 7. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Financial Information, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information in any Annual Financial Information in addition to that which is specifically required by this Disclosure Agreement, the City shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Financial Information.

Section 8. Default. In the event of a failure of the City to comply with any provision of this Disclosure Agreement, the Authority may and, at the written direction of the Participating Underwriter or the Holders of at least 25% in aggregate principal amount of Outstanding Bonds, shall, or any Beneficial Owner or Holder of any of the Bonds may, seek mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Agreement; provided that the City shall be liable for monetary damages or any other monetary penalty or payment for breach of any of its obligations under this Section. The sole remedy under this Disclosure Agreement in the event of any failure of the City to comply with this Disclosure Agreement shall be an action to compel performance.

Section 9. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the City, Authority, the Participating Underwriters and the Beneficial Owners and Holders of any Bonds and shall create no rights in any other person or entity.

Section 10. Interpretation. It being the intention of the City and the Authority that there be full and complete compliance with the Rule, this Disclosure Agreement shall be construed in accordance with the written guidance and no-action letters published from time to time by the Securities and Exchange Commission and its staff with respect to the Rule.

Section 11. Governing Law. This Disclosure Agreement shall be governed by the laws of the State of Texas.

Section 12. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the City and the Authority have each caused their duly authorized officers to execute this Disclosure Agreement as of the day and year first written above.

CITY OF SHOREACRES, TEXAS

By: Mayor Washtn

LA PORTE AREA WATER AUTHORITY

By: _______
Its: President

EXHIBIT A

ANNUAL DISCLOSURE REPORT

La Porte Area Water Authority Contract Revenue Refunding Bonds Series 2010

	Report For Period Ending			
	Т	TOP TEN WATER CUSTOMER	S	
ended	The following table sets forth the top ten water customers of the City for fiscal year ed, as derived from the City's [un]audited financial statements.			
	Customer	Type of Business	20 Consumption in Gallons	
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

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CITY OF SHOREACRES, TEXAS

By: Mayor

By: Mayor

LA PORTE AREA WATER AUTHORITY

By: _______
Its: President