

ORDINANCE NO. 040212-45

AN ORDINANCE by the City Council of the City of Austin, Texas, authorizing the issuance of "CITY OF AUSTIN, TEXAS, HOTEL OCCUPANCY TAX REVENUE REFUNDING BONDS, SERIES 2004"; making provision for the payment of said Bonds; enacting other provisions incident and related to the issuance, payment, sale and delivery of such Bonds including the approval and execution of a Paying Agent/Registrar Agreement, a Bond Purchase Agreement and Special Escrow Agreement and the approval and distribution of an Official Statement, providing for the redemption of the bonds being refunded; and providing an effective date.

WHEREAS, the City of Austin, Texas (the "City") has heretofore issued, sold, and delivered, and there is currently outstanding obligations payable from hotel occupancy taxes in the total principal amount of \$60,960,000, of the following issue or series (hereinafter called the "Refunded Bonds"), to wit: City of Austin, Texas, Hotel Occupancy Tax Revenue Refunding Bonds, Series 1993A, dated December 1, 1993, maturing on November 15 in each of the years 2004 through 2009, 2014 and 2019; and

WHEREAS, pursuant to the provisions of V.T.C.A., Government Code, Chapter 1207, the City Council is authorized to issue refunding bonds to refund in whole or in part such outstanding obligations and deposit the proceeds of sale directly with the place of payment for the Refunded Bonds, or other authorized depository, and such deposit, when made in accordance with said statute, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Bonds; and

WHEREAS, the City Council hereby finds and determines refunding bonds should be issued and sold at this time to refund the Refunded Bonds, and such refunding will result in approximately \$11,976,485.96 in gross savings on such indebtedness and a net present value benefit to the City of approximately \$4,185,995.32; and such bonds can and should be issued as "Additional Bonds" under the terms of the ordinances authorizing the issuance of the "Prior Lien Bonds" (hereinafter identified and defined) and the "Subordinate Lien Bonds" (hereinafter identified and defined); now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

ARTICLE ONE
DEFINITIONS

Section 1.01. Definitions. Unless otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section for all purposes of this Ordinance except Article Three hereof, and any ordinance amendatory or supplemental hereto shall have the respective meanings specified:

Additional Bonds - the additional parity hotel occupancy tax revenue bonds permitted to be issued by the City pursuant to Section 5.01 of this Ordinance.

Bond Act - V.T.C.A., Government Code, Chapter 1207, and V.T.C.A., Government Code, Chapter 1371, as amended.

Bond Year - the period of time that commences on the day following the interest payment date on the Parity Bonds occurring in November of any year and ending on the interest payment date on the Parity Bonds occurring in November of the following year.

Bonds - the City of Austin, Texas, Hotel Occupancy Tax Revenue Refunding Bonds, Series 2004, authorized by this Ordinance.

City - the City of Austin, Texas, and, where appropriate, the City Council thereof, or any successor thereto.

Debt Service Fund - the Fund so designated in Article Four of this Ordinance.

Debt Service Requirements - for any particular Bond Year, an amount equal to the sum of the principal of and interest and any redemption premium on any series of Parity Bonds or Subordinate Lien Bonds then Outstanding which will become due and owing during such Bond Year.

Debt Service Reserve Fund - the Fund so designated in Article Four of this Ordinance.

Debt Service Reserve Fund Surety Bond - any surety bond, insurance policy, letter of credit or other guaranty issued to the City for the benefit of the Holders of the Parity Bonds to satisfy any part of the Reserve Fund Requirement as provided in Section 4.06 of this Ordinance.

Fiscal Year - the City's fiscal year as from time to time designated by the City, which is currently October 1 to September 30.

Hotel Occupancy Tax - the tax, levied by the City pursuant to the Tax Act on the cost of occupancy of any sleeping room furnished by any hotel located within the corporate limits of the City, in which the cost of occupancy is \$2.00 or more a day, which tax is currently levied at a rate of 7% of the consideration paid by the occupant of the sleeping room to the hotel.

Legal Holiday - a day on which a Paying Agent/Registrar for the Bonds is authorized by law to close.

Ordinance - this Ordinance No. 040212-45 and all amendments hereof and supplements hereto.

Outstanding - when used with reference to any Parity Bonds or Subordinate Lien Bonds means, as of a particular date, all Parity Bonds or Subordinate Lien Bonds, or both, theretofore and thereupon delivered except: (a) any such Parity Bond and Subordinate Lien Bond paid, discharged or canceled by or on behalf of the City at or before said date; (b) any such Parity Bond and Subordinate Lien Bond defeased pursuant to the defeasance provisions of the ordinance authorizing its issuance, or otherwise defeased as permitted by applicable law; and (c) any such Parity Bond or Subordinate Lien Bonds in lieu of or in substitution for which another obligation shall have been delivered pursuant to the ordinances authorizing the issuance of such Parity Bonds or Subordinate Lien Bonds.

Owner or Holder - when used with respect to any Bond shall mean the person or entity in whose name such Bond is registered in the Security Register. Any reference to a particular percentage or proportion of the owners shall mean the Owners at a particular time of the

specified percentage or proportion in aggregate principal amount of all Bonds then Outstanding under this Ordinance.

Parity Bonds - the Previously Issued Bonds, the Bonds and each series of Additional Bonds from time to time hereafter issued pursuant to Section 5.01 of this Ordinance.

Paying Agent/Registrar - with respect to the Bonds, JPMorgan Chase Bank, Dallas, Texas, and its successors in that capacity.

Pledged Hotel Occupancy Tax Revenues - that portion of the revenues derived by the City from the Hotel Occupancy Tax which is equal to at least 4.5% of the consideration paid by occupants of sleeping rooms furnished by hotels located within the corporate limits of the City, in which the cost of occupancy is \$2.00 or more a day.

Pledged Revenues - collectively, (i) the Pledged Hotel Occupancy Tax Revenues, (ii) interest and other income realized from the investment of amounts on deposit in the funds and accounts to be maintained pursuant to Article Four of this Ordinance to the extent such interest and other income are required to be transferred or credited to the Tax Fund, and (iii) any additional revenue, receipts or income hereafter pledged to the Parity Bonds in accordance with Section 8.02 of this Ordinance.

Previously Issued Bonds - the outstanding "City of Austin, Texas, Hotel Occupancy Tax Revenue Taxable Refunding Bonds, Series 1999", dated June 15, 1999, originally issued in the principal amount of \$6,445,000.

Reimbursement Obligation - any obligation entered into by the City in connection with any Subordinate Lien Bonds pursuant to which the City obligates itself to reimburse a bank, insurer, surety or other entity for amounts paid or advanced by such party pursuant to a letter of credit, line of credit, standby bond purchase agreement, credit facility, liquidity, facility, insurance policy, surety bond or other similar credit agreement, guaranty or liquidity agreement to secure any portion of principal of, interest on or purchase price of any Subordinate Lien Bonds or reserves in connection therewith or otherwise relating to any Variable Rate Obligation. Reimbursement Obligations may be payable from and secured by a lien on Pledged Revenues which must be junior and subordinate to the lien securing the Parity Bonds but may be on a parity with the lien on Pledged Revenues securing the Subordinate Lien Bonds.

Reserve Fund Requirement - the amount required to be maintained in the Debt Service Reserve Fund. Such amount shall be recomputed upon the issuance of each series of Additional Bonds to be the lesser of (i) 10% of the principal amount or (ii) the maximum annual Debt Service Requirements scheduled to occur in the then current and each future Fiscal Year for all Parity Bonds then Outstanding, including the series of Additional Bonds then being issued or (iii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder. Upon issuance of the Bonds, the Reserve Fund Requirement shall be the amount identified in Section 4.06 hereof.

Security Register - the books of registration kept by the Paying Agent/Registrar in which are maintained the names and addresses of and the principal amounts registered to each Owner.

Subordinate Lien Bonds – the “City of Austin, Texas, Hotel Occupancy Tax Subordinate Lien Revenue Bonds, Series 1999, dated September 1, 1999, issued in the original principal amount of \$110,000,000, and obligations hereafter issued on a parity therewith.

Tax Act - Vernon’s Texas Codes Annotated, Tax Code, Chapter 351, as amended.

Tax Fund - the Fund so designated pursuant to Article Four of this Ordinance.

Transfer Date - each February 14, May 14, August 14, and November 14, beginning May 14, 2004.

Transfer Period - the period of time beginning on any Transfer Date and ending on the day immediately preceding the next succeeding Transfer Date.

Variable Rate Obligations - any series of Subordinate Lien Bonds, (i) the payment of principal of which is either (a) payable on demand by or at the option of the holder at a time sooner than a date on which such principal is scheduled for payment, or (b) scheduled to be payable within one year from the date of issuance and is contemplated to be refinanced for a specified period or term through the issuance of additional Variable Rate Obligations pursuant to a commercial paper or other similar financing program and (ii) the purchase price, payment or refinancing of which is additionally secured by a letter of credit, line of credit, standby purchase agreement, bond insurance, surety bond or other credit or liquidity facility which does not impose a reimbursement obligation payable over a period shorter than three years.

Section 1.02. Interpretations. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the Pledged Revenues to secure the payment of the Bonds.

ARTICLE TWO TERMS OF THE BONDS

Section 2.01. Authorization-Designation-Principal Amount - Purpose. The Bonds shall be and are hereby authorized to be issued in the aggregate principal amount of \$52,715,000 and to be designated and bear the title “CITY OF AUSTIN, TEXAS, HOTEL OCCUPANCY TAX REVENUE REFUNDING BONDS, SERIES 2004” for the purpose of refunding certain obligations of the City (identified in the preamble hereof and referred to as the “Refunded Bonds”) and to pay costs of issuance, in accordance with authority conferred by the Bond Act.

Section 2.02. Full Registration-Issue Date-Denomination-Maturities-Interest Rates. The Bonds shall be issued as fully registered obligations, without coupons, shall be dated February 1, 2004 (the “Issue Date”) and, other than the single fully registered Initial Bond referenced in Section 2.08 hereof, shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity), shall be numbered consecutively from One (1) upward and shall become due and payable on November 15 in each of the years and in principal amounts

(the "Stated Maturities") and bear interest at per annum rates in accordance with the following schedule:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rates</u>
2007	\$2,110,000	2.00%
2008	3,315,000	2.50%
2009	3,400,000	2.75%
2010	3,500,000	3.00%
2011	3,645,000	5.00%
2012	3,830,000	5.00%
2013	4,025,000	5.00%
2014	4,230,000	5.00%
2015	4,455,000	5.00%
2016	4,680,000	5.00%
2017	4,920,000	5.00%
2018	5,170,000	5.00%
2019	5,435,000	5.00%

The Bonds shall bear interest on the unpaid principal amounts from the Issue Date at the rate(s) per annum shown in the above schedule and such interest (calculated on the basis of a 360-day year of twelve 30-day months) shall be payable on May 15 and November 15 in each year, commencing May 15, 2004.

Section 2.03. Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the Holders of the Bonds appearing on the Security Register maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders. A Security Register shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a paying agent/registrar agreement.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or redemption thereof, only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated office in Dallas, Texas (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (the last business day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the City where the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on one or more maturities on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment for such maturity or maturities (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 (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder of such maturity or maturities appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

Section 2.04. Redemption. (a) Redemption. The Bonds having stated maturities on and after November 15, 2014 shall be subject to redemption prior to maturity, at the option of the City or otherwise, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on November 15, 2013, or on any date thereafter at the redemption price of par plus accrued interest to the date of redemption.

(b) Exercise of Redemption Option. At least forty-five (45) days prior to a redemption date for the Bonds (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of the decision to redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date of redemption therefor. The decision of the City to exercise the right to redeem Bonds shall be entered in the minutes of the governing body of the City.

(c) Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Bonds as representing the number of Bonds Outstanding which is obtained by dividing the principal amount of such Bonds by \$5,000 and shall select the Bonds to be redeemed within such Stated Maturity by lot.

(d) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States Mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Bond to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed (iii) state the redemption price (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. If a Bond is subject by its terms to prior redemption and has been called for redemption and notice of redemption thereof has been duly given or waived as herein provided, such Bond (or the principal amount thereof to be redeemed) shall become due and payable, and interest thereon

shall cease to accrue from and after the redemption date therefor, provided moneys sufficient for the payment of such Bonds (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

Section 2.05. Registration - Transfer - Exchange of Bonds - Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each registered owner of the Bonds issued under and pursuant to the provisions of this Ordinance. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Bond (other than the Initial Bond(s) authorized in Section 2.08 hereof) at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds, executed on behalf of, and furnished by, the City of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bond(s) authorized in Section 2.08 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds, executed on behalf of, and furnished by, the City, to the Holder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States Mail, first class postage prepaid, to the Holder and, upon the delivery thereof, the same shall be valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds", evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered and delivered in lieu thereof pursuant to Section 2.09 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Bond called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

Section 2.06. Book-Entry Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 2.03 and 2.05 hereof relating to the payment, redemption and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry Only" securities clearance, settlement and transfer system provided by The Depository Trust Company (DTC), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representation by and between the City and DTC (the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the "DTC Participants") and, while the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 2.03 and 2.05 hereof.

Section 2.07. Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and countersigned by the City Clerk. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Issue Date shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in V.T.C.A., Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 3.03, manually executed by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 3.04, manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate upon any Bond duly signed shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

Section 2.08. Initial Bond(s). The Bonds herein authorized shall be initially issued either (i) as a single fully registered bond in the total principal amount set forth in Section 2.01 hereof with principal installments to become due and payable as provided in Section 2.02 hereof and numbered T-1, or (ii) as multiple fully registered bonds, being one bond for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (hereinafter called the "Initial Bond(s)") and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

Section 2.09. Mutilated-Destroyed - Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like series, form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

ARTICLE THREE FORM OF BONDS AND CERTIFICATES

Section 3.01. Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Article with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and 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 legends reflecting the purchase of

insurance for payment of the Bonds and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bonds shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution.

Section 3.02. Form of Bond.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AUSTIN, TEXAS,
HOTEL OCCUPANCY TAX REVENUE REFUNDING BOND,
SERIES 2004

Issue Date:
February 1, 2004

Interest Rate:

Stated Maturity:

CUSIP NO:

Registered Owner:

Principal Amount:

DOLLARS

The City of Austin (hereinafter referred to as the "City"), a body corporate and municipal corporation in the County of Travis, State of Texas, for value received, hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, solely from the Pledged Revenues (hereinafter defined) and the special funds hereinafter specified and from no other source, on the Stated Maturity date specified above the Principal Amount stated above (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid Principal Amount hereof from the Issue Date at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on May 15 and November 15 of each year, commencing May 15, 2004. Principal of this Bond is payable at its Stated Maturity or redemption to the registered owner hereof, upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the registered owner hereof and in any coin or currency of the United

States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$52,715,000 (herein referred to as the "Bonds") for the purpose of refunding certain outstanding obligations (identified in the Ordinance) and paying costs of issuance, under and in strict conformity with the Constitution and laws of the State of Texas, including the Bond Act, and pursuant to an Ordinance adopted by the governing body of the City (herein referred to as the "Ordinance").

The Bonds maturing on and after November 15, 2014, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on November 15, 2013 or on any date thereafter at the redemption price of par plus accrued interest thereon to the redemption date.

At least thirty days prior to the date fixed for any redemption of Bonds, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its principal sum 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 a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond 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 of a Bond redeemed in part.

The Bonds are special obligations of the City and, together with the Outstanding Previously Issued Bonds (identified and defined in the Ordinance), are payable from and equally and ratably secured by a first lien on certain Pledged Revenues and special funds, all as more fully described and provided for in the Ordinance. The Bonds, together with the interest thereon, are payable solely from such Pledged Revenues and special funds and do not constitute an indebtedness or general obligation of the City. As used herein, "Pledged Revenues" means (i) that portion of the revenues derived by the City from the hotel occupancy tax levied by the City pursuant to Vernon's Texas Codes Annotated, Tax Code, Chapter 351, as amended, which is equal to at least 4.5% of the consideration paid by occupants of sleeping rooms furnished by hotels in which the cost of occupancy is \$2.00 or more a day, (ii) interest and other income realized from the investment of amounts on deposit in the special funds

created in the Ordinance to the extent such interest and other income are required to be transferred to the tax fund created in the Ordinance, and (iii) any additional revenue, receipts or income hereafter pledged to the Outstanding "Parity Bonds" (collectively the Previously Issued Bonds, the Bonds and Additional Bonds hereafter issued on a parity therewith).

Subject to satisfying the terms and conditions prescribed therefor, the City has reserved the right to issue additional obligations payable from and equally and ratably secured in the same manner and to the same extent as the Previously Issued Bonds and the Bonds.

The Holder shall never have the right to demand payment of this Bond or the interest thereon out of any funds raised or to be raised by taxation, other than Pledged Revenues.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Bonds; the Pledged Revenues and special funds pledged to the payment of the Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Bonds; the terms and conditions for the issuance of additional revenue obligations; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond, and this Bond deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, may treat the registered owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of non-payment of interest on one or more maturities on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment for such maturity or maturities (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 (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder of such maturity or maturities appearing on the Security

Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and covenanted that the City is a duly organized and legally existing municipal corporation under and pursuant to the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the Bonds by a pledge of the Pledged Revenues and special funds as aforestated. In case any provision in this Bond or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Issue Date.

CITY OF AUSTIN, TEXAS

Mayor

COUNTERSIGNED:

City Clerk

(Seal)

Section 3.03. Form of Registration Certificate of Comptroller of Public Accounts. To Appear on Initial Bonds only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER)
)
OF PUBLIC ACCOUNTS) REGISTER NO. _____
)
THE STATE OF TEXAS)

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

*NOTE TO PRINTER: Do not print on definitive bonds

Section 3.04. Form of Certificate of Paying Agent/Registrar. To Appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered in the name of the Registered Owner shown above under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in Dallas, Texas is the Designated Payment/Transfer Office" for this Bond.

JPMorgan Chase Bank, Dallas, Texas,
as Paying Agent/Registrar

Registration date:

By _____
Authorized Signature

Section 3.05. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto
(Print or typewrite name, address, and zip code of transferee:)

(Social Security or other identifying number _____
: _____) the within Bond and all rights thereunder, and hereby
irrevocably constitutes and appoints _____
attorney to transfer the within Bond on the books kept for registration thereof, with full power of
substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this
assignment must correspond with the
name of the registered owner as it
appears on the face of the within Bond in
every particular.

Section 3.06. Form of Initial Bond.

The Initial Bonds shall be in the form set forth in Section 3.02, except that the form of a
single fully registered Initial Bond shall be modified as follows:

(i) immediately under the name of the bond the headings "Interest Rate _____",
"Stated Maturity _____", and "CUSIP NO: _____" shall be omitted;

(ii) Paragraph one shall read as follows:

The City of Austin (hereinafter referred to as the "City"), a body corporate and municipal
corporation in the County of Travis, State of Texas, for value received, hereby promises to pay
to the order of the Registered Owner named above, or the registered assigns thereof, solely
from the Pledged Revenues (hereinafter defined) and special funds hereinafter specified and
from no other source, the Principal Amount hereinabove stated on November 15 in each of the
years and in principal installments in accordance with the following schedule:

<u>YEAR OF</u> <u>MATURITY</u>	<u>PRINCIPAL</u> <u>INSTALLMENTS</u>	<u>INTEREST</u> <u>RATE</u>
-----------------------------------	---	--------------------------------

(Information to be inserted from Section 2.02 hereof).

(or so much thereof as shall not have been prepaid prior to maturity) and to pay interest on the
unpaid principal amounts hereof from the Issue Date at the per annum rates of interest specified
above computed on the basis of a 360-day year of twelve 30-day months; such interest being
payable on May 15 and November 15 of each year, commencing May 15, 2004. Principal
installments of this Bond are payable in the year of maturity or on a prepayment date to the
registered owner hereof, by JPMorgan Chase Bank, Dallas, Texas (the "Paying
Agent/Registrar"), upon presentation and surrender, at its designated office in Dallas, Texas
(the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this
Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar

at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of registered owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner or holder hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Section 3.07. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

ARTICLE FOUR SECURITY AND SOURCE OF PAYMENT FOR ALL BONDS

Section 4.01. Pledge and Source of Payment. The Bonds shall constitute special obligations of the City and shall be payable from, and, together with the Previously Issued Bonds, equally and ratably secured by a first lien on, the Pledged Revenues. Such Pledged Revenues or other lawfully available funds of the City shall, in the manner herein provided, be set aside for and pledged to the payment of the Parity Bonds, and all expenses of providing for their full and timely payment in accordance with their terms, in the Debt Service Fund and the Debt Service Reserve Fund as hereinafter provided. The City hereby grants a first lien on the Pledged Revenues and further grants a first lien on the Tax Fund, the Debt Service Fund and the Debt Service Reserve Fund to secure the payment of principal of and premium, if any, and interest on the Parity Bonds. All Parity Bonds shall be in all respects on a parity with and of equal dignity with one another. The owners of the Parity Bonds shall never have the right to demand payment of the principal of, interest on or any redemption premium from funds raised or to be raised by taxation, other than the Pledged Hotel Occupancy Tax Revenues.

Vernon's Texas Codes Annotated, Government Code, Section 1208.001, et seq. applies to the issuance of the Bonds and the pledge of the Pledged Hotel Occupancy Tax Revenues granted by the City under this Section 4.01, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Pledged Hotel Tax Revenues granted by the City under this Section 4.01 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 Bonds the perfection of the security interest in said pledge, the City 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 4.02. Levy of Hotel Occupancy Tax. The City has levied, and while any Bonds remain Outstanding the City hereby levies and covenants that it shall continue to levy, a Hotel Occupancy Tax on the cost of occupancy of any sleeping room furnished by any hotel within the corporate limits of the City, in which the cost of occupancy is \$2.00 or more a day, at a rate of at least 7% of the consideration paid by the occupant of the sleeping room to the hotel, all as authorized by the Tax Act. The City further covenants that it shall enforce the provisions of this

Ordinance, or any other ordinance levying a Hotel Occupancy Tax, concerning the collection, remittance and payment of the Hotel Occupancy Tax.

Section 4.03. Special Funds. The following special funds and accounts created, established and to be maintained under the ordinance authorizing the issuance of the Previously Issued Bonds are hereby reaffirmed for the benefit of the Bonds while any of the Bonds remain Outstanding. Such funds and accounts may also include any additional accounts or subaccounts as may from time to time be designated by the City, including specifically rebate accounts or subaccounts for accumulating rebatable arbitrage payable to the federal government, provided such accounts or subaccounts are not inconsistent with this Ordinance:

- (1) Convention Center Hotel Occupancy Tax Fund ("Tax Fund");
- (2) Convention Center Hotel Occupancy Tax Bond Debt Service Fund ("Debt Service Fund"); and
- (3) Convention Center Hotel Occupancy Tax Bond Debt Service Reserve Fund ("Debt Service Reserve Fund").

The Tax Fund shall be maintained as a separate fund or account on the books of the City. The Debt Service Fund and the Debt Service Reserve Fund shall be maintained at an official depository bank of the City or in a trustee bank designated by the City separate and apart from all other funds and accounts of the City. The Debt Service Fund and the Debt Service Reserve Fund shall constitute trust funds which shall be held in trust for the Owners of the Parity Bonds and the persons entitled to the payment of the fees and expenses described in Section 4.05 hereof and the proceeds of which (other than the interest income thereon, which may be transferred as herein provided) shall be pledged, as herein provided, to the payment of the Parity Bonds and the above-referenced fees and expenses.

Section 4.04. Flow of Funds. The City covenants and agrees all Pledged Hotel Occupancy Tax Revenues, together with other Pledged Revenues, shall be deposited as received into the Tax Fund. Moneys from time to time credited to the Tax Fund shall be applied as follows in the following order of priority:

First, to transfer all amounts to the Debt Service Fund required by ordinances authorizing the issuance of the Parity Bonds.

Second, to transfer all amounts to the Debt Service Reserve Fund required by ordinances authorizing the issuance of the Parity Bonds.

Third, to transfer all amounts necessary to provide for the payment of Subordinate Lien Bonds (including any Reimbursement Obligations incurred in connection therewith), or to provide reserves for such payment, as may be required by any ordinance authorizing the issuance of Subordinate Lien Bonds.

Fourth, for any lawful purpose under the Tax Act.

Section 4.05. Debt Service Fund. In addition to the deposits to the Debt Service Fund for the payment of the Previously Issued Bonds, the City covenants and agrees that prior to each interest payment date, stated maturity date and mandatory redemption date for the Bonds there shall be deposited into the Debt Service Fund from the Tax Fund an amount equal to one

hundred percentum (100%) of the amount required to fully pay the amount then due and payable on the Bonds, and such deposits to pay the Bonds at maturity or redemption, as the case may be, and accrued interest thereon shall be made in substantially equal quarterly installments (based on the total annual Debt Service Requirements to be paid on the Bonds divided by the number of Transfer Dates (i.e., February 14, May 14, August 14 and November 14) to occur during the period covered by such calculation) on or before each Transfer Date, beginning on the first Transfer Date to occur after the delivery of the Bonds.

In addition, on each Transfer Date, the City covenants and agrees to cause to be deposited into the Debt Service Fund from the Tax Fund an amount calculated to pay all expenses of providing for the full and timely payment of the principal of, premium, if any, and interest on the Parity Bonds in accordance with their terms, including without limitation, all fees charged or incurred by the Paying Agent/Registrar and for trustee services rendered in connection with the Parity Bonds.

Moneys credited to the Debt Service Fund shall be used solely for the purpose of paying principal (at maturity or prior redemption or to purchase Parity Bonds issued as term bonds in the open market to be credited against mandatory redemption requirements), interest and redemption premiums on the Parity Bonds, plus all Paying Agent/Registrar charges and other costs and expenses relating to such payment, including those described above. On or before each principal and/or interest payment date on the Parity Bonds, the City shall transfer from the Debt Service Fund to the appropriate paying agent/registrar amounts equal to the principal, interest and redemption premiums payable on the Parity Bonds on such date.

Section 2.06. Debt Service Reserve Fund. (a) The City shall establish and maintain as hereinafter provided a balance in the Debt Service Reserve Fund equal to the Reserve Fund Requirement for the Parity Bonds. In accordance with the ordinance authorizing the issuance of the Previously Issued Bonds, there is currently on deposit to the credit of the Debt Service Reserve Fund the sum of \$7,024,231.81 (the "Current Reserve"). The City hereby finds and determines that the purchase of a Debt Service Reserve Fund Surety Bond is cost effective and the other requirements set forth below in this subsection are satisfied for the employment of a Debt Service Reserve Fund Surety Bond. By reason of the issuance of the Bonds, the Reserve Fund Requirement shall be and is hereby recalculated and determined to be \$5,576,625.00. Immediately following the delivery of the Bonds, the City shall cause to be deposited to the credit of the Reserve Fund a Debt Service Reserve Fund Surety Bond issued by Financial Security Assurance Inc. in an amount equal to the Reserve Fund Requirement. The amount currently on deposit in the Debt Service Reserve Fund to be replaced with a debt service reserve fund surety bond policy is to be contributed toward the refunding of the Refunded Bonds.

The "Insurance Agreement (the "Insurance Agreement") by and between the City and Financial Security Assurance Inc. attached hereto as **Exhibit C** and incorporated herein by reference as a part of this Ordinance for all purposes as if all the provisions thereof were restated in full as part of this Section, is hereby approved as to form and content, and such Insurance Agreement in substantially the form and substance attached hereto, together with such changes or revisions as may be necessary to comply with Texas law, is hereby authorized to be executed by the Acting Director of Financial Services or City Treasurer for and on behalf of the City and as the act and deed of this governing body; and such Insurance Agreement as executed by said official shall be deemed approved by the City Council and constitute the Insurance Agreement herein approved.

Each increase in the Reserve Fund Requirement resulting from the issuance of Additional Bonds shall be funded at the time of issuance and delivery of such series of Additional Bonds by depositing to the credit of the Debt Service Reserve Fund either (A) proceeds of such Additional Bonds or other lawfully appropriated funds in not less than the amount which, together with investment earnings thereon as estimated by the City, will be sufficient to fund fully the Reserve Fund Requirement by no later than the end of the period of time for which the payment of interest on such Additional Bonds has been provided out of proceeds of such Additional Bonds or investment earnings thereon as estimated by the City or from other lawfully available funds other than Pledged Revenues or (B) to the extent permitted by applicable law, a Debt Service Reserve Fund Surety Bond sufficient to provide such portion of the Reserve Fund Requirement. The City shall not employ any Debt Service Reserve Fund Surety Bond unless (i) the City officially finds that the purchase of such Debt Service Reserve Fund Surety Bond is cost effective, (ii) the Debt Service Reserve Fund Surety Bond does not impose upon the City a repayment obligation (in the event the Debt Service Reserve Fund Surety Bond is drawn upon) greater than can be funded in the manner provided in subsection (b) below, payable out of Pledged Revenues on the same priority as deposits are required to be made to the Debt Service Reserve Fund on such Transfer Dates, (iii) any interest due in connection with such repayment obligations does not exceed the highest lawful rate of interest which may be paid by the City at the time of delivery of the Debt Service Reserve Fund Surety Bond, and (iv) the rating either for the long term unsecured debt of the issuer of such Debt Service Reserve Fund Surety Bond or for obligations insured, secured or guaranteed by, such issuer have a rating in the highest letter category by two major municipal securities evaluation services.

(b) In any Transfer Period in which the Debt Service Reserve Fund contains less than the Reserve Fund Requirement for the Parity Bonds (or so much thereof as shall then be required to be therein if the City has elected to accumulate the Reserve Fund Requirement for any series of Additional Bonds as above provided) or in which the City is obligated to repay or reimburse any issuer of a Debt Service Reserve Fund Surety Bond (in the event such Debt Service Reserve Fund Surety Bond is drawn upon), then on or before the next succeeding Transfer Date after making all required transfers to the Debt Service Fund, there shall be transferred into the Debt Service Reserve Fund from the Tax Fund, to the extent money is available therein, such amount as shall be necessary to reestablish in the Debt Service Reserve Fund the Reserve Fund Requirement for the Parity Bonds and satisfy any repayment obligations to the issuer of any Debt Service Reserve Fund Surety Bond. After such amount has been accumulated in the Debt Service Reserve Fund and after satisfying any repayment obligation to any issuer of a Debt Service Reserve Fund Surety Bond and while such fund contains such amount and all such repayment obligations have been satisfied, no further transfers shall be required to be made, and any excess amounts in such fund shall be transferred to the Tax Fund. But if and whenever the balance in the Debt Service Reserve Fund is reduced below the Reserve Fund Requirement or any Debt Service Reserve Fund Surety Bond repayment obligation exists, transfers to the Debt Service Reserve Fund shall be resumed and continued in the manner provided above to restore the Reserve Fund Requirement and to pay such reimbursement obligations.

(c) The Debt Service Reserve Fund shall be used to pay the principal of and interest on the Parity Bonds at any time when there is not sufficient money available in the Debt Service Fund for such purpose, and to make any payments required to satisfy repayment obligations to issuers of Debt Service Reserve Fund Surety Bonds, and may be used to make the final payments for the retirement or defeasance of Parity Bonds.

Section 4.07. Funds and Accounts for Subordinate Lien Bonds. On or before each Transfer Date, after making all required transfers to the Debt Service Fund and the Debt Service Reserve Fund, there shall be transferred into such funds and accounts as shall be established for such purpose pursuant to the ordinances authorizing the issuance of any Subordinate Lien Bonds, such amounts as shall be required pursuant to such ordinances to provide for the payment, or to provide reserves for the payment, of any principal of and interest and any premium on Subordinate Lien Bonds, including all costs of paying same and all costs incurred, or to be incurred pursuant to any Reimbursement Obligations incurred in connection therewith.

Section 4.08. Deficiencies in Funds or Accounts. If on any Transfer Date there shall not be transferred into any fund or account maintained pursuant to this Article the full amounts required herein, amounts equivalent to such deficiency shall be set apart and transferred to such fund or account from the first available and unallocated moneys in the Tax Fund, and such transfer shall be in addition to the amounts otherwise required to be transferred to such fund or account on any succeeding Transfer Date or Dates.

Section 4.09. Construction Fund. From the proceeds of each series of Parity Bonds issued for authorized projects there shall be deposited into a construction fund such amounts as shall be provided in the ordinance authorizing such series of Additional Bonds. Such amounts may be applied to pay costs of establishing, improving, enlarging, extending and repairing an authorized project, to reimburse advances made by the City for such costs, to pay costs of issuance of the Parity Bonds and to pay any other capital costs of authorized projects as provided in the ordinance authorizing such series of Additional Bonds. Any surplus amounts not required for the foregoing purposes shall, at the direction of the City, be transferred to the Debt Service Fund.

Section 4.10. Investment of Funds; Transfer of Investment Income. (a) Money in all funds required to be maintained by this Ordinance shall, at the option of the City, be invested in the manner provided by Texas law; provided that all such deposits and investments shall be made in such manner that the money required to be expended from any fund will be available at the proper time or times. Moneys in such funds may be subjected to further investment restrictions imposed from time to time by ordinances authorizing the issuance of Additional Bonds and Subordinate Lien Bonds. All such investments shall be valued no less frequently than the last business day of the City's Fiscal Year at market value, except that any direct obligations of the United States of America - State and Local Government Series shall be continuously valued at their par value or principal face amount. For purposes of maximizing investment returns, money in such funds may be invested, together with money in other funds or with other money of the City, in common investments or in a common pool of such investments maintained by the City at an official depository of the City or in any fund or investment vehicle permitted by Texas law, which shall not be deemed to be a loss of the segregation of such money or funds provided that safekeeping receipts, certificates of participation or other documents clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such funds are held by or on behalf of each such fund. If and to the extent necessary, such investments or participations therein shall be promptly sold to prevent any default.

(b) All interest and income derived from deposits and investments credited to any funds and accounts shall be transferred to the Tax Fund not less frequently than monthly, except as provided in (c) below; provided that at any time when the Debt Service Reserve Fund has on deposit an amount less than the Reserve Fund Requirement, all interest and income on from deposits and investments credited to such fund shall remain therein.

(c) Notwithstanding anything to the contrary contained herein, any interest and income derived from deposits and investments of any amounts credited to any fund or account may be (i) transferred into any rebate account or subaccount and (ii) paid to the federal government if in the opinion of nationally recognized bond counsel such payment is required to comply with any covenant contained in an order, resolution or ordinance to prevent interest on any Parity Bonds or Subordinate Lien Bonds from being includable within the gross income of the owners thereof for federal income tax purposes.

Section 4.11. Security for Uninvested Funds. While any Bonds remain Outstanding, all uninvested moneys on deposit in, or credited to, the above described funds and accounts shall be secured by the pledge of security, as provided by Texas law.

ARTICLE FIVE ADDITIONAL BONDS

Section 5.01. Additional Bonds. The City reserves the right to issue, for any lawful purpose, one or more installments of Additional Bonds payable from and, together with the Previously Issued Bonds and the Bonds, equally and ratably secured by a parity lien on and pledge of the Pledged Revenues and special funds; provided, however, that no such Additional Bonds shall be issued unless:

(a) No Default; Fund Balances. The City's Director of Financial Services (or other officer of the City then having primary responsibility for the financial affairs of the City) shall certify that, upon the issuance of such Additional Bonds, (i) the City will not be in default under any term or provision of any Parity Bonds then Outstanding or any ordinance pursuant to which any of such Parity Bonds were issued and (ii) the Debt Service Fund will have the required amounts on deposit therein and the Debt Service Reserve Fund will contain the applicable Reserve Fund Requirement or so much thereof as is required to be funded at such time.

(b) Coverage for Additional Bonds. The City's Director of Financial Services (or other officer of the City having primary responsibility for the financial affairs of the City) shall provide a certificate showing that, for the City's most recent complete Fiscal Year or for any consecutive 12-month period out of the most recent 18 months, (A) the Pledged Hotel Occupancy Tax Revenues for the above period are equal to at least 130% of the maximum annual Debt Service Requirements on all Parity Bonds scheduled to occur in the then current or any future Fiscal Year after taking into consideration the issuance of the Additional Bonds proposed to be issued, and (B) the Pledged Hotel Occupancy Tax Revenues after deducting an amount equal to the maximum annual Debt Service Requirement applied in satisfying the coverage requirement in clause (A), together with any other revenues pledged in whole or in part to the payment of Parity Bonds and Subordinate Lien Bonds, for the above period are equal to at least 130% of the maximum annual Debt Service Requirement on all Subordinate Lien Bonds then Outstanding and scheduled to occur in the then current or any future Fiscal Year; provided, however, at such time as the Previously Issued Bonds, are no longer Outstanding, the coverage requirement for the issuance of additional parity bonds in clause (A) above shall be reduced to 125% and the coverage requirement of clause (B) shall provide that the Pledged Hotel Occupancy Tax Revenues, together with any other revenues pledged in whole or in part to the payment of Parity Bonds and Subordinate Lien Bonds, for the above period are equal to at least 100% of the combined maximum annual Debt Service Requirements on all Parity Bonds and Subordinate Lien Bonds then Outstanding and scheduled to occur in the then current or any future Fiscal Year after taking into consideration the issuance of the Additional Bonds proposed to be issued. In making a determination of the Pledged Hotel Occupancy Tax Revenues, the

City may take into consideration an increase in the portion of the Hotel Occupancy Tax pledged and dedicated to the payment of Parity Bonds and Subordinate Lien Bonds that became effective during the period for which Pledged Hotel Occupancy Tax Revenues are determined and, for purposes of satisfying the above coverage tests, make a pro forma determination of the Pledged Hotel Occupancy Tax Revenues for the period of time covered by such certification based on such increased portion of the Hotel Occupancy Tax pledged and dedicated to the payment of the Parity Bonds being in effect for the entire period covered by the certificate.

(c) Refunding Bonds. If Additional Bonds are issued for the purpose of refunding less than all Parity Bonds then Outstanding, the certifications described in (b) above shall not be required if the maximum annual and the average annual Debt Service Requirements for all Parity Bonds to be Outstanding in any Fiscal Year after the issuance of such Additional Bonds will not exceed the maximum annual and the average annual Debt Service Requirements for all Parity Bonds Outstanding in any Fiscal Year prior to the issuance of Additional Bonds with respect to the maximum annual Debt Service Requirements and in the prior Fiscal Year with respect to the average annual Debt Service Requirements.

(d) Bond Ordinance Requirements. Provision shall be made in the ordinances authorizing the issuance of the Additional Bonds for (1) additional payments into the Debt Service Fund sufficient to provide for increased Debt Service Requirements resulting from the issuance of the Additional Bonds including, in the event that interest on the Additional Bonds is capitalized and/or to be paid from investment earnings, a requirement for the transfer from the capitalized interest fund or account and/or from the construction fund to the Debt Service Fund of amounts fully sufficient to pay interest on such Additional Bonds during the period specified in the ordinance, and (2) satisfaction of the Reserve Fund Requirement by not later than the date required by this Ordinance or any other ordinance authorizing Additional Bonds.

Section 5.02. Subordinate Lien Bonds. (a) The City reserves the right to issue or incur, for any lawful purpose, bonds, notes or other obligations secured in whole or in part by liens on the Pledged Revenues junior and subordinate to the liens on Pledged Revenues securing payment of the Parity Bonds; provided, however, save and except as provided in (b) below no such Subordinate Lien Bonds shall be issued while the Previously Issued Bonds, are Outstanding unless (i) the City's Director of Financial Services (or other officer of the City then having primary responsibility for the financial affairs of the City) shall provide a certificate showing that, for the City's most recent complete Fiscal Year or any consecutive 12-month period out of the most recent 18 months, the "Net Pledged Hotel Occupancy Revenues" (all Pledged Hotel Occupancy Tax Revenues received by the City, less all amounts required to provide for the payment of the Parity Bonds then Outstanding and provide reserves for such payment) plus revenues other than the Pledged Revenues, that are pledged or to be pledged, in whole or in part, to the payment of such Subordinate Lien Bonds were equal to at least 130% of the combined maximum annual principal and interest requirement for all Parity Bonds and Subordinate Lien Bonds to be outstanding after giving effect to the issuance of the Subordinate Lien Bonds then being issued, and (ii) provision is made in the ordinance authorizing issuance of the Subordinate Lien Bonds for the complete funding of any reserves for payment of principal of and interest on such Subordinate Lien Bonds as of the initial delivery thereof. Although herein referred to as "Subordinate Lien Bonds", such bonds, notes or other obligations may bear any name or designation provided by the ordinance authorizing their issuance. Such Subordinate Lien Bonds may be further secured by any other source of payment lawfully available for such purposes. No default with respect to a Subordinate Lien Bond shall constitute a default hereunder.

(b) At such time as the Previously Issued Bonds, are no longer Outstanding or if the City obtains a written consent from the insurance company insuring the payment of such Previously Issued Bonds, or its assigns, expressly consenting to the issuance of Subordinate Lien Bonds, paragraph (a) above shall not be applicable to the issuance of additional Subordinate Lien Bonds and only the following conditions shall be applicable to the issuance of such Subordinate Lien Bonds, to wit: (i) the City's Director of Financial Services (or other officer of the City then having primary responsibility for the financial affairs of the City) shall provide a certificate showing that, for the City's most recent complete Fiscal Year or any consecutive 12-month period out of the most recent 18 months, the "Net Pledged Hotel Occupancy Revenues" (all Pledged Hotel Occupancy Tax Revenues received by the City, less all amounts required to provide for the payment of the Parity Bonds then Outstanding and provide reserves for such payment) plus revenues other than the Pledged Revenues, that are pledged or to be pledged, in whole or in part, to the payment of such Subordinate Lien Bonds were equal to at least 100% of the combined average annual principal and interest requirement for all Parity Bonds and Subordinate Lien Bonds to be outstanding after giving effect to the issuance of the Subordinate Lien Bonds then being issued, and (ii) provision is made in the ordinance authorizing issuance of the Subordinate Lien Bonds for the complete funding of any reserves for payment of principal of and interest on such Subordinate Lien Bonds as of the initial delivery thereof.

Section 5.03. Reimbursement Obligation. The City may enter into a Reimbursement Obligation in connection with any Subordinate Lien Bonds only if the aggregate principal amount of the City's obligations under any such Reimbursement Obligation, as measured at the time that the City must make a payment thereunder, would satisfy the test for the issuance of Subordinate Lien Bonds contained in Section 5.02 of this Ordinance as if such Reimbursement Obligation was being issued as a Subordinate Lien Bond under this Ordinance.

ARTICLE SIX COVENANTS AND PROVISIONS RELATING TO ALL BONDS

Section 6.01. Punctual Payment of Bonds. The City covenants it will punctually pay or cause to be paid the interest and any premium on and principal of all Bonds according to the terms thereof and will faithfully do and perform, and at all times fully observe, any and all covenants, undertakings, stipulations and provisions contained in this Ordinance and in any other ordinance authorizing the issuance of such Bonds.

Section 6.02. Pledge and Encumbrance of Revenues. The City covenants and represents that it has the lawful power to create a lien on and to pledge the Pledged Revenues to secure the payment of the Bonds and has lawfully exercised such power under the Constitution and laws of the State of Texas. The City further covenants and represents that, other than to the payment of the Parity Bonds, the Pledged Revenues are not and will not be made subject to any other lien, pledge or encumbrance to secure the payment of any debt or obligation of the City, unless such lien, pledge or encumbrance is junior and subordinate to the lien and pledge securing payment of the Parity Bonds.

Section 6.03. Bondholders Remedies. This Ordinance shall constitute a contract between the City and the Owners of the Bonds from time to time Outstanding and this Ordinance shall be and remain irrevocable until the Bonds and the interest and any premium thereon shall be fully paid or discharged or provision therefor shall have been made as provided herein. In the event of a default in the payment of the principal of or interest or any premium on any of the Bonds or a default in the performance of any duty or covenant provided by law or in this Ordinance, the Owner or Owners of any of the Bonds may pursue all legal remedies

afforded by the Constitution and laws of the State of Texas to compel the City to remedy such default and to prevent further default or defaults. Without in any way limiting the generality of the foregoing, it is expressly provided that any Owner of any of the Bonds may at law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel performance of all duties required to be performed by the City under this Ordinance, including the application of Pledged Revenues in the manner required in this Ordinance; provided, however, that the Owners of the Bonds shall never have the right to demand payment of the principal of, interest on or any redemption premium on the Bonds out of any funds raised or to be raised by taxation, other than the Pledged Hotel Occupancy Tax Revenues.

Section 6.04. Discharge by Deposit. The City may discharge its obligation to the Owners of any or all of the Bonds to pay principal, interest and redemption premium (if any) thereon by depositing with the Paying Agent/Registrar cash in an amount equal to the principal amount and redemption premium, if any, of such Bonds plus interest thereon to the date of maturity or redemption, or by depositing either with the Paying Agent/Registrar or with any national banking association with capital and surplus in excess of \$100,000,000, pursuant to an escrow or trust agreement to which the Paying Agent/Registrar is a party, cash and/or Government Obligations (as defined below) in principal amounts and maturities and bearing interest at rates sufficient to provide for the timely payment of the principal amount and redemption premium, if any, of such Bonds plus interest thereon to the date of maturity or redemption. Upon such deposit, such Bonds shall no longer be regarded to be Outstanding. In case any Bonds are to be redeemed on any date prior to their maturity, the City, shall give to the Paying Agent/Registrar *irrevocable instructions to give notice of redemption of Bonds to be so redeemed in the manner required in the ordinance or ordinances authorizing such Bonds.* For any Bonds not to be redeemed or paid in full within the next succeeding sixty (60) days from the date of deposit provided for in this Section 6.04, the City shall give the Paying Agent/Registrar in form satisfactory to it irrevocable instructions to mail, by United States mail, first class, postage prepaid, a notice to the Owner of each such Bond that the deposit required by this Section 6.04 has been made and that said Bonds are deemed paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal amount and redemption premium if any on such Bonds plus interest thereon to the date of maturity or redemption. Any failure, error or delay in giving such notices shall not affect the defeasance of such Bonds.

The term "Government Obligations", as used herein, means (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations *unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the City are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent* and (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 on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

Section 6.05. Legal Holidays. In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall be a Legal Holiday, then payment of interest, premium or principal need not be made on such date but may be made on the next succeeding day which is not a Legal Holiday with the same force and effect as if made on the date of maturity or the date fixed for redemption and no interest shall accrue

for the period from the date of maturity or redemption to the date of actual payment. In case any Transfer Date shall be a Legal Holiday, then the transfer otherwise required to be made on such date pursuant to Section 4.05(b) hereof shall be made on the next preceding date which is not a Legal Holiday.

ARTICLE SEVEN CONCERNING THE PAYING AGENT/REGISTRAR

Section 7.01. Paying Agent/Registrar Agreement. The form of Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar attached hereto as Exhibit A is hereby approved. The City Manager is hereby authorized and directed to execute and deliver said Agreement on behalf of the City, and the City Clerk is authorized to attest said Agreement and to affix the seal of the City thereto. The Paying Agent/Registrar, by undertaking the performance of the duties of the Paying Agent/Registrar hereunder and under said agreement, and in consideration of the payment of fees and/or deposits of money pursuant to this Ordinance and said agreement, accepts and agrees to abide by the terms of this Ordinance and said Agreement.

Section 7.02. Trust Funds. All money transferred by the City to the Paying Agent/Registrar under this Ordinance (except sums representing the Paying Agent/Registrar's fees) shall be held in trust for the benefit of the City, shall be the property of the City, and shall be disbursed in accordance with this Ordinance.

Section 7.03. Bonds Presented. Subject to the provisions of Section 7.04, all matured Bonds presented to the Paying Agent/Registrar for payment shall be paid without the necessity of further instructions from the City. Such Bonds shall be canceled as provided herein.

Section 7.04. Unclaimed Funds Held by the Paying Agent/Registrar. Funds held by the Paying Agent/Registrar which represent principal of and interest and any premium on the Bonds remaining unclaimed by the owner after the expiration of three years from the date such funds have become due and payable shall be reported and disposed of by the Paying Agent/Registrar in accordance with the provisions of Texas law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

The Paying Agent/Registrar shall have no liability to the Owners of the Bonds by virtue of actions taken in compliance with this Section.

Section 7.05. Paying Agent/Registrar May Own Bonds. The Paying Agent/Registrar in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights it would have if it were not the Paying Agent/Registrar.

Section 7.06. Successor Paying Agent/Registrars. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

ARTICLE EIGHT
ALTERATION OF RIGHTS AND DUTIES; AMENDMENT OF ORDINANCE

Section 8.01. Alternation of Rights and Duties. The rights, duties, and obligations of the City and the Owners of the Bonds are subject in all respects to all applicable federal and state laws including, without limitation, the provisions of federal law regarding the composition of indebtedness of political subdivisions, as the same now exist or may hereafter be amended.

Section 8.02. Amendment of Ordinance Without Consent. The City may, without the consent of or notice to any of the Owners of the Bonds, amend this Ordinance for any one or more of the following purposes:

(1) to cure any ambiguity, defect, omission or inconsistent provision in this Ordinance or in the Bonds; or to comply with any applicable provision of law or regulation of federal agencies; provided, however, that such action shall not adversely affect the interests of the Owners of the Bonds;

(2) to change the terms or provisions of this Ordinance to the extent necessary to prevent the interest on the Bonds from being includable within the gross income of the Owners thereof for federal income tax purposes;

(3) to grant to or confer upon the Owners of the Bonds any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners of the Bonds;

(4) to add to the covenants and agreements of the City contained in this Ordinance other covenants and agreements of, or conditions or restrictions upon, the City or to surrender or eliminate any right or power reserved to or conferred upon the City in this Ordinance;

(5) to amend any provisions hereof relating to the issuance of Subordinate Lien Bonds, including Variable Rate Obligations, or the incurrence of and security for Reimbursement Obligations or the definition of Variable Rate Obligations provided such amendment does not cause any reduction in any rating assigned to the Bonds by any major municipal securities evaluation service then rating the Bonds; and

(6) to subject to the lien and pledge of this Ordinance additional Pledged Revenues, provided such amendment does not cause any reduction in any rating assigned to the Bonds by any major municipal securities evaluation service then rating the Bonds.

Section 8.03. Amendments of Ordinance Requiring Consent. The City may at any time adopt one or more ordinances amending, modifying, adding to or eliminating any of the provisions of this Ordinance but, if such amendment is not of the character described in Section 8.02 hereof, only with the consent given in accordance with Section 8.04 hereof of the Owner or Owners of not less than 66-2/3% of the aggregate unpaid principal amount of the Parity Bonds then Outstanding and affected by such amendment, modification, addition, or elimination; provided, however, that nothing in this Section shall permit (1) an extension of the maturity of the principal of or interest on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest on any Bond, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of the Bonds required for consent to such amendment.

Section 8.04. Consent of Owners. Any consent required by Section 8.03 hereof by any Owner shall be in writing, may be in any number of concurrent writings of similar tenor, and may be signed by such Owner or his duly authorized attorney. Proof of the execution of any such consent or of the writing appointing any such attorney and of the ownership of Parity Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the City with regard to any action taken, suffered or omitted to be taken by the City under such instrument, namely:

(1) the fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by affidavit of any witness to such execution; and

(2) the fact of the ownership by any person of any Parity Bond and the date of the ownership of same may be proved by a certificate executed by an appropriate officer of the Paying Agent/Registrar, stating that at the date thereof such Parity Bond was registered in the name of such party in the Register.

In lieu of the foregoing the City may accept such other proofs of the foregoing as it shall deem appropriate.

Consents required pursuant to Section 8.03 shall be valid only if given following the mailing of notice by or on behalf of the City requesting such consent and setting forth the substance of the amendment of this Ordinance in respect of which such consent is sought and stating that copies thereof are available at the office of the City Clerk for inspection. Such notice shall be mailed by certified mail to each Owner of the Parity Bonds affected at the address shown on the Security Register.

Section 8.05. Revocation of Consent. Any consent by any Owner of a Parity Bond pursuant to the provisions of this Article shall be irrevocable for a period of six months from the date of mailing of the notice provided for in this Article, and shall be conclusive and binding upon all future Owners of the same Parity Bond and any Parity Bond delivered on transfer thereof or in exchange for or replacement thereof during such period. Such consent may be revoked at any time after six months from the date of the first mailing of such notice by the owner who gave such consent or by a successor in title, by filing notice thereof with the Paying Agent/Registrar, but such revocation shall not be effective if the Owners of a majority in aggregate principal amount of the Parity Bonds Outstanding as in this Ordinance defined have, prior to the attempted revocation, consented to and approved the amendment.

ARTICLE NINE PROVISIONS CONCERNING SALE AND APPLICATION OF PROCEEDS OF BONDS

Section 9.01. Sale of Bonds. The Bonds authorized by this Ordinance are hereby sold by the City to Estrada Hinojosa & Company, Inc., Bear, Stearns & Co., Inc., Citigroup Global Markets Inc., First Albany Capital, Inc., Goldman, Sachs & Co., Jackson Securities LLC, Loop Capital Markets, LLC, Merrill Lynch & Co. and Southwest Securities, Inc. (herein referred to collectively as the "Purchasers" or "Underwriters") in accordance with the Purchase Contract, dated February 12, 2004, attached hereto as Exhibit B and incorporated herein by reference as a part of this Ordinance for all purposes. The Mayor or the City Manager is hereby authorized and directed to execute said Purchase Contract for and on behalf of the City and as the act and

deed of this City Council, and in regard to the approval and execution of the Purchase Contract, the City Council hereby finds, determines and declares that the representations, warranties and agreements of the City contained therein are true and correct in all material respects and shall be honored and performed by the City.

Section 9.02. Special Escrow Agreement Approval and Execution. The "Special Escrow Agreement" (the "Agreement") by and between the City and JPMorgan Chase Bank, Dallas, Texas (the "Escrow Agent"), attached hereto as Exhibit D and incorporated herein by reference as a part of this Ordinance for all purposes, is hereby approved as to form and content, and such Agreement in substantially the form and substance attached hereto, together with such changes or revisions as may be necessary to accomplish the refunding or benefit the City, is hereby authorized to be executed by the Mayor or City Manager and City Clerk for and on behalf of the City and as the act and deed of the City Council; and such Agreement as executed by said officials shall be deemed approved by the City Council and constitute the Agreement herein approved.

Furthermore, the Director of Financial Services and City Treasurer (or other officers of the City then having primary responsibility for the financial affairs of the City), individually or jointly, in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the Escrowed Securities identified in the Agreement and the delivery thereof to the Escrow Agent for deposit to the credit of the "SPECIAL 2004 CITY OF AUSTIN, TEXAS HOTEL OCCUPANCY TAX REVENUE REFUNDING BOND ESCROW FUND" (the "Escrow Fund") for the payment, discharge and defeasance of the Refunded Bonds; all as contemplated and provided in V.T.C.A., Government Code, Chapter 1207, as amended, this Ordinance and the Agreement.

Section 9.03. Control and Custody of Bonds. The City Manager is hereby authorized to have control and custody of the Initial Bond and all necessary records and proceedings pertaining thereto pending their delivery, and the Mayor, Mayor Pro Tem, City Manager, Director of Financial Services, City Treasurer and City Clerk, are hereby authorized and instructed to make such certifications and to execute such instruments and agreements, including agreements pertaining to the Debt Service Reserve Fund Surety Bond, as may be necessary to accomplish the initial delivery of the Initial Bond and to assure the investigation, examination, and approval thereof 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 Bonds, the Comptroller of Public Accounts of the State of Texas (or a deputy designated in writing to act for him) shall be requested to sign manually the Comptroller's Registration Certificate prescribed herein to be attached or affixed to the Initial Bond and the seal of the Comptroller of Public Accounts of the State of Texas shall be impressed or printed or lithographed thereon.

Section 9.04. Offering Documents. The Preliminary Official Statement, dated February 5, 2004, relating to the Bonds submitted at the meeting at which this Ordinance is adopted is hereby approved and is deemed final, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"). The Mayor, City Manager, Director of Financial Services and City Treasurer, individually, jointly or collectively, are authorized to approve any changes in such document and to authorize its distribution by the Purchasers. Within seven business days after the award of the sale of the Bonds, the Director of Financial Services shall cause the final Official Statement to be provided to the Purchasers in compliance with Rule 15c2-12. The use of the Preliminary Official Statement and the Official Statement in connection with the distribution of the Bonds is hereby authorized. The Mayor and City Clerk are hereby authorized to execute and deliver the Official Statement, and such Official

Statement in final form and content manually executed by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Purchasers in connection with the reoffering and sale of the Bonds.

Section 9.05. Proceeds of Sale. Immediately following the delivery of the Bonds, the proceeds of sale of the Bonds (less accrued interest and costs of issuance, including amounts to pay municipal bond insurance premium and amounts to pay surety bond premium) shall be deposited with the Escrow Agent for the payment and discharge of the Refunded Bonds being refunded, all in accordance with written instructions to the Paying Agent/Registrar. Accrued interest received from the Underwriters shall be deposited to the credit of the Debt Service Fund.

Additionally, on or immediately prior to the date of delivery of the Bonds to the Underwriters, the Director of Financial Services shall cause to be transferred to the Escrow Agent the sum of \$7,024,231.81 from funds deposited to the credit of the reserve fund for the Refunded Bonds.

Section 9.06. Redemption of Refunded Bonds. (b) The bonds of that series known as "City of Austin, Texas, Hotel Occupancy Tax Revenue Refunding Bonds, Series 1993A, dated December 1, 1993, maturing on and after November 15, 2004, and aggregating in principal amount \$60,960,000 (referred to in the preamble to this Ordinance as the Refunded Bonds), shall be redeemed and the same are hereby called for redemption on May 15, 2004, at the price of par and accrued interest to the date of redemption. The City Clerk is hereby authorized and directed to file a copy of this Ordinance, together with a suggested form of notice of redemption to be sent to bondholders, with JPMorgan Chase Bank, Dallas, Texas (successor paying agent/registrar to Texas Commerce Trust Company, National Association), in accordance with the redemption provisions applicable to such bonds; such suggested form of notice of redemption being attached hereto as **Exhibit E** and incorporated herein by reference as a part of this Ordinance for all purposes.

The redemption date of the obligations described above is in connection with the refunding of such bonds, and the approval, authorization and arrangements herein given and provided for the redemption of such obligations on the redemption date designated therefor and in the manner provided shall be irrevocable upon the issuance and delivery of the Bonds; and the City Clerk is hereby authorized and directed to make all arrangements necessary to notify the holders of such obligations of the City's decision to redeem such obligations on the date and in the manner herein provided and in accordance with the ordinance authorizing the issuance of the obligations and this Ordinance.

ARTICLE TEN CONTINUING DISCLOSURE OF INFORMATION

Section 10.01. Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"NRMSIR" means each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

"SID" means any person designated by the State of Texas or an authorized department, officer, or agency thereof as, and determined by the SEC or its staff to be, a state information depository within the meaning of the Rule from time to time.

Section 10.02. Annual Reports. The City shall provide annually to each NRMSIR and any SID, within six months after the end of each fiscal year (beginning with the fiscal year ending September 30, 2003) financial information and operating data with respect to the Pledged Hotel Occupancy Tax included in the final Official Statement approved by Section 9.04 of this Ordinance, being the information described in Exhibit F hereto. Financial statements to be provided shall be (1) prepared in accordance with generally accepted accounting principles and practices and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not available at the time the financial information and operating data must be provided, then the City shall provide unaudited financial statements for the applicable fiscal year to each NRMSIR and any SID with the financial information and operating data and will file the audited financial statements, when and if audited financial statements become available.

If the City changes its fiscal year, it will notify each NRMSIR and any SID of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

Section 10.03. Material Event Notices. The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
7. Modifications to rights of holders of the Bonds;
8. Bond calls;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds; and
11. Rating changes.

The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 10.02 hereof by the time required by such Section.

Section 10.04. Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by Section 10.03 hereof of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

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

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything to the contrary in this Ordinance, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with Section 10.02 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

ARTICLE ELEVEN
PROVISIONS CONCERNING FEDERAL INCOME TAX EXCLUSION

Section 11.01. Definitions. When used in this Section, the following terms shall have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (i) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and (ii) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

Section 11.02. Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

Section 11.03. No Private Use or Private Payments. Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Bonds), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Bonds), other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

Section 11.04. No Private Loan. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

Section 11.05. Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

Section 11.06. Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

Section 11.07. Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

Section 11.08. Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Interest and Sinking Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

Section 11.09. Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Section 11.08 because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

Section 11.10. Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Director of Financial Services and City Clerk, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

Section 11.11. Bonds Not Hedge Bonds. (1) At the time the original bonds refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such bonds within three years after such bonds were issued and (2) not more than 50% of the proceeds of the original bonds refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

Section 11.12. Current Refunding. The refunding of the Refunded Bonds is a current refunding within the meaning of the Code in that the Refunded Bonds are to be paid and redeemed in full on May 15, 2004, which date is within 90 days of the delivery date of the Bonds.

ARTICLE TWELVE BOND INSURANCE PROVISIONS

Section 12.01. FSA Insurance. The Bonds have been sold with the principal of and interest thereon being insured by Financial Security Assurance Inc. (hereinafter called "FSA") pursuant to an Insurance Policy. In accordance with the terms and conditions applicable to insurance provided by FSA, the City covenants and agrees that, in the event the principal and interest due on the Bonds shall be paid by FSA pursuant to the policy referred to this Section, the assignment and pledge of all funds and all covenants, agreements and other obligations of the City to the Holders shall continue to exist and FSA shall be subrogated to the rights of such Holders; and furthermore, the City covenants and agrees that:

- (a) FSA shall be included as a third party beneficiary to this Ordinance.
- (b) FSA shall be deemed to be a Holder of the Bonds for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the Holders of the Bonds by it are entitled to take pursuant to Section 6.03 of this Ordinance.
- (c) No amendment or supplement to this Ordinance may become effective without prior consent of FSA.

Copies of any modification or amendment to this Ordinance shall be sent to Standard & Poor's Credit Market Services and Moody's Investors Service, Inc. at least 10 days prior to the effective date thereof.

(d) The rights granted to FSA under this Ordinance to request, consent to or direct any action are rights granted to FSA in consideration of its issuance of the Insurance Policy. Any exercise by FSA of such rights is merely an exercise of the FSA's contractual rights and shall not be construed or deemed to be taken for the benefit or on behalf of the Holders nor does such action evidence any position of FSA, positive or negative, as to whether Holder consent is required in addition to consent of FSA.

(e) If, on the third business day prior to the related scheduled interest payment date or principal payment date ("Payment Date") there is not on deposit with the Paying

Agent/Registrar, after making all transfers and deposits required under this Ordinance, moneys sufficient to pay the principal of and interest on the Bonds due on such Payment Date, the Paying Agent shall give notice to FSA and to its designated agent (if any) (the "Insurer's Fiscal Agent") by telephone or telecopy of the amount of such deficiency by 12:00 noon, New York City time, on such business day. If, on the second business day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Bonds due on such Payment Date, the Paying Agent/Registrar shall make a claim under the Insurance Policy and give notice to FSA and the Insurer's Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Bonds and the amount required to pay principal of the Bonds, confirmed in writing to FSA and the Insurer's Fiscal Agent by 12:00 noon, New York City time, on such second business day by filling in the form of Notice of Claim and Certificate delivered with the Insurance Policy.

In the event the claim to be made is for a mandatory sinking fund redemption installment, upon receipt of the moneys due, the Paying Agent/Registrar shall authenticate and deliver to affected Holders who surrender their Bonds a new Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond surrendered. The Paying Agent/Registrar shall designate any portion of payment of principal on Bonds paid by FSA, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Bonds registered to the then current Holder, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to FSA, registered in the name of Financial Security Assurance Inc., in a principal amount equal to the amount of principal paid (without regard to authorized denominations); provided that the Paying Agent/Registrar's failure to so designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the City on any Bond or the subrogation rights of FSA.

The Paying Agent/Registrar shall keep a complete and accurate record of all funds deposited by FSA into the Policy Payments Account (as defined below) and the allocation of such funds to payment of interest on and principal paid in respect of any Bond. FSA shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent/Registrar.

Upon payment of a claim under the Insurance Policy the Paying Agent/Registrar shall establish a separate special purpose trust account for the benefit of Holders referred to herein as the "Policy Payments Account" and over which the Paying Agent/Registrar shall have exclusive control and sole right of withdrawal. The Paying Agent/Registrar shall receive any amount paid under the Insurance Policy in trust on behalf of Holders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent/Registrar to Holders in the same manner as principal and interest payments are to be made with respect to the Bonds under the sections hereof regarding payment of Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything to the contrary otherwise set forth in this Ordinance, and to the extent permitted by law, in the event amounts paid under the Insurance Policy are applied to claims for payment of principal of or interest on the Bonds, interest on such principal of and interest on the Bonds shall accrue and be payable from the date of such payment at the greater of (i) the per annum rate of interest publicly announced from time to time by JPMorgan Chase Bank, or its successors at its principal office in the City of New York, as its prime and base

lending rate plus 3%, and (ii) the then applicable rate of interest on the Bonds provided that in no event shall such rate exceed the maximum amount permitted under applicable usury or similar laws limiting interest rates.

Funds held in the Policy Payments Account shall not be invested by the Paying Agent/Registrar and may not be applied to satisfy any costs, expenses or liabilities of the Paying Agent/Registrar. Any funds remaining in the Policy Payments Account following a payment date for a Bond shall promptly be remitted to FSA.

(f) FSA shall, to the extent it makes any payment of principal or interest on the Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Insurance Policy. The obligations to FSA shall survive discharge or termination of this Ordinance.

(g) FSA shall be entitled to pay principal or interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the City (as such terms are defined in the Insurance Policy) and any amounts due on the Bonds as a result of acceleration of the maturity thereof in accordance with this Ordinance, whether or not FSA has received a Notice (as defined in the Insurance Policy) of Nonpayment or a claim upon the Insurance Policy.

(h) The notice address of FSA is: Financial Security Assurance Inc., 350 Park Avenue, New York, New York 10022-6022, Attention: Managing Director -- Surveillance.--Re: Policy No. , Telephone: (212) 826-0100; Telecopier: (212) 339-3529. In each case in which notice or other communication refers to an Event of Default then a copy of such notice or other communication shall also be sent to the attention of General Counsel and shall be marked to indicate 'URGENT MATERIAL ENCLOSED.'

(i) FSA shall be provided with the following information:

(1) Annual audited financial statements within 150 days after the end of the City's fiscal year, together with a certification of the City that it is not aware of any default or Event of Default under this Ordinance, and the City's annual budget within 30 days after the approval thereof, together with such other information, data or reports as FSA shall reasonably request from time to time;

(2) Notice of any draw upon the Debt Service Reserve Fund within two business days after knowledge thereof other than (i) withdrawals of amounts in excess of the Reserve Requirement and (ii) withdrawals in connection with a refunding of Bonds;

(3) Notice of any default within five business days after knowledge thereof;

(4) Prior notice of the advance refunding or redemption of any of the Bonds, including the principal amount, maturities and CUSIP numbers thereof;

(5) Notice of the resignation or removal of the Paying Agent/Registrar and the appointment of, and acceptance of duties by, any successor thereto;

(6) Notice of the commencement of any proceeding by or against the City commenced under the United States Bankruptcy Code or any other

applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");

(7) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Bonds;

(8) A full original transcript of all proceedings relating to the execution of any amendment or supplement to this Ordinance; and

(9) All reports, notices and correspondence to be delivered under the terms of this Ordinance.

(j) The City shall pay or reimburse FSA any and all charges, fees, costs, and expenses which FSA may reasonably pay or incur in connection with (1) the administration, enforcement, defense or preservation of any rights of security in this Ordinance, (2) the pursuit of any remedies under this Ordinance or otherwise afforded by law or equity, (3) any amendment, waiver or other action with respect to, or related to, this Ordinance whether or not executed or completed, (4) the violation by the City or any law, rule or regulation, or any judgment, order or decree applicable to it or (5) any litigation or other dispute in connection with this Ordinance or the transactions contemplated hereby, other than amounts resulting from the failure of FSA to honor its obligations under the Insurance Policy. FSA reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect to this Ordinance.

(k) After payment of expenses of the Paying Agent/Registrar, the application of funds realized upon default shall be applied to payment of expenses of the City or rebate only after the payment of debt service due and past due on the Bonds, together with replenishment of the Debt Service Reserve Fund.

(l) Unless FSA otherwise directs, upon the occurrence and continuance of an Event of Default or the occurrence and continuance of an event which with notice or lapse of time or both would constitute an Event of Default amounts on deposit in the Construction Fund shall not be disbursed but shall instead be applied to the payment of debt service or redemption price of the Bonds.

(m) No grace period for a covenant default shall exceed 30 days, nor be extended for more than 60 days, without the prior written consent of FSA. No grace period shall be permitted for payment defaults.

(n) Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership or proportionate interest in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively, or (5) securities eligible for "AAA" defeasance under then existing criteria of S&P or any combination thereof, shall be authorized to be used to effect defeasance of the Bonds unless FSA otherwise approves.

To accomplish defeasance the City shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to FSA ("Accountant") verifying the sufficiency of the escrow established to pay the Bonds in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to FSA), and (iii) an opinion of nationally recognized bond counsel to the effect that the Bonds are no longer "Outstanding" under this Ordinance; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the City, the Paying Agent/Registrar and FSA. FSA shall be provided with final drafts of the above referenced documentation not less than five business days prior to the funding of the escrow

Bonds shall be deemed "Outstanding" under this Ordinance unless and until they are in fact paid and retired to the above criteria is met.

(o) Amounts paid by FSA under the Insurance Policy shall not be deemed paid for purposes of this Ordinance and shall remain Outstanding and continue to be due and owing until paid by the City in accordance with this Ordinance. The Ordinance shall not be discharged unless all amounts due or to become due to FSA shall have been paid in full or duly provided for.

(p) Each of the City and the Paying Agent/Registrar covenant and agree to take such action (including, as applicable, filing of UCC financing statements and continuations thereof) as is necessary from time to time to perfect or otherwise preserve the priority of the pledge of the Net Revenues under applicable law.

(q) Notwithstanding satisfaction of other conditions to the issuance of Additional Bonds contained in this Ordinance, no such issuance shall occur (1) should any Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) have occurred and be continuing unless such default shall be cured upon such issuance and (2) unless the Debt Service Reserve Fund is fully funded at its requirement (including the new issue) upon the issuance of such Additional Bonds, in either case unless otherwise permitted by FSA.

(r) In determining whether any amendment, consent or other action to be taken, or any failure to act, under this Ordinance would adversely affect the security of the Bonds or the rights of the Holders, the Paying Agent/Registrar shall consider the effect of any such amendment, consent, action or inaction as if there was no Insurance Policy.

(s) No contract shall be entered into nor any action taken by which the rights of FSA or security for or sources of payment of the Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of FSA.

ARTICLE THIRTEEN MISCELLANEOUS

Section 13.01. Further Procedures. The Mayor, the City Manager, the Director of Financial Services, City Treasurer and the City Clerk and other appropriate officials of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Ordinance.

Section 13.02. 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.

Section 13.03. Meeting. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding this meeting, as required by V.T.C.A., Government Code, Chapter 551, 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.

Section 13.04. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

Section 13.05. Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.


Section 13.06. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

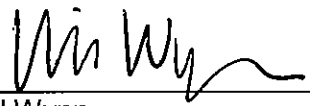
Section 13.07. Effective Date. This Ordinance is hereby passed on one reading as authorized by V.T.C.A., Government Code, Section 1201.028 and shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED, this February 12, 2004.

CITY OF AUSTIN, TEXAS

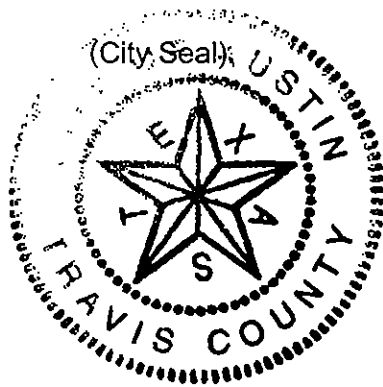
ATTEST:


Shirley A. Brown
City Clerk


Will Wynn
Mayor

APPROVED:


David Allan Smith
City Attorney



PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT entered into as of February 12, 2004 (this "Agreement"), by and between the City of Austin, Texas (the "Issuer"), and JPMorgan Chase Bank, Dallas, Texas, a New York banking corporation duly organized and existing under the laws of the State of New York and authorized to do business in the State of Texas (the "Bank").

RECITALS

WHEREAS, the Issuer has duly authorized and provided for the execution and delivery of its "City of Austin, Texas, Hotel Occupancy Tax Revenue Refunding Bonds, Series 2004" (the "Securities"), which Securities are scheduled to be delivered to the initial purchaser on or about March 11, 2004; and

WHEREAS, the Issuer has selected the Bank to serve as paying agent, registrar and transfer agent with respect to such Securities; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and is duly qualified and otherwise capable of performing the duties and responsibilities contemplated by this Agreement with respect to the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1.01 Appointment. The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Bond Resolution" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the "Bond Resolution".

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

Section 1.02 Compensation. As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Annex A attached hereto for the first year of this Agreement and thereafter the fees and amounts set forth in the Bank's current fee schedule then in effect for services as Paying Agent/Registrar for municipalities, which shall be supplied to the Issuer on or before 90 days prior to the close of the Fiscal Year of the Issuer, and shall be effective upon the first day of the following Fiscal Year.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any

of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

ARTICLE TWO DEFINITIONS

Section 2.01 Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

"Acceleration Date" on any Security means the date on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

"Bank Office" means the designated office of the Bank as indicated in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

"Bond Resolution" means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, certified by the Secretary or any other officer of the Issuer and delivered to the Bank.

"Fiscal Year" means the fiscal year of the Issuer, ending September 30th.

"Holder" and "Security Holder" each means the Person in whose name a Security is registered in the Security Register.

"Issuer Request" and "Issuer Order" means a written request or order signed in the name of the Issuer by the Mayor, City Clerk, City Manager, Assistant City Manager, Director of Financial Services, or City Treasurer, any one or more of said officials, and delivered to the Bank.

"Legal Holiday" means a day on which the Bank is required or authorized to be closed.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

"Predecessor Securities" of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Resolution).

"Redemption Date" when used with respect to any Security to be redeemed means the date fixed for such redemption pursuant to the terms of the Bond Resolution.

"Responsible Officer" when used with respect to the Bank means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier,

any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Security Register" means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

"Stated Maturity" means the date specified in the Bond Resolution the principal of a Security is scheduled to be due and payable.

Section 2.02 Other Definitions. The terms "Bank," "Issuer," and "Securities (Security)" have the meanings assigned to them in the recital paragraphs of this Agreement.

The term "Paying Agent/Registrar" refers to the Bank in the performance of the duties and functions of this Agreement.

ARTICLE THREE PAYING AGENT

Section 3.01 Duties of Paying Agent. As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date, or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following addresses: P. O. Box 2320, Dallas, Texas 75221-2320 or 2001 Bryan Street, 9th Floor, Dallas, Texas 75201, Attention: Issuer Administrative Services.

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date. All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the fiduciary account provided in Section 5.05 hereof, sent by United States mail, first class, postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

Section 3.02 Payment Dates. The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities at the dates specified in the Bond Resolution.

ARTICLE FOUR REGISTRAR

Section 4.01 Security Register - Transfers and Exchanges. The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Security Register"), for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and Bank may prescribe. The Bank represents and warrants its office in Austin, Texas will at all times have immediate access to the Security Register by electronic or other means and will be capable at all times of producing a hard copy of the Security Register at its Austin office for use by the Issuer. All transfers, exchanges and replacement of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the National Association of Securities Dealers, in form satisfactory to the Bank, duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 4.02 Certificates. The Issuer shall provide an adequate inventory of printed Securities to facilitate transfers or exchanges thereof. The Bank covenants that the inventory of printed Securities will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

Section 4.03 Form of Security Register. The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

Section 4.04 List of Security Holders. The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security

Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

Section 4.05 Return of Cancelled Certificates. The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

Section 4.06 Mutilated, Destroyed, Lost or Stolen Securities. The Issuer hereby instructs the Bank, subject to the provisions of Section 2.09 of the Bond Resolution, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, or destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such destroyed lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, or destroyed, lost or stolen.

Section 4.07 Transaction Information to Issuer. The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

ARTICLE FIVE THE BANK

Section 5.01 Duties of Bank. The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

Section 5.02 Reliance on Documents, Etc. (a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document supplied by Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

Section 5.03 Recitals of Issuer. The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

Section 5.04 May Hold Securities. The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

Section 5.05 Moneys Held by Bank - Paying agent Account/Collateralization. A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping and disbursement of moneys received from the Issuer hereunder for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such account shall be made by check drawn on such account unless the owner of such Securities shall, at its own expense and risk, request such other medium of payment.

The Bank shall be under no liability for interest on any money received by it hereunder.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any

Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be paid by the Bank to the Issuer, and the Holder of such Security shall thereafter look only to the Issuer for payment thereof, and all liability of the Bank with respect to such moneys shall thereupon cease.

Section 5.06 Indemnification. To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

Section 5.07 Interpleader. The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the State and County where the administrative offices of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

Section 5.08 DT Services. It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements", which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

ARTICLE SIX MISCELLANEOUS PROVISIONS

Section 6.01 Amendment. This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 6.02 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other.

Section 6.03 Notices. Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on page 9.

Section 6.04 Effect of Headings. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 6.05 Successors and Assigns. All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

Section 6.06 Severability. In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 6.07 Benefits of Agreement. Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

Section 6.08 Entire Agreement. This Agreement and the Bond Resolution constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Bond Resolution, the Bond Resolution shall govern.

Section 6.09 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

Section 6.10 Termination. This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. Furthermore, the Bank and Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

Section 6.11 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

JPMORGAN CHASE BANK,
Dallas, Texas

[SEAL]

Attest:

BY _____
Title:

Address: 2001 Bryan Street, 10th Floor
Dallas, Texas 75201

Title:

CITY OF AUSTIN, TEXAS

(CITY SEAL)

Attest:

BY _____
Will Wynn, Mayor

Address: P. O. Box 1088
Austin, Texas 78767

Shirley A. Brown, City Clerk

\$52,715,000
CITY OF AUSTIN, TEXAS
(TRAVIS AND WILLIAMSON COUNTIES)
HOTEL OCCUPANCY TAX REVENUE REFUNDING BONDS,
SERIES 2004

BOND PURCHASE AGREEMENT

February 12, 2004

THE HONORABLE CITY COUNCIL
City of Austin, Texas

To The City Council:

The undersigned, a representative of Estrada Hinojosa & Company, Inc. (the "Representative"), and duly authorized to act on behalf of Estrada Hinojosa & Company, Inc. and the other Underwriters listed on the execution page hereof (the Representative and such other Underwriters being herein collectively referred to as the "Underwriters"), offer to enter into this Bond Purchase Agreement (the "Bond Purchase Agreement") with the City of Austin, Texas (the "City"). This offer is made subject to the City's acceptance of this Bond Purchase Agreement on or before 10:00 p.m. Central Time, on February 12, 2004.

1. Purchase and Sale of the Bonds. Upon the terms and conditions and upon the basis of the representations set forth herein, the Underwriters hereby agree to purchase from the City, and the City hereby agrees to sell and deliver to the Underwriters the City of Austin, Texas Hotel Occupancy Tax Revenue Refunding Bonds, Series 2004 (the "Bonds"). The Bonds shall be in a principal amount determined in accordance with the provisions of Ordinance No. 040212-45 adopted by the City on February 12, 2004 (the "Bond Ordinance"), shall be dated February 1, 2004, and shall have the maturities and bear interest as described in the Official Statement (hereinafter defined). The purchase price for the Bonds is \$56,460,250.90 (representing a par amount of \$52,715,000.00, plus a net original issue premium of \$4,028,857.60, less an Underwriters' discount of \$283,606.70), plus interest accrued from February 1, 2004 to the date of delivery. *Terms capitalized but not defined herein have the meanings assigned to such terms in the Bond Ordinance.*

2. Bond Ordinance. The Bonds shall be as described in and shall be issued subject to redemption and secured under the provisions of the Bond Ordinance. The Representative, on behalf of the Underwriters, acknowledges receipt of a copy of the Bond Ordinance, and has reviewed the continuing disclosure undertaking of the City therein set forth.

3. Initial Offering. It shall be a condition of the obligation of the City to sell and deliver the Bonds to the Underwriters, and of the obligation of the Underwriters to purchase and accept delivery of the Bonds, that the entire principal amount of the Bonds authorized by the Bond Ordinance shall be sold and delivered by the City and accepted and paid for by the Underwriters on the Closing Date (hereinafter defined). The Underwriters agree to make an offering of all of the Bonds at the initial offering prices, as set forth on the inside cover page of the Official Statement, and confirm in writing to the City at or prior to the Closing Date, the principal amount (or percentage of principal amount) and the corresponding price (or the yield resulting from such price) at which the Bonds were sold pursuant to such offering. Unless otherwise notified in writing by the Underwriters by the Closing Date, the City can

assume that the "end of the underwriting period" for purposes of Rule 15c2-12 of the Federal Securities and Exchange Commission (the "Rule") shall be the Closing Date. In the event such notice is so given in writing by the Underwriters, the Underwriters agree to notify the City in writing following the occurrence of the "end of the underwriting period" as defined in the Rule.

4. Security Deposit. Delivered to the City herewith is a corporate check of the Underwriters payable to the order of the City in the amount of \$527,150.00. The City agrees to hold such check uncashed until the Closing Date to ensure the performance by the Underwriters of their obligations to purchase, accept delivery of, and pay for the Bonds on the Closing Date. Concurrently with the payment by the Underwriters of the purchase price of the Bonds, the City shall return such check to the Underwriters as provided in Section 8 herein. Should the City fail to deliver the Bonds on the Closing Date, or should the City be unable to satisfy the conditions of the obligations of the Underwriters to purchase, accept delivery of, and pay for the Bonds, as set forth in this Bond Purchase Agreement (unless waived by the Representative), or should such obligations of the Underwriters be terminated for any reason permitted by this Bond Purchase Agreement, such check shall immediately be returned to the Underwriters. In the event the Underwriters fail (other than for a reason permitted hereunder) to purchase, accept delivery of, and pay for the Bonds on the Closing Date as herein provided, such check shall be retained by the City as and for full liquidated damages for such failure of the Underwriters and for any defaults hereunder on the part of the Underwriters. The Representative hereby agrees not to stop or cause payment on said check to be stopped unless the City has breached any of the terms of this Bond Purchase Agreement.

5. Official Statement. The City hereby authorizes the Bond Ordinance and the Official Statement and the information therein contained to be used by the Underwriters in connection with the public offering and sale of the Bonds. The City hereby approves, ratifies, and confirms the use by the Underwriters in the offering of the Bonds prior to the date hereof of the Preliminary Official Statement for the Bonds, dated February 5, 2004 (the "Preliminary Official Statement"), and that the Preliminary Official Statement was "deemed final" by the City, as of the date of its initial mailing within the meaning, and for the purposes, of the Rule. The City hereby authorizes the final Official Statement (the final Official Statement, the Preliminary Official Statement, and any amendments or supplements that may be authorized for use with respect to the Bonds are herein referred to collectively as the "Official Statement"), and consents to its distribution and use by the Underwriters. The City agrees to cooperate with the Underwriters to provide a supply of final Official Statements within seven business days of the date hereof in sufficient quantities to comply with the Underwriters' obligations under applicable Municipal Securities Rulemaking Board Rules and the Rule. The Underwriters will use their best efforts to assist the City in the preparation of the final Official Statement in order to ensure compliance with the aforementioned rules.

6. Representations, Warranties, and Agreements of City. On the date hereof, the City represents, warrants, and agrees as follows:

(a) The City is a political subdivision of the State of Texas, duly created, existing, and acting under the provisions of the Constitution and laws of the State of Texas and has full legal right, power, and authority to enter into this Bond Purchase Agreement and the Escrow Agreement between the City and JPMorgan Chase Bank, Dallas, Texas (the "Escrow Agreement"), to adopt the Bond Ordinance, to sell the Bonds, and to issue and deliver the Bonds to the Underwriters as provided herein and to carry out and consummate all other transactions contemplated by the Bond Ordinance, the Escrow Agreement, and this Bond Purchase Agreement;

(b) By official action of the City prior to or concurrently with the acceptance hereof,

the City has duly adopted the Bond Ordinance, has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations contained in the Bonds, the Bond Ordinance, the Escrow Agreement, and this Bond Purchase Agreement;

(c) To the best of its knowledge, the City is not in breach of or default under any applicable law or administrative regulation of the State of Texas or the United States relating to the issuance of the Bonds or any applicable judgment or decree or any loan agreement, note, ordinance, indenture, agreement, or other instrument, except as may be disclosed in the Official Statement, to which the City is a party or is otherwise subject, which would have a material and adverse effect upon the business or financial condition of the City, and the execution and delivery of this Bond Purchase Agreement and the Escrow Agreement by the City and the execution and delivery of the Bonds and the adoption of the Bond Ordinance by the City, and compliance with the provisions of each thereof will not violate or constitute a breach of or default under any existing law or administrative regulation relating to the issuance of the Bonds, or any judgment, decree, or any agreement or other instrument to which the City is a party or is otherwise subject;

(d) All approvals, consents, and orders of any governmental authority or agency having jurisdiction of any matter which would constitute a condition precedent to the performance by the City of its obligations to sell and deliver the Bonds hereunder will have been obtained prior to the Closing Date;

(e) At the time of the City's acceptance hereof and at the time of the Closing Date, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(f) Between the date of this Bond Purchase Agreement and Closing Date, the City will not, without the prior written consent of the Underwriters, issue any additional bonds or other obligations for borrowed money payable in whole or in part from the Pledged Revenues, and the City will not incur any material liabilities, direct or contingent, relating to, nor will there be any adverse change of a material nature in the financial position of, the City, except as may be disclosed in the Official Statement;

(g) Except as described in the Official Statement, no litigation is pending or, to the knowledge of the City, threatened in any court affecting the corporate existence of the City, the title of its officers to their respective offices, or seeking to restrain or enjoin the issuance or delivery of the Bonds, or the pledge or collection of Pledged Revenues (as defined in the Bond Ordinance) to pay the principal of and interest on the Bonds, or in any way contesting or affecting the issuance, execution, delivery, payment, security, or validity of the Bonds, or in any way contesting or affecting the validity or enforceability of the Bond Ordinance, the Escrow Agreement, or this Bond Purchase Agreement, or contesting the powers of the City, or any authority for the Bonds, the Bond Ordinance, the Escrow Agreement, or this Bond Purchase Agreement, or contesting in any way the completeness, accuracy, or fairness of the Preliminary Official Statement or the Official Statement, or materially and adversely affecting the financial condition of the City;

(h) The City will cooperate with the Underwriters in arranging for the qualification of the Bonds for sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriters designate, and will use its best efforts to continue such qualifications in effect so long as required for distribution of the Bonds; provided, however, that

the City will not be required to execute a general consent to service of process or to qualify to do business in connection with any such qualification in any jurisdiction;

(i) The descriptions contained in the Official Statement of the Bonds and the Bond Ordinance accurately reflect the provisions of such instruments, and the Bonds, when validly executed, authenticated, and delivered in accordance with the Bond Ordinance and sold to the Underwriters as provided herein, will be validly issued and outstanding obligations of the City entitled to the benefits of, and subject to the limitations contained in, the Bond Ordinance and as described in the Official Statement;

(j) On the Closing Date, the City will apply the proceeds from the sale of the Bonds, as specified in the Bond Ordinance;

(k) If prior to the Closing Date, an event occurs affecting the City which is materially adverse for the purpose for which the Official Statement is to be used and is not disclosed in the Official Statement, the City shall notify the Underwriters, and if in the opinion of the Underwriters such event requires a supplement or amendment to the Official Statement, the City will supplement or amend the Official Statement in a form and in a manner approved by the Underwriters' Counsel;

(l) If, after the Closing Date and until 25 days after the end of the underwriting period, any event shall occur as a result of which it is necessary to amend or supplement the Official Statement in order to make the statements therein, in the light of the circumstances, not misleading, or if it is necessary to amend or supplement the Official Statement to comply with law, the City agrees to notify the Underwriters (and for the purposes of this clause (l) to provide the Underwriters with such information as they may from time to time request), and to forthwith prepare and furnish, at its own expense (in a form and manner approved by the Underwriters), a reasonable number of copies of either amendments or supplements to the Official Statement so that the statements in the Official Statement as so amended and supplemented will not, in the light of the circumstances when the Official Statement is delivered to a purchaser, be misleading or so that the Official Statement will comply with law; and

(m) Any certificate signed by any duly authorized officer of the City and delivered to the Underwriters shall be deemed a representation and warranty of the City to the Underwriters as to the truth of the statements made therein.

7. **Closing.** At 9:00 a.m., Central Time, on March 11, 2004 (or such other date agreed upon by the City and the Underwriters) (the "Closing Date" or the "Closing"), the City will deliver the Initial Bond (as defined in and required by the Bond Ordinance) and will have the Bonds available at The Depository Trust Company ("DTC"), as hereinafter required, for immediate exchange, together with the other documents hereinafter mentioned, and the Underwriters will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 herein in immediately available funds. Concurrently with such payment by the Underwriters, the City shall return to the Underwriters the check referred to in Section 4 herein. Delivery and payment as aforesaid shall be made at the offices of JPMorgan Chase Bank, Dallas, Texas, or at such other location as shall be mutually agreed upon by the City and the Underwriters. Delivery of the Bonds in definitive form shall be made utilizing the book-entry system of DTC. The Bonds shall be delivered in fully registered form bearing CUSIP numbers, without coupons, with one certificate for each maturity registered in the name of CEDE & CO., and shall be made available to the Underwriters at least one business day before the Closing Date for purposes of inspection.

8. **Conditions.** The Underwriters have entered into this Bond Purchase Agreement in reliance upon the representations and warranties of the City contained herein and to be contained in the documents and instruments to be delivered at or prior to the Closing Date, and upon the performance by the City of its obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Underwriters' obligations under this Bond Purchase Agreement to purchase and pay for the Bonds shall be subject to the performance by the City of its obligations to be performed hereunder and under such documents and instruments to be delivered on or prior to the Closing Date, and shall also be subject to the following conditions:

(a) The representations and warranties of the City contained herein shall be true, complete, and correct in all material respects on the date hereof and on and as of the Closing Date, as if made on the Closing Date;

(b) At the time of the Closing, the Bond Ordinance shall be in full force and effect, and the Bond Ordinance shall not have been amended or supplemented and the Official Statement shall not have been amended, modified, or supplemented, except as may have been agreed to by the Underwriters;

(c) At the time of the Closing, all official action of the City related to the Bond Ordinance shall be in full force and effect and shall not have been amended, modified, or supplemented, except as may have been agreed to by the Underwriters;

(d) The City shall not have failed to pay principal or interest when due on any of its outstanding obligations for borrowed money;

(e) On or prior to the Closing Date, the Underwriters shall have received one copy of each of the following documents:

(1) The Official Statement;

(2) The Bond Ordinance authorizing the issuance of the Bonds, the Escrow Agreement, this Bond Purchase Agreement, and other agreements related to the Bonds (all as described in the Official Statement), certified by the City Clerk under the City's seal as having been duly adopted by the City and as being in effect, with no changes or amendments except as may have been agreed to by the Underwriters;

(3) An opinion, dated the Closing Date, of Bond Counsel, in substantially the form and substance of Appendix D to the Official Statement;

(4) An opinion dated on or prior to the Closing Date of the Attorney General of Texas approving the Bonds as required by law and a certificate of the Comptroller of Public Accounts of the State of Texas regarding the registration of the Bonds as required by law;

(5) A supplemental opinion, dated the Closing Date, of Bond Counsel, addressed to the City and the Underwriters, to the effect that (i) the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Bond Ordinance is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended, and (ii) based upon their participation in the preparation of the Official Statement, and without having been called upon to examine and without having undertaken to determine independently the accuracy, completeness, or fairness of the statements contained in the Official Statement, the descriptions of the Bonds and the Bond Ordinance contained under the headings "DESCRIPTION OF THE BONDS" (except for the text under the subcaption "Book-Entry-Only System"), "SECURITY FOR THE BONDS," and APPENDIX C, fairly and accurately describe the provisions of the Bonds and the Bond Ordinance for purposes of the Official Statement, and the statements contained in the Official Statement under the headings "TAX EXEMPTION," "GENERAL-Continuing Disclosure Of Information," and "GENERAL-Legal Investments and Eligibility to Secure Public Funds in Texas" are correct as to matters of law.

(6) An opinion of Winstead Sechrest & Minick P.C., as Underwriters' Counsel, dated the Closing Date addressed to the Underwriters in form and substance satisfactory to the Underwriters;

(7) A certificate, dated the Closing Date, signed by a duly authorized officer of the City, to the effect that (i) the representations and warranties of the City contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date, (ii) except to the extent disclosed in the Official Statement, no litigation is pending or, to the knowledge of such persons, threatened in any court to restrain or enjoin the issuance or delivery of the Bonds, or the pledge of Pledged Revenues to pay the principal of and interest on the Bonds, or in any way contesting or affecting the validity of the Bonds, the Bond Ordinance, the Escrow Agreement, or this Bond Purchase Agreement, or contesting the powers of the City or contesting the authorization of the Bonds or the Bond Ordinance, or contesting in any way the accuracy, completeness, or fairness of the Preliminary Official Statement or the Official Statement (but in lieu of or in conjunction with such certificate, the Underwriters may, in their discretion, accept an opinion of the City Attorney that the issues raised in any such pending or threatened litigation are without substance or that the contentions of all plaintiffs therein are without merit); and (iii) to the best of his or her knowledge, no event affecting the City has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any respect;

(8) A certificate from the appropriate City official certifying that the City has the consent of KPMG LLP and Richard Mendoza, CPA, independent certified public accountants, as to the inclusion in the Official Statement of certain excerpts of or the complete audited financial statements of the City, and their report thereon, for the City's fiscal year ended September 30, 2002;

(9) An executed copy of the Bond Insurance Policy issued by the Bond Insurer;

(10) Standard & Poor's, a division of The McGraw-Hill Companies, Inc. ("S&P") and Moody's Investors Service ("Moody's") shall provide the City and the Underwriters with written confirmation that as of the Closing Date, the Bonds will be rated "AAA" and "Aaa," respectively, as a result of the issuance of the Bond Insurance Policy by the Bond Insurer;

(11) The final verification report prepared by The Arbitrage Group, Inc.; and

(12) Such additional legal opinions, certificates, instruments, and other documents as Bond Counsel or the Underwriters may reasonably request to evidence the truth, accuracy, and completeness, as of the date hereof and as of the Closing Date, of the City's representations and warranties contained herein, and of the statements and information contained in the Official Statement and the due performance and satisfaction by the City at or prior to the date of Closing of all agreements then to be performed and all conditions then to be satisfied by the City.

All of the opinions, letters, certificates, instruments, and other documents mentioned above or elsewhere in this Bond Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are satisfactory to the Underwriters.

If the City shall be unable to satisfy the conditions to the obligations of the Underwriters to purchase, to accept delivery of, and to pay for the Bonds as set forth in this Bond Purchase Agreement, or if the obligations of the Underwriters to purchase, to accept delivery of, and to pay for the Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriters nor the City shall be under further obligation hereunder, except that: (i) the check referred to in Section 4 hereof shall be immediately returned to the Underwriters by the City and (ii) the respective obligations of the City and the Underwriters set forth in Sections 10 and 12 hereof shall continue in full force and effect.

9. Termination. The Underwriters may terminate their obligation to purchase at any time before the Closing if any of the following should occur:

(a) The House of Representatives or the Senate of the Congress of the United States, or a committee of either, shall have pending before it, or shall have passed or recommended favorably, legislation introduced previous to the date hereof, which legislation, if enacted in its form as introduced or as amended, would have the purpose or effect of imposing federal income taxation upon revenues or other income of the general character to be derived by the City or by any similar body or upon interest received on obligations of the general character of the Bonds, or of causing interest on obligations of the general character of the Bonds, to be includable in gross income for purposes of federal income taxation, and such legislation, in the reasonable judgment of the Underwriters, materially adversely affects the market price of the Bonds.

(b) Legislation shall be favorably reported or re-reported by such a committee or be introduced, by amendment or otherwise, in or be passed by the House of Representatives or the Senate, or be enacted, or a decision by a federal court of the United States or the United States Tax Court shall have been rendered, or a ruling, release, order, regulation, or official statement by or on behalf of the United States Treasury Department, the Internal Revenue Service, or other governmental agency shall have been made or proposed to be made having the purpose or effect, or any other action or event shall have occurred which has the purpose or effect, directly or indirectly, of adversely affecting the federal income tax consequences of owning the Bonds or of any of the transactions contemplated in connection herewith, including causing interest on the Bonds to be included in gross income for purposes of federal income taxation, or imposing federal income taxation upon revenues or other income of the general character to be derived by the City or by any similar body or upon interest received on obligations of the general character of the Bonds, which, in the reasonable judgment of the Underwriters, materially adversely affects the market price of or market for the Bonds.

(c) Any event shall have occurred or any information shall have become known to the Underwriters which causes the Underwriters to reasonably believe that the Official Statement as then amended or supplemented includes an untrue statement of a material fact, or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(d) There shall have occurred any national or international calamity or crisis, including a financial crisis, the effect of which on the financial markets of the United States is such as, in the reasonable judgment of the Underwriters, would materially adversely affect the market for or market price of the Bonds.

(e) Any proceeding shall be pending or threatened by the Securities and Exchange Commission against the City that would, in the reasonable judgment of the Underwriters, adversely affect the market for or market price of the Bonds.

(f) The purchase of and payment for the Bonds by the Underwriters, or the resale of the Bonds by the Underwriters, on the terms and conditions herein provided, shall be prohibited by any applicable law, governmental authority, board, agency, or commission.

(g) Any action shall have been taken by the Securities and Exchange Commission or by a court which would require registration of any security under the Securities Act of 1933, as amended, or qualification of the Bond Ordinance under the Trust Indenture Act of 1939, as amended, in connection with the public offering of the Bonds, or any action shall have been taken by any court or by any governmental authority suspending the use of the Official Statement or any amendment or supplement thereto, or any proceeding for that purpose shall have been initiated or threatened in any such court or by any such authority.

(h) (i) The Constitution of the State of Texas shall be amended or an amendment shall be proposed, or (ii) legislation shall be enacted, or (iii) a decision shall have been rendered as to matters of Texas law, or (iv) any order, ruling, or regulation shall have been issued or proposed by or on behalf of the State of Texas by an official, agency, or department thereof, affecting the tax status of the City, its property or income, its bonds (including the Bonds) or the interest thereon, which in the reasonable judgment of the Underwriters would materially affect the market price of the Bonds.

(i) (i) A general suspension of trading in securities shall have occurred on the New York Stock Exchange, or (ii) the United States becomes engaged in any outbreak of armed hostilities (whether or not foreseeable at the time of execution hereon or hostilities previously commenced shall escalate, the effect of which, in either case described in clauses (i) and (ii) of this paragraph (i) is, in the judgment of the Underwriters, so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Bonds on the terms and in the manner contemplated in this Bond Purchase Agreement and the Official Statement, including without limitation any material adverse effect on the market price of the Bonds.

(j) An event described in Section 6(k) herein occurs which, in the reasonable judgment of the Underwriters, requires a supplement or amendment to the Official Statement, and such amendment or supplement will, in the reasonable judgment of the Underwriters, materially and adversely affect the ability of the Underwriters to market the Bonds.

(k) A general banking moratorium shall have been declared by authorities of the United States, the State of New York, or the State of Texas.

10. Expenses. The Underwriters shall be under no obligation to pay, and the City shall pay, any expenses incident to the performance of the City's obligations hereunder, including but not limited to: (i) the cost of the preparation, printing, and distribution of the Preliminary Official Statement and the Official Statement; (ii) the cost of the preparation and printing of the Bonds; (iii) the fees and expenses of Bond Counsel to the City, the City's financial advisor and other attorneys and consultants retained by the City; (iv) all costs of the City in connection with the issuance of the Bonds, which are to be paid by the City pursuant to agreements with the City; (v) all costs of examination of the Bonds by the Attorney General of Texas; and (vi) fees for bond ratings and any travel or other expenses incurred incident thereto. The Underwriters shall pay: (i) all advertising expenses of the Underwriters in connection with the offering of the Bonds; (ii) the cost of the preparation and printing of all the underwriting documents, including this Bond Purchase Agreement, and (iii) all other expenses incurred by them in connection with their offering and distribution of the Bonds, including the fees of Underwriters' Counsel.

11. Notices. Any notice or other communication to be given to the City under this Bond Purchase Agreement may be given by delivering the same in writing at the address for the City set forth above, and any notice or other communication to be given to the Underwriters under this Bond Purchase Agreement may be given by delivering the same in writing to Estrada Hinojosa & Company, Inc., 1717 Main Street, Suite 4760, Dallas, Texas 75201, Attention: Noe Hinojosa, Manager, Public Finance.

12. Parties In Interest. This Bond Purchase Agreement is made solely for the benefit of the City and the Underwriters (including the successors or assigns of the Underwriters) and no other person shall acquire or have any right hereunder or by virtue hereof. The City's representations, warranties, and agreements contained in this Bond Purchase Agreement shall remain operative and in full force and effect, regardless of (i) any investigations made by or on behalf of the Underwriters, and (ii) delivery of any payment for the Bonds hereunder; and the City's representations and warranties contained in Section 6 of this Bond Purchase Agreement shall remain operative and in full force and effect, regardless of any termination of this Bond Purchase Agreement.

13. Effective Date. This Bond Purchase Agreement shall become effective upon the execution of the acceptance hereof by the Mayor of the City and shall be valid and enforceable as of the time of such acceptance.

Very truly yours,

Estrada Hinojosa & Company, Inc.
Bear, Stearns & Co., Inc.
Citigroup Global Markets Inc.
First Albany Capital Inc.
Goldman, Sachs & Co.
Jackson Securities
Loop Capital Markets, LLC
Merrill Lynch & Co.
Southwest Securities, Inc.

By: Estrada Hinojosa & Company, Inc., as
Representative

By: _____
Noe Hinojosa, Manager, Public Finance

SIGNATURE PAGE FOR BOND PURCHASE AGREEMENT

ACCEPTED:

This _____

CITY OF AUSTIN, TEXAS

By: _____

Name: Will Wynn, Mayor

SIGNATURE PAGE FOR BOND PURCHASE AGREEMENT

INSURANCE AGREEMENT

INSURANCE AGREEMENT, dated as of March 11, 2004, by and between City of Austin, Texas (Travis and Williamson Counties) (the "Issuer") and Financial Security Assurance Inc. (the "Insurer") (the "Agreement").

In consideration of the issuance by the Insurer of its Municipal Bond Debt Service Reserve Insurance Policy No. _____ (the "Reserve Policy") with respect to the Issuer's Hotel Occupancy Tax Revenue Refunding Bonds, Series 2004 issued under the Ordinance dated February 12, 2004, (the "Ordinance") and Parity Bonds, as defined in the Ordinance (collectively, the "Bonds") and the Issuer's payment to the Insurer of the insurance premium for the Reserve Policy, the Insurer and the Issuer hereby covenant and agree as follows:

1. Upon any payment by the Insurer under the Reserve Policy, the Insurer shall furnish to the Issuer written instructions as to the manner in which payment of amounts owed to the Insurer as a result of such payment under the Reserve Policy shall be made.
2. The Issuer shall pay the Insurer the principal amount of any draws under the Reserve Policy and pay all related reasonable expenses incurred by the Insurer and shall pay interest thereon from the date of payment by Financial Security at the Late Payment Rate. "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds and (b) the maximum rate permissible under. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such national bank as the Insurer shall designate.
3. Subject to availability of Pledged Revenues under the Ordinance to make payments to the Debt Service Reserve Fund, repayment of draws and payment of expenses and the interest accrued thereon at the Late Payment Rate (collectively, "Policy Costs") shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12th of the aggregate of Policy Costs related to such draw.
4. Amounts in respect of Policy Costs paid to the Insurer shall be credited first to interest due, then to the expenses due and then to principal due.
5. As and to the extent that payments are made to the Insurer on account of principal due, the coverage under the Reserve Policy will be increased by a like amount, subject to the terms of the Reserve Policy.
6. All cash and investments in the Reserve Fund shall be transferred to the debt service fund for payment of debt service on the Bonds before any drawing may be made on the Reserve Policy or on any alternative credit instrument. Payment of any Policy Costs shall be made prior to replenishment of any such cash amounts. Draws on all alternative credit instruments (including the Reserve Policy) on which there is available coverage shall be made on a pro rata basis (calculated by reference to coverage then available under each such alternative credit instrument) after applying available cash and investments in the Reserve Fund. Payment of Policy Costs and reimbursement of amounts with respect to alternative credit instruments shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Reserve Fund.

7. If the Issuer shall fail to pay any Policy Costs in accordance with the requirements of the Ordinance and this Agreement, the Insurer shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under the Ordinance, other than (i) acceleration of the maturity of the Bonds or (ii) remedies which would adversely affect owners of the Bonds.
8. The Ordinance shall not be discharged until all Policy Costs owing to the Insurer shall have been paid in full. The Issuer's obligation to pay such amounts shall expressly survive payment in full of the Bonds.
9. In order to secure the Issuer's payment obligations with respect to the Policy Costs, there is hereby granted and perfected in favor of the Insurer a security interest (subordinate only to that of the owners of the Parity Bonds) in all revenues and collateral pledged as security for the Parity Bonds.
10. The Registrar/Paying Agent shall ascertain the necessity for a claim upon the Reserve Policy and provide notice to the Insurer in accordance with the terms of the Reserve Policy at least five business days prior to each date upon which interest or principal is due on the Bonds. Where deposits are required to be made by the Issuer with the Registrar/Paying Agent to the debt service fund for the Bonds more often than semi-annually, the Registrar/Paying Agent shall give notice to the Insurer of any failure of the Issuer to make timely payment in full of such deposits within two business days of the date due.
11. Notices to the Insurer shall be sent to the following address (or such other address as the Insurer may designate in writing): Financial Security Assurance Inc., 350 Park Avenue, New York, New York 10022-6022 Attention: Managing Director - Surveillance.
12. This Agreement may be executed in counterparts, each of which alone and all of which together shall be deemed one original Agreement.
13. If any one or more of the agreements, provisions or terms of this Agreement shall be for any reason whatsoever held invalid, then such agreements, provisions or terms shall be deemed severable from the remaining agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement.
14. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Ordinance.
15. This Agreement and the rights and obligations of the parties of the Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date written above.

CITY OF AUSTIN, TEXAS (TRAVIS AND WILLIAMSON FINANCIAL SECURITY ASSURANCE INC. COUNTIES)

By: _____
Title:

By: _____
Title: Authorized Officer

SPECIAL ESCROW AGREEMENT

THE STATE OF TEXAS	§
	§
COUNTY OF TRAVIS	§

THIS SPECIAL ESCROW AGREEMENT (the "Agreement"), made and entered into as of February 12, 2004, by and between the City of Austin, Texas, a duly incorporated municipal corporation in Travis and Williamson Counties, Texas (the "City") acting by and through the Mayor and City Clerk, and JPMorgan Chase Bank, Dallas, Texas, a state banking organization organized and existing under the laws of the State of New York and authorized to do business in the State of Texas, or its successors or assigns hereunder (the "Bank"),

W I T N E S S E T H :

WHEREAS, the City Council of the City of Austin, Texas (the "City") has heretofore issued, sold, and delivered, and there is currently outstanding, obligations totaling in principal amount \$60,960,000 (the "Refunded Obligations") more particularly described as follows: City of Austin, Texas, Hotel Occupancy Tax Revenue Refunding Bonds, Series 1993A, dated December 1, 1993, maturing on November 15 in each of the years 2004 through 2009, 2014 and 2019; and

WHEREAS, in accordance with the provisions of V.T.C.A., Government Code, Chapter 1207, as amended (the "Act"), the City is authorized to sell refunding bonds in an amount sufficient to provide for the payment of obligations to be refunded, deposit the proceeds of such refunding bonds with (i) any place of payment for the obligations being refunded or (ii) other trust company or commercial bank named in the proceedings authorizing this Agreement and enter into an escrow or similar agreement with such place of payment, commercial bank or trust company for the safekeeping, investment, reinvestment, administration and disposition of such deposit, upon such terms and conditions as the parties may agree, provided such deposits may be invested only in type of obligations described in V.A.T.C., Government Code, Section 1207.062 that mature and/or bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment of Refunded Obligations; and

WHEREAS, the Refunded Obligations are scheduled to mature, or be redeemed, and interest thereon is payable on the dates and in the manner set forth in Exhibit A attached hereto and incorporated herein by reference as a part of this Agreement for all purposes; and

WHEREAS, the City on the 12th day of February, 2004, pursuant to an ordinance (the "Ordinance") finally passed and adopted by the City Council, authorized the issuance of bonds known as "City of Austin, Texas, Hotel Occupancy Tax Revenue Refunding Bonds, Series 2004" (the "Bonds") are being issued to refund, discharge and make final payment of the principal of and interest on the Refunded Obligations; and

WHEREAS, upon the delivery of the Bonds, the proceeds of sale, together with other available funds of the City, are to be deposited with the Bank and used in part to purchase non-callable direct obligations of the United States of America (the "Escrowed Securities") listed and identified in Exhibit B attached hereto and incorporated by reference as a part of this Agreement for all purposes; and

WHEREAS, the Escrowed Securities shall be held and deposited to the credit of the "Escrow Fund" to be established and maintained by the Bank in accordance with this Agreement; and

WHEREAS, the Escrowed Securities, together with the beginning cash balance in the Escrow Fund, shall mature and the interest thereon shall be payable at such times to insure the existence of monies sufficient to pay the principal amount of the Refunded Obligations and the accrued interest thereon, as the same shall become due in accordance with the terms of the ordinances authorizing the issuance of the Refunded Obligations and as set forth in Exhibit A attached hereto; and

WHEREAS, the City has completed all arrangements for the purchase of the Escrowed Securities listed in Exhibit B and the deposit and credit of the same to the Escrow Fund as provided herein; and

WHEREAS, the Bank is a banking organization organized and existing under the laws of the State of New York and authorized to do business in the State of Texas, possessing trust powers and is fully qualified and empowered to enter into this Agreement; and

WHEREAS, in Section 9.02 of the Ordinance authorizing the issuance of the Bonds, the City Council duly approved and authorized the execution of this Agreement; and

WHEREAS, the City and the Escrow Agent, as the case may be, shall take all action necessary to call, pay, redeem and retire said Refunded Obligations in accordance with the provisions thereof, including, without limitation, all actions required by the ordinance authorizing the Refunded Obligations, the Act, the Ordinance and this Agreement;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and to secure the payment of the principal of and the interest on the Refunded Obligations as the same shall become due, the City and the Bank hereby mutually undertake, promise and agree as follows:

SECTION 1: Receipt of Refunded Bond Ordinance. Receipt of a copy of the ordinance authorizing the issuance of the Refunded Obligations and the Ordinance are hereby acknowledged by the Bank. Reference herein to or citation herein of any provision of said documents shall be deemed an incorporation of such provision as a part hereof in the same manner and with the same effect as if it were fully set forth herein.

SECTION 2: Escrow Fund Creation/Funding. There is hereby created by the City with the Bank a special segregated and irrevocable trust fund designated "SPECIAL 2004 CITY OF AUSTIN, TEXAS, HOTEL OCCUPANCY TAX REVENUE REFUNDING BOND ESCROW FUND" (hereinafter called the "Escrow Fund") for the benefit of the holders of the Refunded Obligations, and, immediately following the delivery of the Bonds, the City agrees and covenants to cause to be deposited with the Bank the following amounts:

\$62,403,134.00	For the purchase of Escrowed Securities identified in Exhibit B to be held for the account of the Escrow Fund
\$ 0.76	For deposit in the Escrow Fund as a beginning cash balance.

The Bank hereby accepts the Escrow Fund and further agrees to receive said moneys, apply the same as set forth herein, and to hold the cash and Escrowed Securities deposited and credited to the Escrow Fund for application and disbursement for the purposes and in the manner provided in this Agreement.

SECTION 3: Escrow Fund Sufficiency Warranty. The City hereby represents that the cash and Escrowed Securities, together with the interest to be earned thereon, deposited to the credit of the Escrow Fund will be sufficient to pay the principal of and premium and interest on the Refunded Obligations as the same shall become due and payable, and such Refunded Obligations, and the interest thereon, are to mature or be redeemed and shall be paid at the times and in the amounts set forth and identified in Exhibit A attached hereto.

FURTHERMORE, the Bank acknowledges receipt of the Ordinance which provides for the redemption of the Refunded Obligations on May 15, 2004 at the redemption price of par plus accrued interest to the date of redemption; all in accordance with the provisions of the notice requirements applicable to said Refunded Obligations and the notice requirements contained in the ordinance authorizing the issuance of such Refunded Obligations.

The Bank agrees to cause a notice of redemption pertaining to the Refunded Obligations to be sent to the registered owners thereof appearing on the registration books at least thirty (30) days prior to the redemption date therefor.

SECTION 4: Pledge of Escrow. The Bank agrees that all cash and Escrowed Securities, together with any income or interest earned thereon, held in the Escrow Fund shall be and is hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Obligations which will mature and become due on and after the date of this Agreement, and such funds initially deposited and to be received from maturing principal and interest on the Escrowed Securities in the Escrow Fund shall be applied solely in accordance with the provisions of this Agreement.

SECTION 5: Escrow Insufficiency - City Warranty to Cure. If, for any reason, the funds on hand in the Escrow Fund shall be insufficient to make the payments set forth in Exhibit A attached hereto, as the same becomes due and payable, the City shall make timely deposits to the Escrow Fund, from lawfully available funds, of additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be immediately given by the Bank to the City by the fastest means possible, but the Bank shall in no manner be responsible for the City's failure to make such deposits.

SECTION 6: Escrow Fund Securities/Segregation. The Bank shall hold said Escrowed Securities and moneys in the Escrow Fund at all times as a special and separate trust fund for the benefit of the holders of the Refunded Obligations, wholly segregated from other moneys and securities on deposit with the Bank; shall never commingle said Escrowed Securities and moneys with other moneys or securities of the Bank; and shall hold and dispose of the assets therein only as set forth herein. Nothing herein contained shall be construed as requiring the Bank to keep the identical moneys, or any part thereof, in said Escrow Fund, if it is impractical, but moneys of an equal amount, except to the extent such are represented by the Escrowed Securities, shall always be maintained on deposit in the Escrow Fund by the Bank, as escrow agent; and a special account evidencing such facts shall at all times be maintained on the books of the Bank.

SECTION 7: Escrow Fund Collections/Payments. The Bank shall from time to time collect and receive the principal of and interest on the Escrowed Securities as the same mature and become due and credit the same to the Escrow Fund. On or before the redemption date for the Refunded Obligations shown in Exhibit A attached hereto, the Bank, without further direction from anyone, including the City, shall cause to be withdrawn from the Escrow Fund the amount required to pay the accrued interest on the Refunded Obligations due and payable on said payment date and the principal of the Refunded Obligations due and payable on said redemption date and the amount withdrawn from the Escrow Fund shall be immediately transmitted and deposited with the paying agent for the Refunded Obligations to be paid with such amount. The paying agent for the Refunded Obligations is the Bank.

If any Refunded Obligation thereon shall not be presented for payment when the principal thereof or interest thereon shall have become due, and if cash shall at such times be held by the Bank as paying agent/registrar for the Refunded Obligations for that purpose sufficient and available to pay the principal of such Refunded Obligation and interest thereon it shall be the duty of the Bank to hold said cash without liability to the holder of such Refunded Obligation for interest thereon after such redemption date, as paying agent/registrar for the Refunded Obligations for the benefit of the holder of such Refunded Obligation, who shall thereafter be restricted exclusively to said cash for any claim of whatever nature on his part on or with respect to said Refunded Obligation, including for any claim for the payment thereof and interest thereon. All cash required by the provisions hereof to be set aside or held for the payment of the Refunded Obligations, including interest thereon, shall be applied to and used solely for the payment of the Refunded Obligations and interest thereon with respect to which such cash has been so set aside.

Subject to the provisions of the last sentence of Section 25 hereof, cash held by the Bank in trust for the payment and discharge of any of the Refunded Obligations and interest thereon which remains unclaimed for a period of three (3) years after the redemption date of such Refunded Obligations shall be returned to the City. Notwithstanding the above and foregoing, any remittance of funds from the Bank to the City shall be subject to any applicable unclaimed property laws of the State of Texas and any remittance to the State of Texas required by such laws will be handled by the City.

SECTION 8: Disposal of Refunded Obligations. All Refunded Obligations cancelled on account of payment by the Bank shall be disposed of or otherwise destroyed by the Bank, and an appropriate certificate of destruction furnished the City.

SECTION 9: Escrow Fund Encumbrance. The escrow created hereby shall be irrevocable and the holders of the Refunded Obligations shall have an express lien on all moneys and Escrowed Securities in the Escrow Fund until paid out, used and applied in accordance with this Agreement.

Unless disbursed in payment of the Refunded Obligations, all funds and the Escrowed Securities received by the Bank for the account of the City hereunder shall be and remain the property of the Escrow Fund and the City and the owners of the Refunded Obligations shall be entitled to a preferred claim and shall have a first lien upon such funds and Escrowed Securities enjoyed by a trust beneficiary. The funds and Escrowed Securities received by the Bank under this Agreement shall not be considered as a banking deposit by the City and the Bank and the City shall have no right or title with respect thereto, except as otherwise provided herein. Such funds and Escrowed Securities shall not be subject to checks or drafts drawn by the City.

SECTION 10: Absence of Bank Claim/Lien on Escrow Fund. The Bank shall have no lien whatsoever upon any of the moneys or Escrowed Securities in the Escrow Fund for payment of services rendered hereunder, services rendered as paying agent/registrar for the Refunded Obligations, or for any costs or expenses incurred hereunder and reimbursable from the City.

SECTION 11: Restriction on Escrow Fund Investments - Reinvestment. Moneys in the Escrow Fund will be invested only in the Escrowed Securities listed in Exhibit B and neither the City nor the Bank shall reinvest any moneys deposited in the Escrow Fund except as specifically provided by this Agreement.

SECTION 12: Collateralization. The Bank shall continuously secure the monies in the Escrow Fund not invested in Escrowed Securities by a pledge of direct obligations of the United States of America, in the par or face amount at least equal to the principal amount of said uninvested monies to the extent such money is not insured by the Federal Deposit Insurance Corporation.

SECTION 13: Absence of Bank's Liability for Investments. The Bank shall not be liable or responsible for any loss resulting from any investment or reinvestment made in the Escrowed Securities or substitute securities as provided in Section 11 hereof.

SECTION 14: Bank's Compensation - Escrow Administration/Settlement of Paying Agent's Charges. The City agrees to pay the Bank for the performance of services hereunder the amount of \$750.00 as escrow agent and, except for reimbursement of costs and expenses incurred by the Bank pursuant to Sections 3, 10 and 17 hereof, the Bank hereby agrees said amount is full and complete payment for the administration of this Agreement.

The City also agrees to deposit with the Bank on the effective date of this Agreement, the sum of \$300.00, and the Bank acknowledges and agrees that such amount is and represents the total amount of compensation due the Bank for services rendered as paying agent for the Refunded Obligations. The Bank hereby agrees to pay, assume and be fully responsible for any additional charges that it may incur in the performance of its duties and responsibilities as paying agent for the Refunded Obligations.

The City acknowledges and agrees that the above amount deposited with the Escrow Agent to cover paying agents' charges and expenses does not include amounts which shall become due and payable for services rendered as registrar and transfer agent for fully registered Refunded Obligations, and the City agrees to pay directly to each "registrar" for the Refunded Obligations all reasonable costs, expenses and charges incurred in connection with the maintenance of the registration books and records and the transfer of such fully registered obligations as and when such costs, expenses and charges are incurred and against written invoices, statements or bills submitted therefor.

SECTION 15: Escrow Agent's Duties / Responsibilities/Liability. The Bank shall not be responsible for any recital herein, except with respect to its organization and its powers and authority. As to the existence or nonexistence of any fact relating to the City or as to the sufficiency or validity of any instrument, paper or proceedings relating to the City, the Bank shall be entitled to rely upon a certificate signed on behalf of the City by its City Clerk or Mayor and/or City Clerk of the City as sufficient evidence of the facts therein contained. The Bank may accept a certificate of the City Clerk under the City's seal, to the effect that a resolution or other

instrument in the form therein set forth has been adopted by the City Council of the City, as conclusive evidence that such resolution or other instrument has been duly adopted and is in full force and effect.

The duties and obligations of the Bank shall be determined solely by the express provisions of this Agreement and the Bank shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Bank.

In the absence of bad faith on the part of the Bank, the Bank may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Bank, conforming to the requirements of this Agreement; but notwithstanding any provision of this Agreement to the contrary, in the case of any such certificate or opinion or any evidence which by any provision hereof is specifically required to be furnished to the Bank, the Bank shall be under a duty to examine the same to determine whether it conforms to the requirements of this Agreement.

The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Bank unless it shall be proved that the Bank was negligent in ascertaining or acting upon the pertinent facts.

The Bank shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in aggregate principal amount of all said Refunded Obligations at the time outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Bank not in conflict with the intent and purpose of this Agreement. For the purposes of determining whether the holders of the required principal amount of said Refunded Obligations have concurred in any such direction, Refunded Obligations owned by any obligor upon the Refunded Obligations, or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with such obligor, shall be disregarded, except that for the purposes of determining whether the Bank shall be protected in relying on any such direction only Refunded Obligations which the Bank knows are so owned shall be so disregarded.

The term "Responsible Officers" of the Bank, as used in this Agreement, shall mean and include the Chairman of the Board of Directors, the President, any Vice President and any Assistant Vice President, the Secretary and any Assistant Secretary, the Treasurer and any Assistant Treasurer, and every other officer and assistant officer of the Bank customarily performing functions similar to those performed by the persons who at the time shall be officers, respectively, or to whom any corporate trust matter is referred, because of his knowledge of and familiarity with a particular subject; and the term "Responsible Officer" of the Bank, as used in this Agreement, shall mean and include any of said officers or persons.

SECTION 16: Limitation Re: Bank's Duties/Responsibilities/Liabilities to Third Parties.
The Bank shall not be responsible or liable to any person in any manner whatever for the sufficiency, correctness, genuineness, effectiveness, or validity of this Agreement with respect to the City, or for the identity or authority of any person making or executing this Agreement for and on behalf of the City. The Bank is authorized by the City to rely upon the representations of the City with respect to this Agreement and the deposits made pursuant hereto and as to the City's right and power to execute and deliver this Agreement, and the Bank shall not be liable in any manner as a result of such reliance. The duty of the Bank hereunder shall only be to the

City and the holders of the Refunded Obligations. Neither the City nor the Bank shall assign or attempt to assign or transfer any interest hereunder or any portion of any such interest. Any such assignment or attempted assignment shall be in direct conflict with this Agreement and be without effect. However, the Bank's interests in claims may inure to the Bank's affiliates, parents, successors or assigns.

SECTION 17: Interpleader. In the event conflicting demands or notices are made upon the Bank growing out of or relating to this Agreement or the Bank in good faith is in doubt as to what action should be taken hereunder, the Bank shall have the right at its election to:

(a) Withhold and stop all further proceedings in, and performance of, this Agreement with respect to the issue in question and of all instructions received hereunder in regard to such issue; and

(b) File a suit in interpleader and obtain an order from a court of appropriate jurisdiction in the State of Texas requiring all persons involved to interplead and litigate in such court their several claims and rights among themselves.

In the event the Bank becomes involved in litigation in connection with this Section, the City, to the extent permitted by law, agrees to indemnify and save the Bank harmless from all loss, cost, damages, expenses and attorney fees suffered or incurred by the Bank as a result thereof.

The Bank may advise with legal counsel in the event of any dispute or question regarding the construction of any of the provisions hereof or its duties hereunder, and in the absence of negligence or bad faith on the part of the Bank, no liability shall be incurred by the Bank for any action taken pursuant to this Section and the Bank shall be fully protected in acting in accordance with the opinion and instructions of legal counsel that is knowledgeable and has expertise in the field of law addressed in any such legal opinion or with respect to the instructions given.

SECTION 18: Accounting - Report. Promptly following the May 15, 2004, redemption date for the Refunded Obligations, the Bank shall forward by letter to the City, to the attention of the Director of Financial Services, or other designated official of the City, a statement in detail of the Escrowed Securities and monies held, and the income and maturities thereof, and disbursements from the Escrow Fund for the payment of the Refunded Obligations

SECTION 19: Notices. Any notice, authorization, request or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed as follows:

CITY OF AUSTIN, TEXAS

700 Lavaca, Suite 1510
Austin, Texas 78701

Attention: Director of Financial Services

JPMORGAN CHASE BANK

2001 Bryan Street, 10th Floor
Dallas, Texas 75201

Attention: Corporate Trust Services

The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery.

Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten (10) days prior notice thereof.

SECTION 20: Performance Date. Whenever under the terms of this Agreement the performance date of any provision hereof, including the date of maturity of interest on or principal of the Refunded Obligations, shall be a Sunday or a legal holiday or a day on which the Bank is authorized by law to close, then the performance thereof, including the payment of principal of and interest on the Refunded Obligations, need not be made on such date but may be performed or paid, as the case may be, on the next succeeding business day of the Bank with the same force and effect as if made on the date of performance or payment and with respect to a payment, no interest shall accrue for the period after such date.

SECTION 21: Warranty of Parties Re: Power to Execute and Deliver Escrow Agreement. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Agreement, in any and every said Refunded Obligation as executed, authenticated and delivered and in all proceedings pertaining thereto as said Refunded Obligations shall have been modified as provided in this Agreement. The City covenants that it is duly authorized under the Constitution and laws of the State of Texas to execute and deliver this Agreement, that all actions on its part for the payment of said Refunded Obligations as provided herein and the execution and delivery of this Agreement have been duly and effectively taken and that said Refunded Obligations and coupons in the hands of the holders and owners thereof are and will be valid and enforceable obligations of the City according to the import thereof as provided in this Agreement.

SECTION 22: Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the parties to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement. In the event any covenant or agreement contained in this Agreement is declared to be severable from the other provisions of this Agreement, written notice of such event shall immediately be given to each national rating service (Moody's Investors Service, Standard & Poor's Corporation or Fitch Investors Service) which has rated the Refunded Obligations on the basis of this Agreement.

SECTION 23: Termination. This Agreement shall terminate when the Refunded Obligations, including interest due thereon, have been paid and discharged in accordance with the provisions of this Agreement. If any Refunded Obligations are not presented for payment when due and payable, the nonpayment thereof shall not prevent the termination of this Agreement. Funds for the payment of any nonpresented Refunded Obligations and accrued interest thereon shall upon termination of this Agreement be held by the Bank for such purpose

in accordance with Section 7 hereof. Any moneys or Escrowed Securities held in the Escrow Fund at termination and not needed for the payment of the principal of or interest on any of the Refunded Obligations shall be paid or transferred to the City.

SECTION 24: Time of the Essence. Time shall be of the essence in the performance of obligations from time to time imposed upon the Bank by this Agreement.

SECTION 25: Escrow Agreement - Amendment/Modification. This Agreement shall be binding upon the City and the Bank and their respective successors and legal representatives and shall inure solely to the benefit of the holders of the Refunded Obligations, the City, the Bank and their respective successors and legal representatives. Furthermore, no alteration, amendment or modification of any provision of this Agreement shall (1) alter the firm financial arrangements made for the payment of the Refunded Obligations or (2) be effective unless (i) prior written consent of such alteration, amendment or modification shall have been obtained from the holders of all Refunded Obligations outstanding at the time of such alteration, amendment or modification and (ii) such alteration, amendment or modification is in writing and signed by the parties hereto; provided, however, the City and the Bank may, without the consent of the holders of the Refunded Obligations, amend or modify the terms and provisions of this Agreement to cure in a manner not adverse to the holders of the Refunded Obligations any ambiguity, formal defect or omission in this Agreement. If the parties hereto agree to any amendment or modification to this Agreement, prior written notice of such amendment or proposed modification, together with the legal documents amending or modifying this Agreement, shall be furnished to each national rating service (Standard & Poor's Corporation, Moody's Investors Service or Fitch Investors Service) which has rated the Refunded Obligations on the basis of this Agreement, prior to such amendment or modification being executed.

SECTION 26: Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 27: Executed Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument. This Agreement shall be governed by the laws of the State of Texas and shall be effective as of the date of the delivery of the Bonds.

EXHIBIT E

NOTICE OF REDEMPTION
CITY OF AUSTIN, TEXAS,
HOTEL OCCUPANCY TAX REVENUE
REFUNDING BONDS
SERIES 1993A
DATED DECEMBER 1, 1993

NOTICE IS HEREBY GIVEN that bonds of the above series maturing on November 15 in each of the years 2004 through 2009, 2014 and 2019 and aggregating in principal amount \$60,960,000 have been called for redemption on May 15, 2004 at the redemption price of par plus accrued interest to the date of redemption and in the principal amounts as follows:

<u>Year of Maturity</u>	<u>Principal Amount Outstanding</u>	<u>CUSIP Number</u>
2004	\$2,550,000	
2005	\$2,675,000	
2006	\$2,805,000	
2007	\$2,950,000	
2008	\$3,100,000	
2009	\$3,255,000	
2014	\$19,030,000	
2019	\$24,595,000	

ALL SUCH BONDS shall become due and payable on May 15, 2004, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said bonds shall be paid to the registered owners of the bonds only upon presentation and surrender of such bonds to JPMorgan Chase Bank, Dallas, Texas at its designated offices at the following address::

First Class/

Registered/Certified

JPMorgan Chase Bank
Institutional Trust Services
P. O. Box 2320
Dallas, Texas 75221-2320

Express Delivery/Courier

JPMorgan Chase Bank
Institutional Trust Services
2001 Bryan Street, 9th Floor
Dallas, Texas 75201

By Hand Only

JPMorgan Chase Bank
Room 234-North Building
Institutional Trust Securities Window
55 Water Street
New York, New York 10041

THIS NOTICE is issued and given pursuant to the terms and conditions prescribed for the redemption of said bonds and pursuant to an ordinance by the City Council of the City of Austin, Texas.

JPMORGAN CHASE BANK

Address: 2001 Bryan Street, 10th Floor
Dallas, Texas 75201

Exhibit F

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Article Ten of this Ordinance.

Annual Financial Statements and Operating Data

1. The financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. The information contained in the numbered tables in the main text of the Official Statement.

Accounting Principles

The accounting principles referred to in such Section are the generally accepted accounting principles as applicable to governmental units as prescribed by The Government Accounting Standards Board.