



**Debt Issuance  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 53  
AGENDA DATE: Thu 05/12/2005  
PAGE: 1 of 2**

**SUBJECT:** Approve an ordinance authorizing the issuance of City of Austin, Texas, Town Lake Park Community Events Center Venue Project Refunding Bonds, Series 2005, in the approximate amount of \$39,000,000, and authorizing the execution of all related documents.

**AMOUNT & SOURCE OF FUNDING:** No fiscal impact during Fiscal Year 2004-2005. \$1,999,376 estimated debt service requirement and \$600 estimated annual paying agent/registrar fee will be included in the Fiscal Year 2005-2006 Proposed Budget of the Town Lake Park Venue Project Debt Service Fund.

**FISCAL NOTE:** There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING** Financial and **DIRECTOR'S**  
**DEPARTMENT:** Administrative Services - **AUTHORIZATION:** Vickie Schubert  
Treasury

**FOR MORE INFORMATION CONTACT:** John Stephens, Chief Financial Officer, Financial and Admin. Services 974-2076

**PRIOR COUNCIL ACTION:** N/A

**BOARD AND COMMISSION ACTION:** N/A

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Due to current favorable conditions in the municipal bond market, the City's financial advisor, Public Financial Management, Inc., has advised that a refunding of Town Lake Park Community Events Center Venue Project Bonds, Series 1999, may be accomplished at a present value savings exceeding the City's target guideline of 4.25% of the refunded bonds. As of February 24, 2005, the transaction produced \$2,786,129 in present value savings or 7.929%. The amount of savings is dependent on the terms of the sale and will be presented to Council on the day of Council action on the proposed sale.

The transaction will be sold through the following underwriting team, which was approved by Council on October 9, 2003.

**Senior Manager**  
Siebert Brandford Shank (MBE)

**Co-Managers**  
JPMorgan  
Lehman Brothers  
Morgan Stanley  
UBS PaineWebber Inc.  
First Southwest Company  
Morgan Keegan  
Apex Prior Securities (MBE)  
Ramirez & Company (MBE)

Siebert Brandford Shank will act as senior manager because the firm provided the transaction to the City.



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**PAGE: 2 of 2**

This item has been posted for not later than 2:00 p.m., in order for Council action to occur prior to the close of the financial markets.

ORDINANCE NO. 050512- \_\_\_\_

AN ORDINANCE authorizing the issuance of "CITY OF AUSTIN, TEXAS, TOWN LAKE PARK COMMUNITY EVENTS CENTER VENUE PROJECT REFUNDING BONDS, SERIES 2005"; prescribing the terms, features and specifications of said Bonds; 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, 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 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 \$35,140,000 (the "Refunded Bonds") more particularly described as follows: City of Austin, Texas, Town Lake Park Community Events Center Venue Project Bonds, Series 1999", dated November 15, 1999, and scheduled to mature on November 15 in each of the years 2010 through 2025 and 2029; and

WHEREAS, pursuant to the provisions of V.T.C.A., Government Code, Chapter 1207, as amended, the City Council is authorized to issue refunding bonds 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, and ordinance authorizing the issuance of the Refunded Bonds, shall constitute the making of firm banking and financial arrangements for their discharge and final payment; and

WHEREAS, the City Council hereby finds and determines that refunding bonds should be issued at this time to refund the Refunded Bonds, and such refunding will result in the City saving approximately \$\_\_\_\_\_ in debt service payments on such indebtedness and further provide present value savings of approximately \$\_\_\_\_\_ ; now, therefore,

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

SECTION 1: Authorization - Designation - Principal Amount - Purpose - Date Special motor vehicle rental revenue bonds of the City, payable solely from the sources and secured in the manner hereinafter provided, shall be and are hereby authorized to be issued in the aggregate principal amount of \$\_\_\_\_\_, to be designated and bear the title "CITY OF AUSTIN, TEXAS, TOWN LAKE PARK COMMUNITY EVENTS CENTER VENUE PROJECT REFUNDING BONDS, SERIES 2005" (hereinafter referred to as the "Bonds"), for the purpose of refunding certain outstanding bonds of the City (defined in the preamble hereof as the "Refunded Bonds") and to pay costs of issuance, in accordance with authority conferred by and in conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Government Code, Chapter 1207, as amended.

SECTION 2: Fully Registered Obligations - Authorized Denominations - Stated Maturities - Bond Date - Interest Rates The Bonds are issuable in fully registered form only, shall be dated April 15, 2005, shall be in denominations of \$5,000 or any integral multiple thereof within a maturity and shall mature 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 Stated Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate(s)</u>
2010		
2011		
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		

The Bonds shall accrue interest on the unpaid principal amounts from the Bond Date at the rate(s) per annum shown above (calculated on the basis of a 360-day year of twelve 30-day months), and such interest shall be payable on May 15 and November 15 in each year, commencing November 15, 2005.

**SECTION 3: 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 registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books (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.

The selection and appointment of JPMorgan Chase Bank, National Association, Dallas, Texas, to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed. The Security Register shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement", substantially in the form attached hereto as Exhibit A and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor and City Clerk of the City are hereby authorized to execute and deliver such Agreement in connection with the delivery of the Bonds. 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.

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 offices in Dallas, Texas (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid by the Paying Agent/Registrar 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 preceding each interest payment date) and such interest payments shall be made (i) by check sent by 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 Designated Payment/Transfer Office of 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 Stated Maturities on a scheduled payment date, which non-payment shall continue for thirty (30) days thereafter, a new record date for such interest payment for such Stated 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 4: Redemption.** (a) Optional Redemption The Bonds having Stated Maturities on and after November 15, 2016, shall be subject to redemption prior to maturity, 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, 2015, or on any date thereafter, at the redemption price of par plus accrued interest to the date of redemption.

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.

(b) Mandatory Redemption The Bonds having Stated Maturities of November 15, 20\_\_ ("Term Bonds") shall be subject to mandatory redemption prior to maturity at the redemption price of par and accrued interest to the date of redemption on the respective dates and in principal amounts as follows:

Term Bonds due November 15, 20

<u>Redemption Date</u>	<u>Principal Amount</u>
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November 15, 20	
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November 15, 20	
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November 15, 20	
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Approximately forty-five (45) days prior to each mandatory redemption date, the Paying Agent/Registrar shall select by lot the numbers of the Term Bonds to be redeemed on the next following November 15 from moneys set aside for that purpose in the Debt Service Account (as hereinafter defined). Any Term Bonds not selected for prior redemption shall be paid on the date of their Stated Maturity.

The principal amount of the Term Bonds required to be redeemed pursuant to the operation of such mandatory redemption provisions may be reduced, at the option of the City, by the principal amount of Term Bonds which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in paragraph (a) of this Section and not theretofore credited against a mandatory redemption requirement.

(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 5: 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 Holder 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 8 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 of like 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 8 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 such transfer or exchange 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 30 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 transfer or exchange any Bond called for redemption, in whole or in part, within 45 days of the date fixed for redemption of such Bond; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

**SECTION 6: Book-Entry Only Transfers and Transactions** Notwithstanding the provisions contained in Sections 3, 4 and 5 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 Representations, 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"). 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 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 3, 4 and 5 hereof.

**SECTION 7: 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 Bond 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.

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 9(c), 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 9(d), 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 8: Initial Bond(s).** The Bonds herein authorized shall be initially issued either (i) as a single fully registered bond in the total principal amount shown in Section 1 hereof with principal installments to become due and payable as provided in Section 2 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 9: Forms.** (a) **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 Section 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 Bond(s) 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.

**(b) Form of Definitive Bond.**

REGISTERED  
NO. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF AUSTIN, TEXAS  
TOWN LAKE PARK COMMUNITY EVENTS CENTER  
VENUE PROJECT REFUNDING BONDS,  
SERIES 2005

Bond Date:  
April 15, 2005

Interest Rate:  
\_\_\_\_\_

Stated Maturity:  
\_\_\_\_\_

CUSIP No.  
\_\_\_\_\_

Registered Owner:

Principal Amount:

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 revenues hereinafter identified, 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 (computed on the basis of a 360-day year of twelve 30-day months) on the unpaid Principal Amount hereof from the Bond Date at the per annum rate of interest specified above; such interest being payable on May 15 and November 15 of each year, commencing November 15, 2005. Principal of this Bond is payable at its Stated Maturity or redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond. 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 \$\_\_\_\_\_ (herein referred to as the "Bonds") for the purpose of refunding certain outstanding obligations of the City (identified in the Ordinance hereinafter referenced and referred to as the "Refunded Bonds") and to pay costs of issuance, under and in strict conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Government Code, Chapter 1207, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance"). Capitalized terms used herein have the same meanings assigned in the Ordinance.

The Bonds maturing on November 15, 20\_\_\_\_ (the "Term Bonds") are subject to mandatory redemption in part prior to maturity with funds on deposit in the Town Lake Park Community Events Center Venue Project Bond Debt Service Account established and maintained for the payment thereof in the Ordinance at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

**Term Bonds due November 15, 20**

<u>Redemption Date</u>	<u>Principal</u>	<u>Amount</u>
November 15, 20		
November 15, 20		
November 15, 20		

The particular Term Bonds to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds required to be redeemed pursuant to the operation of such mandatory redemption provisions may be reduced, at the option of the City, by the principal amount of Term Bonds which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.

The Bonds maturing on and after November 15, 2016 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, 2015, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

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, are payable solely from and equally and ratably secured by a lien on

and pledge of the Pledged Revenues, including, but not limited to, the receipts from the collection of a Special Motor Vehicle Rental Tax. The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City, except with respect to the 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 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 Stated Maturity of this Bond, and this Bond deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein.

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, which non-payment shall have continued 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. In case any provision in this Bond or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforcement 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 Bond Date.

CITY OF AUSTIN, TEXAS

\_\_\_\_\_  
Mayor

COUNTERSIGNED:

\_\_\_\_\_  
City Clerk

(SEAL)

(c) \*Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Bond(s) 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

(d) 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 offices of the Paying Agent/Registrar in Dallas, Texas is the "Designated Payment/Transfer Office" for this Bond.

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, Dallas, Texas,  
as Paying Agent/Registrar

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

By \_\_\_\_\_

Authorized \_\_\_\_\_

Sig

(e) 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.

(f) The Initial Bond(s) shall be in the form set forth in Paragraph (b) of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

Heading and paragraph one shall be amended to read as follows:

REGISTERED  
NO. T-1

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF AUSTIN, TEXAS  
TOWN LAKE PARK COMMUNITY EVENTS CENTER  
VENUE PROJECT REFUNDING BONDS, SERIES 2005

Bond Date:  
April 15, 2005

Registered Owner:

Principal Amount:

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 revenues hereinafter identified, the Principal Amount stated above on November 15 in each of the years and in principal installments in accordance with the following schedule:

<u>YEAR</u>	<u>PRINCIPAL INSTALLMENTS</u>	<u>INTEREST RATE(S)</u>
-------------	-----------------------------------	-----------------------------

(Information to be inserted from schedule in Section 2 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 Bond 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 November 15, 2005. 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, National Association, Dallas, Texas (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices 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 10: Definitions.** Unless otherwise expressly provided or unless the context otherwise requires, in addition to those terms defined in the preamble of this Ordinance the terms defined in this Section for all purposes of this Ordinance shall have the respective meanings specified:

**"Act" - V.T.C.A., Local Government Code, Chapter 334.**

**"Additional Bonds" - the additional parity revenue bonds permitted to be issued by the City pursuant to Section 23 of this Ordinance.**

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

**"Bonds" - the "CITY OF AUSTIN, TEXAS TOWN LAKE PARK COMMUNITY EVENTS CENTER VENUE PROJECT REFUNDING BONDS, SERIES 2005", dated April 15, 2005, authorized by this Ordinance.**

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

**"Debt Service Account" - the Account so designated in Section 14 which heretofore has been established by the City and which shall be maintained in accordance with Section 16 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 the Bonds then Outstanding which will become due and owing during such Bond Year.**

**"Debt Service Reserve Account" - the Account so designated in Section 14 which heretofore has been established by the City and which shall be maintained in accordance with Section 17 of this Ordinance.**

**"Events Center Revenues" - all income and revenues derived directly or indirectly by the City from the operation and use of and otherwise pertaining to the Town Lake Community Events Center, or any part thereof, whether resulting from extensions, enlargements, repairs, betterments or other improvements to the Town Lake Community Events Center, or otherwise, including all rentals, rates, fees and other charges for the use of the Town Lake Community Events Center, or for any service rendered by the City in the operation thereof, but expressly excluding: (i) any monies received as grants, appropriations, or gifts, the use of which is limited by the grantor or donor; (ii) insurance proceeds other than loss of use or business interruption insurance proceeds; and (iii) sales and other taxes collected by the Town Lake Community Events Center on behalf of the State of Texas and any other taxing entities.**

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

**"Government Obligations" - (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.

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

**"Operation and Maintenance Expenses"** - all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the Parking Garage and Town Lake Community Events Center, including, without limitation, those reasonably allocated City overhead expenses relating to their administration, operation and maintenance; insurance and fidelity bond premiums; payments to pension and other funds and to any self-insurance fund; any general and excise taxes or other governmental charges imposed by entities other than the City; costs of contractual and professional services, labor, materials and supplies for current operations, including the costs of such direct City services as are reasonably necessary for the operation of the Parking Garage or Town Lake Community Events Center; utility costs; and all other administrative, general and commercial expenses, but excluding: (i) any allowance for depreciation; (ii) costs of capital improvements; and (iii) liabilities based upon the City's negligence or other ground not based on contract.

**"Operating Account"** - the Account so designated in Section 14 which heretofore has been established by the City and which shall be maintained in accordance with Section 19 of this Ordinance.

**"Operating Reserve"** - the six month reserve amount to be accumulated and maintained in the Operating Account in accordance with Section 19 of this Ordinance.

**"Ordinance"** - this Ordinance No. 050512-\_\_\_\_ and all amendments hereof and supplements hereto.

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

**"Parking Garage Account"** - the Account so designated in Section 14 which heretofore has been established by the City, and which shall be maintained pursuant to Section 15 of this Ordinance.

**"Parking Revenues"** - all income and revenues derived directly or indirectly by the City from the operation and ownership of the Parking Garage, or any part thereof, including all rentals, rates, fees and other charges for the use of the Parking Garage, or for any service rendered by the City in the operation thereof, but expressly excluding: (i) any monies received as grants, appropriations, or gifts, the use of which is limited by the grantor or donor; (ii) insurance proceeds other than loss of use or business interruption insurance proceeds; and (iii) sales and other taxes collected by the Parking Garage on behalf of the State of Texas and any other taxing entities.

**"Parking Garage"** - the multi-story parking garage facility constructed adjacent to, in the vicinity of, or as a part of the Town Lake Community Events Center for approximately 1200 automobiles.

**"Parity Revenue Bonds"** - the Previously Issued Bonds, the Bonds and Additional Bonds permitted to be issued by the City pursuant to this Ordinance.

**"Pledged Revenues"** - collectively, (i) the revenues received from the Special Motor Vehicle Rental Tax deposited to the credit of the Venue Project Fund, (ii) Parking Revenues deposited to the credit of the Venue Project Fund, (iii) Events Center Revenues deposited to the credit of the Venue Project Fund, (iv) interest and other income realized from the investment of amounts on deposit in the funds and accounts referenced in this Ordinance to the extent such interest and other income are required to be transferred or credited to the Venue Project Fund, and (v) any additional revenue, receipts or income hereafter pledged to the Bonds in accordance with Section 11 of this Ordinance.

**"Previously Issued Bonds"** - the "CITY OF AUSTIN, TEXAS TOWN LAKE PARK COMMUNITY EVENTS CENTER VENUE PROJECT BONDS, SERIES 1999", dated November 15, 1999, originally issued in the aggregate principal amount of \$40,000,000, and currently outstanding in the aggregate principal amount of \$39,150,000.

**"Repair and Replacement Account"** - the Account so designated in Section 14 which heretofore has been established by the City and shall be maintained in accordance with Section 18 of this Ordinance.

**"Reserve Fund Requirement"** - the amount required to be maintained in the Debt Service Reserve Account. Such amount shall be the lesser of (i) 10% of the principal amount or (ii) the maximum annual Debt Service Requirement scheduled to occur in the then current and each future Fiscal Year for all Parity Revenue Bonds then Outstanding 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 initially be \$\_\_\_\_\_.

**"Special Motor Vehicle Rental Tax"** - the 5% motor vehicle rental tax approved at the election held November 3, 1998 to finance the Town Lake Park Community Events Center Venue Project and imposed by the City pursuant to Ordinance No. 981210-A, adopted by the City Council of the City on December 10, 1998, on the gross rental receipts from the rental in the City of a motor vehicle, as authorized by subchapter E of Chapter 334 of the Local Government Code and the aforesaid election.

**"Subordinate Lien Bonds"** - each series of bonds, notes or other obligations permitted to be issued by the City pursuant to Section 25 of this Ordinance as Subordinate Lien Bonds secured in whole or in part by liens on the Parking Revenues and Town Lake Community Events Center Revenues that are junior and subordinate to the lien on Pledged Revenues securing payment of the Parity Revenue Bonds.

**"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 Revenue Bonds to satisfy any part of the Reserve Fund Requirement as provided in Section 17 of this Ordinance.

**"Town Lake Community Events Center"** - the multi-purpose events building located at the corner of Barton Springs Road and South First Street and comprised of approximately 125,000 square feet, to be available and used for local public events including concerts, sales events, trade show, and public meetings, and the support areas for building operations, lobbies, concessions, restrooms and mechanical and electrical equipment, and any additions or improvements to such building.

**"Town Lake Park Community Events Center Venue Project"** - the capital improvement project described generally of constructing a new town lake park community events center, including parkland development and constructing parking facilities, incidental concessions compatible with the use of the facility, and related infrastructure and being a venue project within the meaning of the Act approved at an election held in the City on November 3, 1998, and designated by Resolution No. 980902-017.

**"Venue Project Fund"** - the Fund so designated created and established pursuant to Ordinance No. 981210-A, adopted by the City Council on December 10, 1998, providing for the levy, assessment and collection of the Special Motor Vehicle Rental Tax.

**SECTION 11: Pledge and Source of Payment** The Bonds shall constitute special obligations of the City payable solely from and, together with the Previously Issued Bonds, shall be 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 Revenue Bonds, and all expenses of providing for their full and timely payment in accordance with their terms, in the Debt Service Account and the Debt Service Reserve Account as hereinafter provided. The City hereby grants a first lien on the Pledged Revenues and, subject to the provisions of this Ordinance, further grants a first lien on the Venue Project Fund, the Debt Service Account and the Debt Service Reserve Account to secure the payment of principal of and premium, if any, and interest on the

Parity Revenue Bonds. All Parity Revenue Bonds shall be in all respects on a parity with and of equal dignity with one another, and the first lien on the Pledged Revenues shall be valid and binding and fully perfected from and after the date of adoption of this Ordinance without physical delivery or transfer or transfer of control of the Pledged Revenues, the filing of this Ordinance or any other act; all as provided in V.T.C.A., Government Code, Chapter 1208.. 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 Parity Revenue Bonds out of any funds raised or to be raised by taxation, other than the Pledged Revenues.

V.T.C.A., Government Code, Chapter 1208 applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the City under this Section 11, 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 Revenues granted by the City under this Section 11 is to be subject to the filing requirements of V.T.C.A., Business & Commerce Code, Chapter 9, 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 V.T.C.A., Business & Commerce Code, Chapter 9, and enable a filing to perfect the security interest in said pledge to occur.

**SECTION 12: Levy of Special Motor Vehicle Rental Tax** The City has imposed, and while any Bonds remain Outstanding the City hereby imposes and covenants that it shall continue to impose, a Special Motor Vehicle Rental Tax of 5% on the gross rental receipts from the rental in the City of a motor vehicle to finance the costs of the Town Lake Park Community Events Center Venue Project, all as authorized by V.T.C.A., Local Government Code, Chapter 334, particularly Subchapter E, and an election held in the City on November 3, 1998. The City further covenants that it shall enforce the provisions of this Ordinance and Ordinance No. 981210-A, relating to imposition, collection, and expenditure of the Special Motor Vehicle Rental Tax.

**SECTION 13: Annual Budget/Rates and Fees** While the Bonds are Outstanding, the City agrees that prior to the commencement of each Fiscal Year an annual budget for the Parking Garage and Town Lake Community Events Center shall be adopted and approved which identifies and provides (i) the amount of Special Motor Vehicle Rental Tax Revenues, Parking Revenues and Events Center Revenues allocated and budgeted to pay the Operation and Maintenance Expenses of the Parking Garage and Town Lake Community Events Center for said Fiscal Year and (ii) the anticipated Operation and Maintenance Expenses of the Parking Garage and Town Lake Community Events Center, and to the extent such annual budget contemplates and provides for Parking Garage Revenues and Events Center Revenues to pay or cover such Operation and Maintenance Expenses, the City shall assess and collect for the use of such Parking Garage and Town Lake Community Events Center a fee or charge sufficient to produce the revenues so allocated and budgeted for such purposes.

**SECTION 14: Special Funds.** The City hereby confirms the establishment of the Venue Project Fund for the Town Lake Park Community Events Center Venue Project in accordance with Section 334.042 of the Act and pursuant to Ordinance No. 981210-A and such Fund shall be maintained at an official depository of the City. The following sub-accounts have been established and shall be maintained on the books of the City while any of the Parity Revenue Bonds remain Outstanding, to wit:

(i) Town Lake Park Community Events Center Venue Project Special Motor Vehicle Rental Tax Account ("Tax Account");

(ii) Town Lake Park Community Events Center Parking Garage Account ("Parking Garage Account");

(iii) Town Lake Park Community Events Center Venue Gross Revenue Account ("Events Center Revenue Account");

(iv) Town Lake Park Community Events Center Venue Project Bond Debt Service Account ("Debt Service Account");

(v) Town Lake Park Community Events Center Venue Project Bond Debt Service Reserve Account ("Debt Service Reserve Account");

(vi) Town Lake Park Community Events Center Venue Project Repair and Replacement Account ("Repair and Replacement Account"); and

(vii) Town Lake Park Community Events Center Venue Project Operating Account ("Operating Account").

**SECTION 15: Flow of Funds.** The City covenants and agrees all receipts and revenues collected and received by the City from the Special Motor Vehicle Rental Tax, the Parking Revenues and the Events Center Revenues shall be deposited to the credit of the Venue Project Fund and more particularly to the credit of the Tax Account, the Parking Garage Account and Events Center Revenue Account, respectively.

(a) Tax Account While the Parity Revenue Bonds remain Outstanding, moneys from time to time credited to the Tax Account shall be applied in the following order of priority:

First. to the payment of the amounts to be deposited to the credit of the Debt Service Account required by any ordinance authorizing the issuance of Parity Revenue Bonds.

Second. to the payment of the amounts to be deposited to the credit of the Debt Service Reserve Account required by any ordinance authorizing the issuance of Parity Revenue Bonds.

Third. to the payment of the amounts to be deposited to the credit of the Repair and Replacement Account required by any ordinance authorizing the issuance of Parity Revenue Bonds.

Fourth. to pay amounts to be deposited to the credit of the Operating Account, including the establishment and maintenance of an operating reserve to operate and maintain the Town Lake Community Events Center and Parking Garage, as required by any ordinance authorizing the issuance of Parity Revenue Bonds.

Fifth. for any lawful purpose under the Act and as authorized by the election held November 3, 1998.

(b) Parking Garage Account/Events Center Account The City covenants and agrees all receipts and revenues collected and received by the City from the Parking Revenues and the Events Center Revenues shall be deposited to the credit of the Venue Project Fund and more particularly to the credit of the Parking Garage Account and Events Center Revenue Account, respectively. While the Parity Revenue Bonds remain Outstanding, moneys from time to time credited to the Parking Garage Account and Events Center Revenue Account shall be applied in the following order of priority:

- First. to the payment of the amounts to be deposited to the credit of the Debt Service Account required by any ordinance authorizing the issuance of Parity Revenue Bonds.
- Second. to the payment of the amounts to be deposited to the credit of the Debt Service Reserve Account required by any ordinance authorizing the issuance of Parity Revenue Bonds.
- Third. to the payment of the amounts to be deposited to the credit of any special fund or account maintained for the payment of Subordinate Lien Bonds in the manner and to the extent required by the ordinance(s) authorizing their issuance.
- Fourth. to the payment of the amounts to be deposited to the credit of the Repair and Replacement Account required by any ordinance authorizing the issuance of Parity Revenue Bonds.
- Fifth. to pay amounts to be deposited to the credit of the Operating Account, including the establishment and maintenance of an operating reserve to operate and maintain the Town Lake Community Events Center and Parking Garage, as required by any ordinance authorizing the issuance of Parity Revenue Bonds.
- Sixth. for any lawful purpose under the Act and as authorized by the election held November 3, 1998.

SECTION 16: Debt Service Account Moneys deposited to the credit of the Debt Service Account shall be used solely for the purpose of paying principal (at maturity or prior redemption or to purchase Parity Revenue Bonds issued as term bonds in the open market to be credited against any mandatory redemption requirements), interest and redemption premiums on the Parity Revenue 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 for the Parity Revenue Bonds, the City shall transfer from the Debt Service Account to the appropriate Paying Agent/Registrar amounts equal to the principal, interest and redemption premiums payable on the Parity Revenue Bonds on such date.

In addition to the deposits to the Debt Service Account 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 Account from the Pledged Revenues 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 on or before each February 15, May 15, August 15 and November 15 (the "Transfer Dates") in each year, 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 Account from the Pledged Revenues 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 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 Bonds.

**SECTION 17: Debt Service Reserve Account.** (a) General Provisions. The City hereby covenants and agrees the Reserve Fund Requirement shall be initially funded in full on the date of the delivery of the Bonds with a Surety Bond Issued by the Surety Bond Issuer as provided herein.

While the coverage afforded by a Surety Bond totals not less than the Reserve Fund Requirement, no deposits need be made to the credit of the Debt Service Reserve Account from the Pledged Revenues. Should the Debt Service Reserve Account at any time contain less than the Reserve Fund Requirement, the City covenants and agrees to cause quarterly deposits to be made to the Debt Service Reserve Account on or before the Transfer Dates (beginning with the Transfer Date next following the date the deficiency in the Reserve Fund Requirement occurred) from Pledged Revenues in an amount equal to 1/20th of the Reserve Fund Requirement until the total Reserve Fund Requirement has been fully restored; provided, however, should the City be obligated to repay or reimburse the Surety Bond Issuer to replenish and restore the full amount of coverage provided by the Surety Bond, the City covenants and agrees to cause deposits to be made to the Debt Service Reserve Account from Pledged Revenues to fully restore the coverage afforded by the Surety Bond at the times, in the manner and in the amounts specified in the Reserve Fund Policy Agreement noted below. The City further covenants and agrees that, subject only to the deposits to be made to the Debt Service Account, the Pledged Revenues shall be applied and appropriated and used to establish and maintain the Reserve Fund Requirement and to cure any deficiency in such amount as required by the terms of this Ordinance.

The amounts deposited to the credit of the Debt Service Reserve Account shall be used solely for the payment of (i) the principal of and interest on the Parity Revenue Bonds when (whether at maturity, upon a redemption date or any interest payment date) other funds available for such purposes are insufficient, (ii) the amounts required to restore or replenish in full the coverage afforded by a Surety Bond representing all or a portion of the Reserve Fund Requirement.

(b) Surety Bond Provisions. As noted above, the Reserve Fund Requirement is to be funded in full with a Surety Bond issued by \_\_\_\_\_ (hereinafter referred to as "the Surety Bond Issuer"). In accordance with Surety Bond Issuer's terms for the issuance of such Surety Bond, it is hereby expressly provided that notwithstanding any other provision of this Ordinance, the Paying Agent/Registrar shall ascertain the necessity for a claim upon the Surety Bond and to provide notice to the Surety Bond Issuer in accordance with the terms of the Surety Bond at least two business days prior to each interest payment.

Furthermore, the "Debt Service Reserve Fund Policy Agreement" (the "Reserve Fund Policy Agreement") by and between the City and the Surety Bond Issuer, attached hereto as

Exhibit B and incorporated herein by reference as a part of this Ordinance for all purposes, is hereby approved as to form and content, and such Reserve Fund Policy 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 an authorized official of City for and on behalf of the City and as the act and deed of this Council; and such Reserve Fund Policy Agreement as executed by said official shall be deemed approved by the City Council and constitute the Reserve Fund Policy Agreement herein approved. Unless otherwise provided herein, the terms capitalized in this Section relating to the Surety Bond and the Reserve Fund Policy Agreement shall have the meanings specified in Reserve Fund Policy Agreement. Notwithstanding any provision herein to the contrary, should there be a conflict between the provisions of this Section and the provisions of the Reserve Fund Policy Agreement with respect to the obligation of the City to restore or replenish the full amount of coverage provided by the Surety Bond, the provisions of the Reserve Fund Policy Agreement shall control with respect to such matters.

**SECTION 18: Repair and Replacement Account** For purposes of accumulating and maintaining funds as a reserve for the payment of repair, replacement and maintenance costs of the Parking Garage and Town Lake Community Events Center, the City agrees to accumulate and maintain in the Repair and Replacement Account an amount equal to \$1,000,000 (the "Repair and Replacement Reserve") and all funds deposited therein shall be used solely for the payment of (i) costs and expenses which under generally accepted accounting principals are capital costs as opposed to Operation and Maintenance Expenses of the Parking Garage and Town Lake Community Events Center when other funds available for such purposes are insufficient, or (ii) to pay principal of and interest on Parity Revenue Bonds when funds deposited to the credit of the Debt Service Account and Debt Service Reserve Account are insufficient for such purpose.

In accordance with the provisions of the ordinance authorizing the issuance of the Previously Issued Bonds, there is currently on deposit in the Repair and Replacement Account an amount equal to \$1,000,000 and, therefore, no additional deposits are currently required to be made to such Account.

When and so long as the cash and investments in the Repair and Replacement Account total not less than the Repair and Replacement Reserve, no deposits from the Pledged Revenues need be made to the credit of the Repair and Replacement Account; but, if and when such Account at any time contains less than the Repair and Replacement Reserve, the City covenants and agrees to cause deposits to be made on each Transfer Date to the Repair and Replacement Account on each Transfer Date following the date the deficiency in the Repair and Replacement Reserve occurred by reason of a draw on such Account or as a result of a reduction in the market value of investments held for said Account from the Pledged Revenues in an amount equal to 1/20th of the Repair and Replacement Reserve until such total amount required to be maintained in such Account has been fully restored. During such time as the Repair and Replacement Account contains the total Repair and Replacement Reserve, the City may, at its option, withdraw all surplus in such Account resulting from investments held for such Account and deposit such investment earnings to the credit of the Operating Account.

**SECTION 19: Operating Account.** On each Transfer Date, there shall be transferred from the Tax Account, Parking Garage Account and Events Center Revenue Account (to the extent amounts are available therein and after making all required transfers to the Accounts having a priority ahead of the Operating Account) an amount equal to one-fourth (1/4th) of the amounts allocated and budgeted to pay or cover such budgeted Operating and Maintenance



Expenses of the Parking Garage and Town Lake Community Events Center for such Fiscal Year. In the preparation of the City's annual budget, the City's Chief Financial Officer (or other officer of the City having primary responsibility for the financial affairs of the City) shall at the time the recommended budget for the Parking Garage and Town Lake Community Events Center required by Section 13 is first submitted to the City for consideration and approval identify the amount of Pledged Revenues allocated and budgeted to pay and cover Operation and Maintenance Expenses for the Parking Garage and Town Lake Community Events Center or the amount allocated and budgeted therefor in the then current Fiscal Year. Amounts from time to time credited to the Operating Account may be used at any time to pay for any Operation and Maintenance Expenses.

In addition to the amounts to be deposited into the Operating Account to provide for the payment of current Operating and Maintenance Expenses of the Parking Garage and Town Lake Community Events Center as provided above, there shall also be accumulated and maintained in the Operating Fund an Operating Reserve in an amount equal six months of Operation and Maintenance Expenses for the Parking Garage and Town Lake Community Events Center (the "Operating Reserve"). The City covenants and agrees that on the Transfer Date occurring in November of each year, after making all required transfers at such time to the accounts having a priority ahead of any transfer to the Operating Account, an amount equal to one-twelfth (1/12th) of the Maintenance and Operation Expenses of the Parking Garage and Town Lake Community Events Center incurred for the most recent completed fiscal year and according to the books and records of the City maintained with respect to the operation and maintenance of such facilities until there has been accumulated in the Operating Account an Operating Reserve.

**SECTION 20: Deficiencies In Funds or Accounts.** If on any Transfer Date there shall not be transferred into any fund or account maintained pursuant to this Ordinance 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 Account, the Parking Garage Account or Events Center Revenue Account, as the City shall determine, 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 21: Investment of Funds; Transfer of Investment Income** (a) Money in all funds or accounts 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 or 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 may be transferred to the Events Center Revenue Account, except as provided in (c) below; provided that at any time when the Debt Service Reserve Account has on deposit an amount less than the Reserve Fund Requirement, all interest and income on 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 transferred into any rebate account or subaccount and (2) paid to the federal government if in the opinion of nationally recognized bond counsel such payment is required to comply with any covenant contained herein or required in order to prevent interest on any Parity Revenue Bonds or Subordinate Lien Bonds from being includable within the gross income of the owners thereof for federal income tax purposes.

**SECTION 22: 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.

**SECTION 23: Additional Parity Revenue Bonds.** Save and except for refunding bonds issued to refund all or part of the Bonds in accordance with Section 24 below, the City covenants that no additional bonds will be issued by the City payable from and secured by a parity lien on and pledge of the Pledged Revenues.

**SECTION 24: Refunding Bonds.** The City expressly reserves the right to issue refunding bonds to refund the Bonds or refunding bonds previously issued to refund the Bonds; provided the maximum annual and the average annual Debt Service Requirements for all Parity Revenue Bonds to be Outstanding in any Fiscal Year after the issuance of such refunding bonds will not exceed (1) the maximum annual for all Parity Revenue Bonds Outstanding in any Fiscal Year prior to the issuance of Additional Bonds and (2) the average annual Debt Service Requirement for all Parity Revenue Bonds Outstanding at the end of the last completed Fiscal Year prior to the issuance of such Additional Bonds.

**SECTION 25: Subordinate Lien Bonds.** 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 a lien on and pledge of the Parking Revenues and Events Center Revenues junior and subordinate to the lien on and pledge of such Pledged Revenues securing payment of the Parity Revenue Bonds.

**SECTION 26: 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 Parity Revenue Bonds.

**SECTION 27: 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 Parity Revenue 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 Revenue 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 Revenue Bonds.

**SECTION 28: 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 in full force and effect 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 Special Motor Vehicle Rental Tax.

**SECTION 29: Satisfaction of Obligation of City.** If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of the Pledged Revenues under this Ordinance and all other obligations of the City to the Holders shall thereupon cease, terminate, and become void and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Obligations will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the

principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall, upon the request of the City, be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

**SECTION 30: 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 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 new Bond issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Bond shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding 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.

**SECTION 31: Amendment of Ordinance**. (a) 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, 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.

(b) Amendments 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 (a) above, only with the consent given in accordance with (c) below of the Owner or Owners of not less than 50% of the aggregate unpaid principal amount of the Parity Revenue 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 (iv) a reduction in the aggregate principal amount of the Bonds required for consent to such amendment.

(c) Consent of Owners. Any consent required by Section 28 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 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 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 Bond was registered in the name of such party in the Security 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 (b) above 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 Bonds affected at the address shown on the Security Register.

(d) Revocation of Consent. Any consent by any Owner of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of mailing of the notice provided for in this Section, and shall be conclusive and binding upon all future

Owners of the same Bond and any 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 Bonds Outstanding as in this Ordinance defined have, prior to the attempted revocation, consented to and approved the amendment.

**SECTION 32: Tax Exemption. (a) 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 Section 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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 Underwriters 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 Debt Service Account 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.

(l) 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 Subsection (h) of this Section 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.

(j) Elections. The City hereby directs and authorizes the City Manager and Chief Financial Officer, either or any combination of them, 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.

(k) Bonds Not Hedge Bonds. (1) The City reasonably expects to spend at least 85% of the spendable proceeds of the Bonds within three years after such Bonds are issued and (2) not more than 50% of the proceeds of the Bonds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(l) Qualified Advance Refunding. The Bonds are issued to refund the Refunded Bonds, and the Bonds will be issued more than 90 days before the redemption of the Refunded Bonds. The City represents as follows:

(1) The Bonds are the first advance refunding of the Refunded Bonds, within the meaning of section 149(d)(3) of the Code.

(2) The Refunded Bonds are being called for redemption, and will be redeemed not later than the earliest date on which such bonds may be redeemed.

(3) The initial temporary period under section 148(c) of the Code will end: (i) with respect to the proceeds of the Bonds not later than 30 days after the date of issue of such Bonds; and (ii) with respect to proceeds of the Refunded Bonds on the Closing Date if not ended prior thereto.

(4) On and after the date of issue of the Bonds, no proceeds of the Refunded Bonds will be invested in Nonpurpose Investments having a Yield in excess of the Yield on such Refunded Bonds.

(5) The Bonds are being issued for the purposes stated in the preamble of this Ordinance. There is a present value savings associated with the refunding. In the issuance of the Bonds the City has neither: (i) overburdened the tax exempt bond market by issuing more bonds, issuing bonds earlier or allowing bonds to remain outstanding longer than reasonably necessary to accomplish the governmental purposes for which the Bonds were issued; (ii) employed on "abusive arbitrage device" within the meaning of Section 1.148-10(a) of the Regulations; nor (iii) employed a "device" to obtain a material financial advantage based on arbitrage, within the meaning of section 149(d)(4)

of the Code, apart from savings attributable to lower interest rates and reduced debt service payments in early years.

**SECTION 33: Sale of Bonds - Official Statement Approval** The Bonds authorized by this Ordinance are hereby sold by the City to Siebert Brandford Shank & Co., LLC, Apex Pryor Securities, First Southwest Company, JPMorgan Securities, Inc., Lehman Brothers, Morgan Keegan & Company, Inc., Morgan Stanley & Co., Inc., Ramirez & Co., Inc. and UBS Financial Services Inc. (herein referred to as the "Underwriters") in accordance with the Bond Purchase Agreement, dated May 15, 2005, in substantially the form attached hereto as Exhibit C and incorporated herein by reference as a part of this Ordinance for all purposes. The Mayor is hereby authorized and directed to execute said Bond Purchase Agreement for and on behalf of the City and as the act and deed of this Council, and in regard to the approval and execution of the Bond Purchase Agreement, the Council hereby finds, determines and declares that the representations, warranties and agreements of the City contained in the Bond Purchase Agreement are true and correct in all material respects and shall be honored and performed by the City.

Furthermore, the use of the Preliminary Official Statement, dated April 14, 2005, in the offering and sale of the Bonds is hereby ratified, confirmed and approved in all respects, and the City Council hereby finds that the information and data contained in said Preliminary Official Statement pertaining to the City and its financial affairs is true and correct in all material respects and no material facts have been omitted therefrom which are necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The final Official Statement, which reflects the terms of sale (together with such changes approved by the Mayor, City Manager, Chief Financial Officer or City Treasurer, one or more of said officials), shall be and is hereby in all respects approved and the Underwriters are hereby authorized to use and distribute said final Official Statement, dated May 15, 2005, in the offering, sale and delivery of the Bonds to the public.

In connection with the issuance of the Bonds, this Council hereby finds, determines and declares that the conditions set forth in the ordinance authorizing the Refunded Bonds pertaining to the issuance of Additional Bonds have been satisfied.

**SECTION 34: Control and Custody of Bonds** The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending the delivery of the Bonds, and shall take and have charge and control of the Initial Bond(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Underwriters.

Furthermore, the Mayor, Mayor Pro Tem, City Clerk, City Manager, Chief Financial Officer, City Attorney and City Treasurer, any one or more of said officials, are hereby authorized and directed to furnish and execute such documents relating to the City and its financial affairs as may be necessary for the issuance of the Bonds, the approval of the Attorney General and registration by the Comptroller of Public Accounts and, together with the City's financial advisor, and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond(s) to the Underwriters and the exchange thereof for obligations described herein and in the Official Statement.

**SECTION 35: Special Escrow Agreement Approval and Execution** The "Special Escrow Agreement" (the "Agreement") by and between the City and Deutsche Bank Trust Company Americas, New York, New York (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 and City Clerk for and on behalf of the City and as the act and deed of this 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, appropriate officials of the City in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the Federal Securities referenced in the Agreement and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Underwriters for deposit to the credit of the "SPECIAL 2005 CITY OF AUSTIN, TEXAS, TOWN LAKE VENUE PROJECT REFUNDING BOND ESCROW FUND" (the "Escrow Fund"); all as contemplated and provided in V.T.C.A., Government Code, Chapter 1207, as amended, this Ordinance and the Agreement.

**SECTION 36: Proceeds of Sale** Immediately following the delivery of the Bonds, proceeds of sale in the sum of (i) \$\_\_\_\_\_ shall be deposited to the credit of the Escrow Fund and (ii) the \$\_\_\_\_\_ shall be deposited to the credit of the Interest and Sinking Fund. The balance of the proceeds of sale of the Bonds shall be expended to pay costs of issuance and municipal bond insurance premium and any excess amount budgeted for such purpose shall be deposited to the credit of the Debt Service Account.

Additionally, on or immediately prior to the date of the delivery of the Bonds to the Underwriters, the Chief Financial Officer shall cause to be transferred in immediately available funds to the Escrow Agent from moneys on deposit in the interest and sinking fund maintained for the payment of the Refunded Bonds the sum of \$\_\_\_\_\_ to accomplish the refunding.

**SECTION 37: Redemption of Refunded Bonds.** (a) The bonds of that series known as "City of Austin, Texas, Town Lake Park Community Events Center Venue Project Bonds, Series 1999", dated November 15, 1999, maturing in the years 2010 through 2025 and 2029, and aggregating in principal amount \$35,140,000, shall be redeemed and the same are hereby called for redemption on November 15, 2009, 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 UMB Bank, N.A., (the successor to State Street Bank and Trust Company of Missouri, N.A., the paying agent for such bonds), 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 of the obligations described above being associated with the refunding of such obligations, the approval, authorization and arrangements herein given and provided for the redemption of such obligations on the redemption dates 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 ordinances authorizing the issuance of the obligations and this Ordinance.

**SECTION 38: Legal Opinion.** The obligation of the Underwriters to accept delivery of the Bonds is subject to being furnished a final opinion of Fulbright & Jaworski L.L.P., Attorneys, Dallas, Texas, approving such Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for such Bonds. A true and correct reproduction of said opinion is hereby authorized to be printed on the definitive Bonds or an executed counterpart thereof shall accompany the global Bonds deposited with the Depository Trust Company.

**SECTION 39: 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.

**SECTION 40: 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 41: 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 42: 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 43: Severability.** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the Council hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 44: Construction of Terms.** If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

**SECTION 45: Notices to Holders-Waiver.** Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first class postage prepaid, to the address of each Holder as it appears in the Security Register.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**SECTION 46: Cancellation.** All Bonds surrendered for payment, redemption, transfer or exchange, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be destroyed as directed by the City.

**SECTION 47: Continuing Disclosure Undertaking.** (a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MAC" means the Municipal Advisory Council of Texas.

"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.

(b) Annual Report. 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, 2005) financial information and operating data with respect to the Special Motor Vehicle Rental Tax included in the final Official Statement approved by Section 33 of this Ordinance, being the information described in Exhibit F hereto. Financial statements to be provided shall be (1) prepared in accordance with the generally accepted accounting practices and principles 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 annual audit report when and if the same becomes 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.

(c) 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 subsection (b) of this Section by the time required by such Section. Any filing under this Section may be made solely by transmitting such filing to the MAC as provided at <http://www.djsclosureusa.org>, unless the SEC has withdrawn the interpretive advice stated in its letter to the MAC dated September 7, 2004.

(d) 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 subsection (c) 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.

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 (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) 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. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data filed with each NRMSIR and SID pursuant to subsection (b) of this Section 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.

**SECTION 48: Covenants With Respect to Insurance.**

[to be inserted]

**SECTION 49: Incorporation of Findings and Determinations** The findings and determinations of the City Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

**SECTION 50: Public Meeting** It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by V.T.C.A., Government Code, Chapter 551, as amended.

**SECTION 51: Effective Date.** This Ordinance is hereby passed one reading as authorized by V.T.C.A., Government Code, Section 1201.028 and shall be effective immediately upon its passage and adoption.

*[remainder of page left blank intentionally]*

PASSED AND ADOPTED, this May 12, 2005.

CITY OF AUSTIN, TEXAS

ATTEST:

\_\_\_\_\_  
SHIRLEY A. BROWN  
City Clerk

(City Seal)

\_\_\_\_\_  
WILL WYNN  
Mayor

APPROVED:

\_\_\_\_\_  
DAVID ALLAN SMITH  
City Attorney



## **Exhibit F**

### **DESCRIPTION OF ANNUAL FINANCIAL INFORMATION**

The following information is referred to in Section 47 of this Ordinance.

#### **Annual Financial Statements and Operating Data**

The financial information and operating data with respect the Special Motor Vehicle Rental Tax for years collected on a rolling five fiscal year basis,

The City annual audit report, which covers receipts and disbursements from the Venue Project Fund