



Debt Issuance
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 20
AGENDA DATE: Thu 07/29/2004
PAGE: 1 of 1

SUBJECT: Approve an ordinance authorizing the defeasance of outstanding Combined Utility Revenue Bonds using approximately \$140,000,000 from the Combined Pledge and Revenue Utility Reserve Fund to reduce outstanding debt, and to approve a surety bond to replace the reserve fund. The cash released from such reserve fund will be used to defease outstanding combined utility systems revenue bonds. This action requires the adoption of an ordinance relating thereto, providing for the redemption of certain bonds; and approving and authorizing the execution of related documents.

AMOUNT & SOURCE OF FUNDING: Approximately \$140,000,000 from the Combined Pledge & Revenue Utility Reserve 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: Vickie Schubert, Deputy Chief Financial Officer

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: Scheduled for review by the Audit and Finance Council Committee on July 27, 2004.

Austin Energy and the Austin Water Utility seek authorization and execution of an Escrow Agreement for the purpose of the defeasance of certain Combined Utility System Revenue Bonds as a continuing step in their debt service management plan. This action will allow Austin Energy and the Austin Water Utility to defease certain outstanding Combined Utility System Revenue Bonds that will result in revenue bond debt service savings, which will mitigate future electric and water and wastewater rate increases.

The utility systems received bondholder consent in July 2002 to replace the existing Combined Utility System Reserve Fund with a surety bond. Upon receiving consent, the City requested a ruling from the Internal Revenue Service concerning the selection method to be used for the defeasance of bonds. On June 22, 2004, the Internal Revenue Service provided a favorable ruling with regard to the City's selection method. The ruling will allow the City to defease bonds with the highest interest rates thus providing the most efficient use of reserve fund proceeds.

ORDINANCE NO. 040729-_____

AN ORDINANCE approving and authorizing the substitution of a surety bond for cash and securities in the reserve fund maintained for certain outstanding revenue bonds of the City; providing for the funds released from such reserve fund to be used for the discharge and defeasance of certain outstanding revenue bonds of the City; providing for the redemption of certain outstanding revenue bonds being defeased; resolving other matters incident and related thereto; suspending the rule requiring ordinances be read on three separate days; and declaring an emergency.

WHEREAS, upon receiving the consent of a majority of the owners of the outstanding revenue bonds payable from the net revenues of the City's combined Electric Light and Power System and Water and Wastewater Systems (the "Combined Utility System Revenue Bonds"), the ordinances authorizing the issuance of such obligations were amended by Ordinances Numbered 020718-13 and 020718-14 (collectively, the Combined Utility System Revenue Bonds Ordinances") to authorize the substitution of bond insurance policies or surety bonds issued by highly-rated ("AAA") bond insurance companies ("Financial Commitment") for cash and investment securities held in the debt service reserve fund the ("Reserve Fund") maintained for such revenue bonds; and

WHEREAS, in obtaining the bondholders consent to allow for the substitution of bond insurance policies or surety bonds for cash and investment securities held in the debt service reserve fund, the City represented and made a part of such amendment that any cash and securities released from the Reserve Fundnet of costs incurred with respect to the initial substitution of the Financial Commitment, was to be deposited to the credit of one or more special accounts maintained on the books and records of the City and expended only to pay, discharge and defease "Combined Utility System Revenue Bonds" in a manner that reduces the principal amount and Maturity Amount of outstanding Combined Utility System Revenue Bonds, and

WHEREAS, following such amendment, an initial substitution of a Surety Bond was made to the Reserve Fund in the amount of \$30,000,000 and the total amount required to be accumulated and maintained in the Reserve Fund was established to be \$106,790,325.15 (the Required Reserve); and

WHEREAS, the amount currently deposited to the credit of the Reserve Fund is \$165,770,020.73 of which amount \$30,000,000 represents a Financial Commitment from Financial Security Assurance Inc. and the balance of such amount represents cash and securities held in the Reserve Fund; and

WHEREAS, the City has determined a Financial Commitment should be substituted for the balance of cash and investments held in the Reserve Fund so the entire Required Reserve will be funded with one or more Financial Commitments; and the amount of funds so released shall be expended and used to defease and discharge certain outstanding bonds in the aggregate principal amount of \$128,485,000 (hereinafter referred to as the "Defeased Obligations") in accordance with the provisions of V.T.C.A., Government Code, Chapter 1207, as amended, such Defeased Obligations being more particularly described as follows:

(1) City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1992A, dated May 15, 1992, scheduled to mature on November 15 in each of the years 2006 and 2007, and aggregating in principal amount \$21,555,000;

(2) City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1993, dated January 15, 1993, scheduled to mature on November 15 in each of the years 2004 and 2005 and May 15 in each of the years 2005 and 2018, and aggregating in principal amount \$34,660,000; and

(3) City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1993A, dated June 1, 1993, scheduled to mature on May 15 in each of the years 2005, 2006, 2007 and 2016 and November 15 in each of the years 2004, 2005, 2006, 2007 and 2013, and aggregating in principal amount \$72,270,000;

now, therefore,

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

SECTION 1: The Chief Financial Officer is hereby authorized and directed to cause to be deposited with _____ the amount of \$ _____ to provide for the full payment and discharge of the Defeased Obligations.

SECTION 2: The City Manager, Chief Financial Officer, or City Treasurer, any one or more of such officials, are hereby authorized and directed to make the necessary arrangements for the purchase of the federal securities to be acquired and deposited to the credit of the "Escrow Fund" pursuant to the terms of a Special Escrow Agreement, in substantially the form and substance of attached hereto as Exhibit A, which is incorporated herein by reference as a part of this Ordinance for all purposes, and the City Manager is hereby authorized to execute such Special Escrow Agreement for and on behalf of the City and as the act and deed of the City Council. The Special Escrow Agreement, as approved by the City Attorney and executed by the City Manager, shall be deemed the Agreement approved by the City Council and constitute the Agreement herein approved.

SECTION 3: (a) The bonds of that series known as "City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1993", dated January 15, 1993, and being a portion of the current interest bonds of said series scheduled to mature May 15, 2018 and aggregating in principal amount \$26,790,000, shall be redeemed and the same are hereby called for redemption on September 15, 2004, at the price of par plus accrued interest to the date of redemption. The City Clerk is hereby authorized and directed to file a copy of this Ordinance, together with a suggested form of notice of redemption to be sent to bondholders, with JPMorgan Chase Bank (successor paying agent/registrar to Ameritrust Texas, National Association, in accordance with the redemption provisions applicable to such bonds; such suggested form of notice of redemption being attached hereto as ~~Exhibit B~~ and incorporated herein by reference as a part of this Ordinance for all purposes. Additionally, in accordance with the terms of the ordinance authorizing the issuance of such bonds, the paying agent/registrar is hereby authorized and directed to make a lot selection of the bonds of each maturity to be redeemed and make arrangements to notify bondholders of such lot selection as soon as possible.

The term bonds maturing in the year 2018 to be redeemed on September 15, 2004 shall be applied against the principal amount of such term bonds to be mandatorily redeemed as follows:

Date	Principal Amount Required to be Redeemed	Principal Amount Being Credited Against Redemption	Principal Amount Remaining to be Redeemed
November 15, 2014	\$ 400,000	\$ 240,000	\$ 160,000
May 15, 2015	\$12,360,000	7,650,000	4,710,000
November 15, 2015	\$ 295,000	180,000	115,000
May 15, 2016	\$13,170,000	8,150,000	5,020,000
November 15, 2016	\$ 170,000	105,000	65,000
May 15, 2017	\$14,050,000	8,695,000	5,355,000
November 15, 2017	\$ 30,000	15,000	15,000
May 15, 2018	\$ 2,875,000	1,755,000	1,120,000

(b) The bonds of that series known as "City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1993A", dated June 15, 1993, and being a portion of the current interest bonds of said series scheduled to mature May 15 in each of the years 2005, 2006, 2007 and 2016 and November 15 in each of the years 2004, 2005, 2006, 2007 and 2013, and aggregating in principal amount \$72,720,000, shall be redeemed and the same are hereby called for redemption on September 15, 2004, at the price of 101% of par plus accrued interest to the date of redemption. The City Clerk is hereby authorized and directed to file a copy of this Ordinance, together with a suggested form of notice of redemption to be sent to bondholders, with JPMorgan Chase Bank (successor paying agent/registrar to Ameritrust Texas, National Association, in accordance with the redemption provisions applicable to such bonds; such suggested form of notice of redemption being attached hereto ~~as~~ **Exhibit C** and incorporated herein by reference as a part of this Ordinance for all purposes. Additionally, in accordance with the terms of the ordinance authorizing the issuance of such bonds, the paying agent/registrar is hereby authorized and directed to make a lot selection of the bonds of each maturity to be redeemed and make arrangements to notify bondholders of such lot selection as soon as possible.

The term bonds maturing in the year 2013 to be redeemed on September 15, 2004 shall be applied against the principal amount of such term bonds to be mandatorily redeemed as follows:

Date	Principal Amount Required to be Redeemed	Principal Amount Being Credited Against Redemption	Principal Amount Remaining to be Redeemed
May 15, 2011	\$4,885,000	\$3,625,000	\$1,260,000
November 15, 2011	\$4,970,000	\$3,685,000	\$1,285,000
May 15, 2012	\$5,115,000	\$3,795,000	\$1,320,000
November 15, 2012	\$3,185,000	\$2,360,000	\$ 825,000
May 15, 2013	\$3,275,000	\$2,430,000	\$ 845,000
November 15, 2013	\$ 115,000	\$ 85,000	\$ 30,000

The term bonds maturing in the year 2016 to be redeemed on September 15, 2004 shall be applied against the principal amount of such term bonds to be mandatorily redeemed as follows:

Date	Principal Amount Required to be Redeemed	Principal Amount Being Credited Against Redemption	Principal Amount Remaining to be Redeemed
May 15, 2014	\$ 115,000	\$ 85,000	\$ 30,000
November 15, 2014	\$ 120,000	\$ 85,000	\$ 35,000
May 15, 2015	\$ 120,000	\$ 85,000	\$ 35,000
November 15, 2015	\$ 8,870,000	\$6,580,000	\$2,290,000
May 15, 2016	\$ 8,815,000	\$6,460,000	\$2,355,000

SECTION 4: The City Treasurer 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 dates and in the manner herein provided and in accordance with the Ordinance authorizing the issuance of the obligations and this Ordinance.

SECTION 5: In accordance with the provisions of the Combined Utility System Revenue Bonds Ordinances, the total amount required to be accumulated and maintained in the Reserve Fund is \$106,790,325.15 (the Required Reserve), which amount is equal to or greater than the average annual requirement (calculated on a calendar year basis) for the payment of principal of and interest (or other similar payments) on all outstanding Combined Utility System Revenue Bonds.

In addition to the cash being withdrawn for the defeasance herein contemplated, there is currently on deposit in the Reserve Fund a surety bond issued by Financial Security Assurance Inc. in the amount of \$30,000,000. Simultaneously with the withdrawal of cash from the Reserve Fund to accomplish the defeasance of the Defeased Obligations, there shall be deposited to the credit of the Reserve Fund an additional surety bond in the amount of \$76,790,325.15 from Financial Security Assurance Inc. a New York domiciled insurance company (hereinafter referred to as "FSA") which is rated in the highest rating category by Moody's Investors Service, Standard & Poor's Rating Services and Fitch Ratings, Inc.

In accordance with FSA's terms for the issuance of a "Municipal Bond Debt Service Reserve Insurance Policy" (the "Reserve Policy"), an Insurance Agreement by and between the City and FSA has been submitted to the City for approval and execution, and such Insurance Agreement, substantially in the form and content of Exhibit D attached hereto, is hereby approved and authorized to be executed by the City Manager and such Insurance Agreement, as executed and delivered by the City Manager, shall be deemed the Insurance Agreement herein approved by the City Council and authorized for execution.

To the extent the City should make a draw under the Reserve Policy, the City acknowledges and agrees the repayment of "Policy Costs", as defined in the Insurance Agreement, shall constitute a payment of an amount required to be deposited in the Reserve Fund to establish and maintained the Required Reserve, and insofar as the priority of uses of the revenues of (i) Electric Light and Power System and (ii) the Waterworks and Sewer System, such Policy Costs shall be entitled to the same priority of payment identified in the Combined Utility System Revenue Bonds Ordinances for payments required to be deposited in the Reserve Fund to establish and maintain the Required Reserve.

SECTION 6: It is hereby 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 7: The public importance of this measure and the fact that there is an urgent public need for the City to provide for the substitution of a bond insurance policy for cash in the Reserve Fund as soon as possible and without delay for the immediate preservation of the public peace, health and safety of the citizens of the City constitute and create an emergency requiring the suspension of the rule providing for ordinances to be read on three separate days; and such rule relating to the passage of ordinances and the Charter provision relating to the effective date of ordinances are hereby suspended and this Ordinance is hereby passed as an emergency measure and shall be effective immediately upon its passage and adoption as provided by the Charter of the City.

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PASSED AND ADOPTED. this July 29, 2004.

CITY OF AUSTIN, TEXAS

Mayor

ATTEST:

City Clerk

(City Seal)

EXHIBIT B

NOTICE OF REDEMPTION

CITY OF AUSTIN, TEXAS,
COMBINED UTILITY SYSTEMS REVENUE
REFUNDING BONDS
SERIES 1993

DATED JANUARY 15, 1993

NOTICE IS HEREBY GIVEN that bonds of the above series maturing on May 15, 2018 and aggregating in principal amount \$26,790,000 have been called for redemption on September 15, 2004 at the redemption price (plus accrued interest to the date of redemption) and in the principal amounts as follows:

<u>Maturity</u>	<u>Principal Amount Outstanding</u>	<u>Principal Amount Redeemed</u>	<u>Redemption Price</u>	<u>CUSIP</u>	<u>Number</u>
5-15-2018	\$54,940,000	\$26,790,000	100.00%		052474

ALL SUCH BONDS shall become due and payable on September 15, 2004, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said bonds shall be paid to the registered owners of the bonds only upon presentation and surrender of such bonds to JPMorgan Chase Bank (successor paying agent/registrar to Ameritrust Texas, National Association) at its designated offices at the following address:

First Class/

Registered/Certified

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

Express Delivery/Courier

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

By Hand Only

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

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

JP MORGAN CHASE BANK

Address: 2001 Bryan Street, 8th Floor
Dallas, Texas 75201

EXHIBIT C
NOTICE OF REDEMPTION
CITY OF AUSTIN, TEXAS,
COMBINED UTILITY SYSTEMS REVENUE
REFUNDING BONDS
SERIES 1993A
DATED JUNE 15, 1993

NOTICE IS HEREBY GIVEN that bonds of the above series maturing as shown below and aggregating in principal amount \$72,270,000 have been called for redemption on September 15, 2004 at the redemption price (plus accrued interest to the date of redemption) and in the principal amounts as follows:

<u>Maturity</u>	<u>Principal Amount Outstanding</u>	<u>Principal Amount Redeemed</u>	<u>Redemption Price</u>	<u>CUSIP</u>	<u>Number</u>
11-15-2004	\$ 8,735,000	\$ 2,250,000	101.00%	052474	
5-15-2005	8,965,000	2,310,000	101.00%	052474	
11-15-2005	10,495,000	2,695,000	101.00%	052474	
5-15-2006	10,780,000	9,480,000	101.00%	052474	
11-15-2006	9,035,000	9,030,000	101.00%	052474	
5-15-2007	9,285,000	9,280,000	101.00%	052474	
11-15-2007	7,960,000	7,950,000	101.00%	052474	
11-15-2013	21,545,000	15,980,000	101.00%	052474	
5-15-2016	18,040,000	13,295,000	101.00%	052474	

ALL SUCH BONDS shall become due and payable on September 15, 2004, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said bonds shall be paid to the registered owners of the bonds only upon presentation and surrender of such bonds to JPMorgan Chase Bank (successor paying agent/registrar to Ameritrust Texas, National Association) at its designated offices at the following address:

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Registered/Certified

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

Express Delivery/Courier

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

By Hand Only

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

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

JP MORGAN CHASE BANK

Address: 2001 Bryan Street, 8th Floor
Dallas, Texas 75201

	Electric	Water	Wastewater	Total
FY 2004-05	\$ 4,527,513.78	\$ 5,185,449.06	\$ 7,507,655.91	\$ 17,224,158.75
FY 2005-06	11,241,053.78	6,222,094.68	4,465,457.16	21,928,605.63
FY 2006-07	17,575,613.27	9,406,365.45	10,541,673.78	37,523,652.50
FY 2007-08	9,150,102.22	3,983,086.28	6,680,864.00	19,814,052.50
FY 2008-09	3,076,354.65	1,047.13	473.22	3,077,875.00
FY 2009-10	3,076,354.65	1,047.13	473.22	3,077,875.00
FY 2010-11	6,702,248.82	19,258.03	473.22	6,721,980.07
FY 2011-12	10,247,404.68		473.22	10,247,877.90
FY 2012-13	7,164,415.79		473.22	7,164,889.01
FY 2013-14	2,331,434.03		8,886.02	2,340,320.05
FY 2014-15	10,221,808.88			10,221,808.88
FY 2015-16	22,922,513.16			22,922,513.16
FY 2016-17	9,357,444.74			9,357,444.74
FY 2017-18	1,868,611.37			1,868,611.37
Total	\$119,466,413.81	\$24,818,347.76	\$29,206,902.98	\$173,491,664.54

The defeasance transaction results in significantly more debt service savings than the \$140,000,000 cash outlay due to interest earnings associated with the escrow fund. Actual revenue bond debt service savings will vary slightly due to market interest rates at the time of the transaction.