

ORDINANCE NO. 040325-06

AN ORDINANCE approving the extension of the expiration date of the Letter of Credit and approving and authorizing amendments to the Letter of Credit Reimbursement Agreement relating to the "City of Austin, Texas, Combined Utility Systems Commercial Paper Notes, Series A"; resolving other matters incident and related thereto; and declaring an emergency.

WHEREAS, pursuant to Ordinance No. 930318-A, as amended by Ordinance No. 961121-A and Ordinance No. 980513-A (collectively, the "Ordinance"), "CITY OF AUSTIN, TEXAS COMBINED UTILITY SYSTEMS COMMERCIAL PAPER NOTES, SERIES A" (the "Notes") up to an aggregate principal amount of \$350,000,000 have been duly authorized, issued and sold and resold by the City of Austin, Texas (the "City") to finance the costs of additions, improvements and extensions to the City's Waterworks and Sewer System and the City's Electric Light and Power System (hereinafter collectively referred to as the "Systems") in accordance with the provisions of V.T.C.A., Government Code, Chapter 1371; and

WHEREAS, to provide liquidity and security for the payment of such Notes, the City entered into a Letter of Credit Reimbursement Agreement, dated as of April 1, 2000, with JPMorgan Chase Bank (as successor to Morgan Guaranty Trust Company of New York), Bayerische Landesbank (as replacement Bank for Dexia Credit Local de France), and State Street Bank and Trust Company, as amended by Amendment One to Letter of Credit Reimbursement Agreement, dated as of June 12, 2002 (as so amended, the "Reimbursement Agreement") pursuant to which the Banks issued a Letter of Credit dated June 12, 2002 securing the Notes (the "Letter of Credit"); and

WHEREAS, the expiration date for the Letter of Credit is March 31, 2004 and the City has submitted a request to JPMorgan Chase Bank, as Agent, for the extension of such expiration date; and

WHEREAS, the Banks have agreed to extend the expiration date for the Letter of Credit to March 29, 2007 conditioned upon a change in the terms of the commitment fee and letter of credit fee as set forth in a consent letter dated March 9, 2004 from the Banks (the "Consent Letter"); and

WHEREAS, the Consent Letter has been submitted to the City for approval and acceptance; and

WHEREAS, the City Council hereby finds and determines that the Consent Letter with respect to the Letter of Credit and the Reimbursement Agreement should be approved and authorization for its execution provided; now, therefore,

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

SECTION 1. Approval and Authorization for Execution. The extension of the expiration date of the Letter of Credit to March 29, 2007 is hereby approved, and the Consent Letter from JPMorgan Chase Bank (successor to Morgan Guaranty Trust Company of New York), State Street Bank and Trust Company, and Bayerische Landesbank, substantially in the form attached hereto as Exhibit A and incorporated herein by reference as a part hereof for all purposes, is hereby approved. The City Treasurer and City Attorney are hereby authorized and directed to execute the Consent Letter for and on behalf of the City. All actions by officials of

the City prior to the date hereof with respect to the extension of the Letter of Credit expiration date are hereby ratified, confirmed and approved.

SECTION 2: Ratification. Save and except as amended by the Consent Letter, effective as of March 31, 2004, no other changes or modification are approved to be made to the Reimbursement Agreement, and such Reimbursement Agreement as modified by the Consent Letter is hereby declared to be the Reimbursement Agreement by and between the City and the Banks from and after its execution and effective date of March 31, 2004.

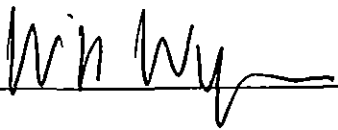
SECTION 3: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given; all as required by V.T.C.A., Government Code, Chapter 551, as amended.

SECTION 4: Emergency. The public importance of this measure and the fact that the extension of the expiration date of the Letter of Credit and the acceptance and execution of the Consent Letter in connection therewith should be approved as quickly as possible constitute an emergency for the immediate preservation of the public peace, health and safety of the citizens of the City and creates 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.

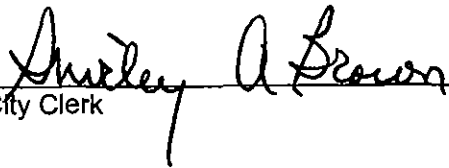
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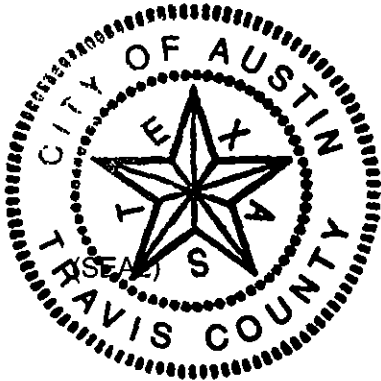
ADOPTED this 25<sup>th</sup> day of March, 2004.

CITY OF AUSTIN, TEXAS

  
\_\_\_\_\_  
Mayor

ATTEST:

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



APPROVED:

  
\_\_\_\_\_  
City Attorney





James B. Saakvitne  
Vice President

March 9, 2004

Mr. Dennis P. Waley  
Treasurer, City of Austin  
Finance and Administrative Services  
700 Lavaca, Suite 1510  
Austin, TX 78701

RE: Letter of Credit Reimbursement Agreement dated as of April 1, 2000 and amended as of June 12, 2002 (the "Agreement") among the City of Austin, Texas, the Banks Signatory Thereto and JPMorgan Chase Bank formerly known as Morgan Guaranty Trust Company of New York, as Agent, supporting the City of Austin, Texas Combined Utility Systems \$350,000,000 Commercial Paper Notes, Series A

Dear Dennis:

Pursuant to your request to extend the above referenced facility, please be advised that this letter (the "Consent Letter"), is to serve as written confirmation of the Banks' agreement to your request. Specifically, the following changes to the Agreement are hereby agreed and consented to by the Banks:

- The Commitment Expiration Date and the Letter of Credit Expiration Date are hereby extended to March 29, 2007.
- The definitions of "Applicable Commitment Fee Percentage" and "Applicable Letter of Credit Fee" contained in Section 1.01 of the Agreement are hereby deleted in their entirety and hereby amended to read in their entirety as follows:

"Applicable Commitment Fee Percentage" means the percentage amount determined as a function of the rating assigned by a Rating Agency to the Subordinate Lien Bonds of the Systems in accordance with the following table:

Rating Moody's/S&P/Fitch	Applicable Commitment Fee Percentage
Aa3/AA-/AA-	.18%
A1/A+/A+	.20%
A2/A/A	.22%
A3/A-/A-	.24%
Baa1/BBB+/BBB+	.27%
Baa2/BBB/BBB	.30%

In event of split ratings among Moody's, S&P and Fitch, the Applicable Commitment Fee Percentage shall be determined by the lowest of the three ratings.

"Applicable Letter of Credit Fee Percentage" means the percentage amount determined as a function of the rating assigned by a Rating Agency to the Subordinate Lien Bonds of the Systems in accordance with the following table:

Rating Moody's/S&P/Fitch	Applicable Letter of Credit Fee Percentage
Aa3/AA-/AA-	.30%
A1/A+/A+	.33%
A2/A/A	.36%
A3/A-/A-	.39%
Baa1/BBB+/BBB+	.44%
Baa2/BBB/BBB	.49%
Below Baa2/BBB/BBB	.78%

In event of split ratings among Moody's, S&P and Fitch, the Applicable Letter of Credit Fee Percentage shall be determined by the lowest of the three ratings.

All other terms and conditions remain unchanged. Terms used but not otherwise defined herein are used as defined in the Agreement.

This Consent Letter may be executed in one or more counterparts and by different parties on separate counterparts, but all such counterparts shall together constitute one and the same agreement.

JPMorgan Chase Bank • 270 Park Avenue, Floor 48, New York, NY 10017

Telephone: 212 270 4186 Facsimile: 212 270 4251  
james.saakvitne@jpmorgan.com



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The foregoing terms and conditions are hereby accepted and agreed to on this \_\_\_\_ day of March, 2004:

JPMORGAN CHASE BANK, as  
Administrative Agent and as a Bank

By: James Saakvitne  
Name: James Saakvitne  
Title: Vice President

BAYERISCHE LANDESBANK  
Acting through its New York Branch

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

AGREED BY:  
CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



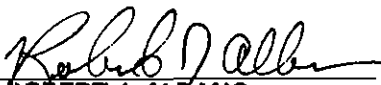
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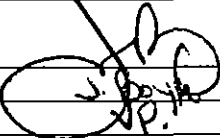
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JPMORGAN CHASE BANK, as  
Administrative Agent and as a Bank

By: \_\_\_\_\_  
Name: James Saakvitne  
Title: Vice President

BAYERISCHE LANDESBANK  
Acting through its New York Branch

By:   
Name: ROBERT J. ALBANO  
Title: VICE PRESIDENT

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

AGREED BY:  
CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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Administrative Agent and as a Bank

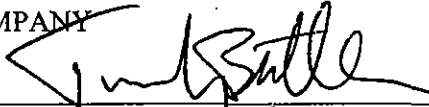
By: \_\_\_\_\_  
Name: James Saakvitne  
Title: Vice President

BAYERISCHE LANDESBANK  
Acting through its New York Branch

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY

By:  \_\_\_\_\_  
Name: Timothy Butler  
Title: Vice President

AGREED BY:  
CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_





Page 2

The foregoing terms and conditions are hereby accepted and agreed to on this \_\_\_\_ day of March, 2004:

JPMORGAN CHASE BANK, as  
Administrative Agent and as a Bank

By: \_\_\_\_\_  
Name: James Saakvitne  
Title: Vice President

BAYERISCHE LANDESBANK  
Acting through its New York Branch

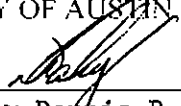
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By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY

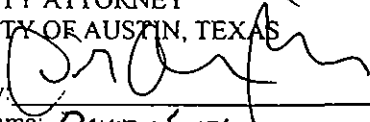
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

AGREED BY:  
CITY OF AUSTIN, TEXAS

By:  \_\_\_\_\_  
Name: Dennis P. Waley  
Title: City Treasurer

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APPROVED BY:  
CITY ATTORNEY  
CITY OF AUSTIN, TEXAS

By:   
Name: DAVID SMITH  
Title: \_\_\_\_\_





James B. Saakvitne  
Vice President

NOTICE OF EXTENSION

March 31, 2004

US Bank Trust National Association  
as Issuing and Paying Agent  
100 Wall Street  
Suite 1600  
New York, NY 10005

Attention: Corporate Trust Department

City of Austin, Texas  
Combined Utilities Systems  
Commercial Paper Notes  
Series A

Irrevocable Letter of Credit

**For JPMorgan Chase Bank formerly known as Morgan Guaranty Trust Company of New York  
For Bayerische Landesbank,  
For State Street Bank and Trust Company**

Ladies and Gentlemen:

The undersigned, duly authorized officers of each of the Banks listed below, hereby advise you, with respect to the above-referenced Irrevocable Letter of Credit (the "Letter of Credit"; any capitalized terms used herein and not defined shall have its respective meaning as set forth in the Letter of Credit) issued by the Banks listed below in your favor, that:

1. At the request and for the account of the City, we hereby extend the date referenced in paragraph 1(a) of the Letter of Credit (as such date may have been extended previously for time to time) to March 29, 2007.
2. Except as specifically provided in paragraph (1) above, all of the terms and conditions of the Letter of Credit remain unchanged and in full force and effect.
3. This Notice of Extension is an integral part of the Letter of Credit.



This Notice of Extension may be executed in one or more counterparts which together shall constitute a single instrument.

I WITNESS WHEREOF, the undersigned, have executed and delivered this Notice of Extension as of the 31st day of March, 2004.

JPMORGAN CHASE BANK, as  
Administrative Agent and as a Bank

By:   
Name: James Saakvitne  
Title: Vice President

BAYERISCHE LANDESBANK  
Acting through its New York Branch

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Administrative Agent and as a Bank

By: \_\_\_\_\_  
Name: James Saakvitne  
Title: Vice President

BAYERISCHE LANDESBANK  
Acting through its New York Branch

By: \_\_\_\_\_  
Name: **JOSEPH C. CAMPAGNA**  
Title: **VICE PRESIDENT**  
By: \_\_\_\_\_  
Name: James H. Boyle  
Title: Vice President

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Administrative Agent and as a Bank


By: \_\_\_\_\_  
Name: James Saakvitne  
Title: Vice President

BAYERISCHE LANDESBANK  
Acting through its New York Branch

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY

By:   
Name: Timothy Butler  
Title: Vice President