

ORDINANCE NO. 040930-8

AN ORDINANCE approving and authorizing the execution of a Second Amendment to Letter of Credit and Reimbursement Agreement relating to the "City of Austin, Texas, Combined Utility Systems Taxable Commercial Paper Notes"; and resolving other matters incident and related thereto; suspending the rule requiring ordinances be read on three separate days; and declaring an emergency.

WHEREAS, on June 29, 2000, Ordinance No.000629-90 was duly adopted amending and restating Ordinance No. 980513-B to increase the aggregate principal amount of "City of Austin, Texas, Combined Utility Systems Taxable Commercial Paper Notes" (the "Notes") authorized to be outstanding from time to time from \$60,000,000 to \$160,000,000 and provide for a new letter of credit (the "Letter of Credit") to be issued by Landesbank Hessen-Thüringen Girozentrale with respect to the Notes in accordance with the terms and provisions of a Letter of Credit and Reimbursement Agreement, dated as of July 1, 2000 (the "Agreement"); and

WHEREAS, the City has requested the Bank extend the Expiry Date of the Letter of Credit and amend the Agreement to provide for a bifurcated method in determining the compensation due the Bank based on the "used/unused" amount of the Letter of Credit; and

WHEREAS, the Bank has agreed to extend the Expiry Date of the Letter of Credit and modify the terms for its compensation to bifurcated basis as requested by the City, and submitted to the City for its approval and execution a Second Amendment to the Letter of Credit and Reimbursement Agreement, dated and effective as of October 6, 2004, attached hereto as Exhibit A and incorporated by reference as a part hereof for all purposes, and

WHEREAS, the City Council hereby finds and determines such Second Amendment should be approved and the City Manager authorized and directed to execute the same for and on behalf of the City; now, therefore,

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

SECTION 1: The Second Amendment to Letter of Credit and Reimbursement Agreement, dated and effective as of October 6, 2004, by and between the City and Landesbank Hessen-Thüringen Girozentrale, acting by and through its New York Branch, attached hereto as Exhibit A and incorporated herein by reference as a part hereof for all purposes, is hereby approved and authorized to be delivered by the City and the City Manager and City Clerk are hereby authorized and directed to execute such Second Amendment for and on behalf of the City and as the act and deed of this Council.

SECTION 2: Save and except as amended by the First Amendment to Letter of Credit and Reimbursement Agreement, dated and effective as of August 14, 2001, and the Second Amendment to Letter of Credit and Reimbursement Agreement, dated and effective as of October 6, 2004, no other changes or modification are approved to be made to the Letter of Credit and Reimbursement Agreement, dated as of July 1, 2000, and such Agreement as modified by the First Amendment and Second Amendment is hereby declared to be the Agreement by and between the City and the Bank from and after the date of its execution by the parties.

SECTION 3: 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: The public importance of this measure and the fact that the amendments herein contemplated must be approved prior to the expiration date of the Letter of Credit to prevent an adverse financial impact on the City with respect to the outstanding Notes 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.

[remainder of page left blank intentionally]

EXHIBIT A

**SECOND AMENDMENT TO
LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT**

SECOND AMENDMENT
TO
LETTER OF CREDIT AND
REIMBURSEMENT AGREEMENT

dated and effective

October 6, 2004

between the

CITY OF AUSTIN, TEXAS

and

LANDESBANK HESSEN-THÜRINGEN GIROZENTRALE

Relating to

\$160,000,000

CITY OF AUSTIN, TEXAS
COMBINED UTILITY SYSTEMS TAXABLE COMMERCIAL PAPER NOTES

**SECOND AMENDMENT TO LETTER OF
CREDIT AND REIMBURSEMENT AGREEMENT**

THIS SECOND AMENDMENT TO LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT, dated and effective as of October 6, 2004 (this "Second Amendment"), is between the City of Austin, Texas (the "City"), and Landesbank Hessen-Thüringen Girozentrale, acting through its New York Branch (the "Bank").

RECITALS

WHEREAS, pursuant to the provisions of its home rule charter, V.T.C.A., Government Code, Chapter 1371 (the "Act"), and an amended and restated ordinance adopted by the City Council, as the governing body of the City (the "City Council"), on June 29, 2000 (the "Ordinance"), the City Council has authorized the issuance and delivery from time to time of the City's Combined Utility Systems Taxable Commercial Paper Notes, (the "Notes"); and

WHEREAS, pursuant to the Ordinance, the City Council has amended and restated Ordinance No. 980513-B to authorize the issuance and delivery of Notes in the aggregate principal amount not to exceed \$160,000,000 at any one time outstanding; and

WHEREAS, the Act authorizes the City to execute a letter of credit and reimbursement agreement with respect to the Notes; and

WHEREAS, pursuant to the Ordinance, the City and the Bank have executed a Letter of Credit and Reimbursement Agreement dated as of July 1, 2000, as amended by a First Amendment to Letter of Credit and Reimbursement Agreement dated August 14, 2001 (as so amended, the "Agreement"), pursuant to the terms of which the Bank issued an irrevocable, direct-pay, transferable letter of credit in the maximum amount of \$160,000,000 (the "Letter of Credit"), to be drawn upon for payment of the principal of the Notes; and

WHEREAS, effective April 1, 2003, the Letter of Credit Amount (as defined in the Agreement and the Letter of Credit) was reduced to \$50,000,000.00; and

WHEREAS, pursuant to the Agreement, and requests of the City, the Expiry Date has been extended to October 6, 2004; and

WHEREAS, the City has requested an additional extension of the Expiry Date and additional amendments to the Agreement; and

WHEREAS, in order to accomplish the foregoing, the parties hereto desire to amend the Agreement, as provided herein;

NOW, THEREFORE, in consideration of the premises and in order to induce the Bank to extend the Expiry Date of the Letter of Credit, the City and the Bank hereby agree as follows:

ARTICLE I

AMENDMENTS

Section 1.01. Capitalized terms, not otherwise defined herein, shall have the meanings assigned such terms in the Agreement, as amended by this Second Amendment:

"Agreement" means the Letter of Credit and Reimbursement Agreement dated as of July 1, 2000, as amended by the First Amendment to Letter of Credit and Reimbursement Agreement dated as of August 14, 2001, as further amended by this Second Amendment and as the same may be further amended, supplemented or extended from time to time.

"Second Amendment Ordinance" means Ordinance No. 04-0930-8 of the City Council adopted on September 30, 2004, authorizing the execution and delivery of the Second Amendment.

"Commitment" means \$50,000,000, as such amount may be reduced from time to time pursuant to Section 2.15 or Section 5.02(b).

"Commitment Termination Date" means, effective October 6, 2004, October 3, 2005, or such later date established as the Expiry Date pursuant to Section 2.13, or such earlier date on which the Bank's Commitment may terminate as provided in Section 2.14(a), 2.15(d) or 5.02(b).

"Request for Increase" means a written request in the form of Exhibit G from the City to the Bank to increase the Letter of Credit Amount.

"Request for Reduction or Termination" means a written request in the form of Exhibit H from the City to the Bank to reduce or terminate the Bank's Commitment.

"Unutilized Commitment" means an amount equal to (a) the Commitment minus (b) the sum of (i) the Letter of Credit Amount determined without regard to reductions in such Letter of Credit Amount that are subject to automatic reinstatement as provided in the Letter of Credit plus (ii) the principal amount of all unreimbursed drawings under the Letter of Credit that are outstanding under Section 2.04(a).

Section 1.02. Section 2.02(a)(iii) of the Agreement is hereby amended in its entirety to read as follows:

(iii) As of (A) the last Business Day of each Calendar Quarter (or portion thereof), commencing on December 31, 2004, and (B) the Termination Date for the Letter of Credit, the City shall pay to the Bank (x) a letter of credit fee for the Letter of Credit (the "Letter of Credit Fee") and a (z) commitment fee for the Bank's Commitment (the "Commitment Fee") for the Calendar Quarter (or portion thereof) then ending. The Letter of Credit Fee for such Calendar Quarter (or portion thereof) shall be an amount equal to the product of (1) .0030 times (2) the average outstanding balance of the Letter of Credit Amount during such quarter (or portion thereof) times (3) a fraction, the numerator of which is the number of days in such Calendar

Quarter (or portion thereof) and the denominator of which is 360. The Commitment Fee for such Calendar Quarter (or portion thereof) shall be an amount equal to the product of (1) .0019 times (2) the average outstanding balance of the Unutilized Commitment during such quarter (or portion thereof) times (3) a fraction, the numerator of which is the number of days in such Calendar Quarter (or portion thereof) and the denominator of which is 360. The Letter of Credit Fee and the Commitment Fee shall be due and owing as referenced above, and shall be payable, in arrears, as set forth in Section 2.02(b)."

Section 1.03. A new Section 2.15 shall be added to the Agreement to read as follows:

Section 2.15. Increase in the Letter of Credit and Amount and Reduction, Expiration and Termination of the Commitment.

(a) ***Commitment to Increase Letter of Credit Amount.*** The City may, from time to time, but no more often than once in any 30-day period, request that the Letter Amount be increased by an amount not less than \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof by delivery of a Request for Increase to the Bank. Each Request for Increase shall be irrevocable. The Bank agrees, upon satisfaction of the conditions set forth in this Section, to increase the Letter of Credit Amount from time to time prior to the Termination Date by an amount not to exceed the Unutilized Commitment. In no event shall the sum of (i) the Letter of Credit Amount plus (ii) the principal amount of unreimbursed drawings under the Letter of Credit outstanding under Section 2.04(a) exceed the Bank's Commitment. Upon satisfaction of the conditions precedent set forth in Section 2.15(b) the Bank shall execute and deliver a Notice of Increase in the Letter of Credit Amount in the form of Exhibit 5 to the Letter of Credit to the Issuing and Paying Agent and upon such delivery the Letter of Credit Amount shall be increased to the amount set forth in such Notice.

(b) ***Conditions Precedent to Increase in Letter of Credit Amount.*** As a condition precedent to any increase in the Letter of Credit Amount, each of the following conditions shall be satisfied as determined by the Bank:

(i) The Bank shall have received an executed original Request for Increase at least five Business Days prior to the proposed Increase Date.

(ii) The Commitment Termination Date shall not have occurred.

(iii) The amount of the increase in the Letter of Credit Amount shall not exceed the Unutilized Commitment.

(iv) All representations and warranties of the City contained in Article III shall be true and correct on the Increase Date.

(v) No Default or Event of Default shall have occurred and be continuing and no Default or Event of Default shall occur as a result of the requested increase in the Letter of Credit Amount.

(c) ***Commitment Termination Date.*** On and after the Commitment Termination Date the Unutilized Commitment shall be reduced to zero and the Bank shall no longer be obligated to increase the Letter of Credit Amount pursuant to this Section.

(d) ***Reduction and Termination of Commitment.*** The Commitment may be permanently reduced from time to time or terminated by the City upon five Business Days' prior written notice of such reduction or termination in the form of a Request for Reduction or Termination, properly completed, given by the City to the Bank; provided, that the Commitment may not be reduced below an amount equal to the Letter of Credit Amount without a corresponding reduction in the Letter of Credit Amount; provided, further that the Letter of Credit Amount may not be reduced below an amount equal to the aggregate principal amount of Notes outstanding, together with interest to accrued thereon to maturity; provided, further, each such reduction of the Commitment shall be in an amount equal to \$5,000,000 or any integral multiple of \$1,000,000 in excess thereof. Upon receipt of any such notice of reduction the Bank's Commitment shall be reduced by an amount equal to the amount specified in such notice.

Section 1.04. Section 5.02 of the Agreement is amended by adding new Section 5.02(b) set forth below, and by renumbering Section 5.02(b) to Section 5.02(c).

"(b) declare that the Commitment Termination Date shall occur immediately and the Bank's Commitment shall thereupon be terminated; or"

Section 1.05. ***Amendment to Letter of Credit.*** In connection with the extension of the Expiry Date (as defined in the Letter of Credit prior to its amendment pursuant to this Second Amendment) and to give effect to the Section 1.02 of this Second Amendment, the Bank will deliver an Amendment to the Letter of Credit to the Issuing and Paying Agent in the form of Exhibit B hereto. The City hereby consents to the delivery of such Amendment to the Letter of Credit.

Section 1.06. ***Additional Exhibits.*** Exhibit G - Form of Request for Increase, and Exhibit H - Form of Request for Reduction or Termination, in the forms attached hereto, are added to the Agreement.

ARTICLE II

CONDITIONS TO EXTENSION

Section 2.01. The obligation of the Bank to extend the Expiry Date and amend the Letter of Credit as provided in Section 1.05 is subject to the satisfaction of the following conditions:

(a) On or before October 6, 2004, the Bank shall receive the following, all of which must be acceptable to the Bank:

(i) an original counterpart of this Second Amendment executed by all parties;

- (ii) a copy of the Second Amendment Ordinance, certified as being true and correct by the City Clerk;
- (iii) a certificate, dated as of October 6, 2004, signed by the Mayor and City Clerk certifying: (A) that the Ordinance, the First Amendment Ordinance and the Second Amendment Ordinance have not been amended or revoked and are in full force and effect; (B) as to the incumbency and genuineness of the signature of each officer of the City executing this Agreement; (C) that the City, as of such date, has complied in all material respects with all of the terms and provisions of the Agreement; (D) that on such date, and after giving effect to the consummation of the transactions contemplated by the Agreement, no Event of Default, or event which with the passage of time would constitute an Event of Default has occurred or is continuing; and (E) that the representations and warranties of the City contained in Section 3.01 of the Agreement are true and correct in all material respects on and as of October 6, 2004;
- (iv) an opinion of Fulbright & Jaworski L.L.P., Bond Counsel, substantially in the form of Exhibit A hereto; and
- (v) such other documents, instruments, approvals or opinions as the Bank may reasonably request relating to the transaction contemplated herein.

(b) There shall have been no material adverse change in the financial condition of the City since the date of the last audited financial statements.

(c) All amounts required to be paid to the Bank under this Agreement, including without limitation the fees and expenses of its legal counsel, Kelly, Hart & Hallman, incurred in connection with the preparation, execution and delivery of this Second Amendment not to exceed \$15,000, have been paid in full.

ARTICLE III

MISCELLANEOUS

Section 3.01. Except as provided herein, the Agreement shall remain in full force and effect and unaffected hereby except as the Agreement shall be deemed to have been amended by the terms of this Second Amendment from and after the date first set forth above.

Section 3.02. This Second Amendment may be executed in one or more counterparts, each of which taken together shall constitute an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY OF AUSTIN, TEXAS

By: _____
City Manager

ATTEST:

City Clerk

APPROVED:

City Attorney

LANDESBANK HESSEN-THÜRINGEN
GIROZENTRALE, acting through its
New York Branch

By: _____
Title: _____

By: _____
Title: _____

EXHIBIT A

October 6, 2004

U.S. Bank Trust National Association
100 Wall Street, 16th Floor
New York, New York 10005

Goldman, Sachs & Co.
85 Broad Street, 24th Floor
New York, New York 10004

City of Austin, Texas
800 Brazos Street, 13th Floor
Austin, Texas 78701

Landesbank Hessen-Thüringen Girozentrale
420 Fifth Avenue
New York, New York 10018-2729

Re: City of Austin, Texas, Combined Utility Systems Taxable Commercial Paper Notes

Ladies and Gentlemen:

We have acted as Bond Counsel to the City of Austin, Texas (the "City"), in connection with the execution and delivery by the City of a Second Amendment to the Reimbursement Agreement (defined below) and the issuance by Landesbank Hessen-Thüringen Girozentrale (the "Bank"), at the request and for the account of the City, of an extension of Expiry Date for the Bank's irrevocable transferable letter of credit in the aggregate amount of \$50,000,000 (the "Letter of Credit") in favor of the U.S. Bank Trust National Association, as issuing and paying agent for the City's "Combined Utility System Taxable Commercial Paper Notes" (the "Notes"). The extension of the Letter of Credit's Expiry Date is subject to the Letter of Credit and Reimbursement Agreement, dated as of July 1, 2000 (the "Reimbursement Agreement"), as amended by the First Amendment to Letter of Credit and Reimbursement Agreement dated as of August 14, 2001 (the "First Amendment") between the City and the Bank, being further amended by the Second Amendment to Letter of Credit and Reimbursement Agreement dated as of October 6, 2004 (the "Second Amendment"). The Letter of Credit has been issued in connection with the Notes to provide support with respect to the payment of the principal of the Notes. Goldman, Sachs & Co. ("Goldman") is acting as the dealer with respect to the issuance of the Notes pursuant to a Dealer Agreement, dated as of July 1, 2000, by and between the City and Goldman. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Reimbursement Agreement, as amended by the First Amendment, as further amended by the Second Amendment (collectively, the "Credit Agreement").

We have examined the Credit Agreement and such other official proceedings, documents, certificates and materials, including Ordinance No. 04-0930-8 adopted by the City Council approving and authorizing the execution of the Second Amendment, as we have deemed necessary for the purpose of rendering the opinions expressed below. In our examinations, we have assumed the authenticity of all documents submitted to us as originals, the conformity to original copies of all documents submitted to us as certified or photostatic copies, the authenticity of the originals of such latter documents, and the accuracy of the statements contained in such certificates.

Based upon the foregoing and subject to the qualifications and exceptions hereinafter noted, we are of the opinion that under applicable laws of the United States of America and the State of Texas in force and effect on the date hereof:

1. The Ordinance has been duly and properly adopted and the Second Amendment has been duly executed and delivered by the City and assuming the due authorization, execution and delivery of the Second Amendment by the Bank, the Credit Agreement constitutes a valid and

binding obligation of the City enforceable in accordance with its terms.

2. To the best of our knowledge, the adoption of the Ordinance and the execution and delivery of the Second Amendment and the performance by the City of their respective terms, do not conflict with or result in a violation of any agreement, instrument, order, writ, judgment, decree or any existing law, regulation or consent to which the City is a party or is subject.

Our opinion expressed in paragraph 1 above is qualified to the extent that (a) the enforceability of the obligations of the City under the Ordinance, including the payment of the Notes, and the obligations of the City under the Credit Agreement may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws or equitable principles of general application from time to time affecting the rights of creditors, and secured parties generally; (b) a particular court may refuse to grant certain equitable remedies, including, without limitation, specific performance with respect to the enforceability of any of the provisions of the Credit Agreement; (c) the indemnity provisions of the Credit Agreement may be invalid or contrary to public policy; and (d) the provisions of the Credit Agreement waiving sovereign immunity may be invalid or contrary to public policy. Furthermore, in regard to the opinions expressed in paragraph 2 hereof, we have relied in part upon an opinion from the City Attorney rendered of even date herewith, a copy of which is attached hereto.

Our opinion is limited solely to the laws of the United States of America and the State of Texas, and we express no opinion with respect to laws or court decisions of any other jurisdiction. The opinions expressed herein may be relied upon only by the addressees hereof and by other persons to whom specific permission to rely on such opinions is given in writing.

Respectfully submitted,

EXHIBIT B

October 6, 2004

Amendment to Letter of Credit
No.: HLG 28925
Issued: August 16, 2000
Amendment No.: One (1)

Beneficiary:

U. S. Bank Trust National Association
100 Wall Street, 16th Floor
New York, NY 10005

Applicant:

City of Austin, Texas
800 Brazos Street, 13th Floor
Austin, TX 78701

This amendment is to be considered as a part of the above Letter of Credit and must be attached thereto.

The above-mentioned Letter of Credit is amended as follows:

1. Paragraph 1 of the Letter of Credit is amended in its entirety to read as follows:

"1. We hereby establish, at the request and for the account of the City of Austin, Texas (the "City"), in your favor, as Issuing and Paying Agent under the Issuing and Paying Agency Agreement, dated as of July 1, 2000 (the "Issuing and Paying Agency Agreement"), between the City and you, for the benefit of the holders of the City's Combined Utility Systems Taxable Commercial Paper Notes (the "Notes") authorized to be issued in the maximum principal amount of \$50,000,000, which amount as of the date hereof is \$0.00, pursuant to Ordinance No. 000629-90 adopted by the City Council of the City (the "Ordinance"), our Irrevocable Letter of Credit No. HLG28925 (the "Letter of Credit") in the amount of \$0.00 (which amount, as from time to time reduced and reinstated as provided in paragraph 5, reduced as provided in paragraph 12, or increased as provided in paragraph 13 herein called the "Letter of Credit Amount"), effective immediately and expiring on the earliest of (i) October 3, 2005 (the "Expiry Date"), as such date may be extended pursuant to paragraph 6 hereof, (ii) the date on which all Notes have been paid in full at maturity and this Letter of Credit has been surrendered to us for cancellation pursuant to Section 5.01(b) of the Letter of Credit and Reimbursement Agreement, dated as of July 1, 2000, as amended by a First Amendment to Letter of Credit and Reimbursement Agreement dated August 14, 2001, as further amended by a Second Amendment to Letter of Credit Agreement dated October 6, 2004 (as so amended, the "Reimbursement Agreement"), between the City and the undersigned, or (iii) the date on which an alternate letter of credit issued in substitution for this Letter of Credit has become effective, and this Letter of Credit has been surrendered to us for cancellation pursuant to Section 2.14 of the Reimbursement Agreement (the earliest of such dates being referred to herein as the "Termination Date").

2. Paragraph 12 is added to the Letter of Credit to read as follows:

"12. The Letter of Credit Amount shall be reduce automatically from time to time upon our receipt of your certificate in the form of Exhibit 4 hereto appropriately completed in an amount equal to the amount specified in such certificate (such amount to be at least \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof), provided that no reduction under this paragraph 12 shall duplicate any reduction under paragraph 5 above. Upon such a reduction we may require you to return this Letter of Credit and to accept in substitution hereof a substitute Letter of Credit for a Letter of Credit Amount reflecting such reduction, but otherwise identical in form and substance to this Letter of Credit."

3. Paragraph 13 is added to the Letter of Credit to read as follows:

"13. The Letter of Credit Amount may be increased from time to time by your receipt of our Notice of Increase in the Letter of Credit Amount in the form of Exhibit 5 hereto properly completed by an amount which is at least equal to \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof to an amount which does not exceed the Bank's "Commitment" as defined in the Reimbursement Agreement which is initially \$50,000,000. Upon your receipt of such a notice the Letter of Credit Amount shall be increased as provided in such notice. Upon such an increase, we may require you to return the Letter of Credit and to accept in substitution hereof a substitute Letter of Credit for a stated amount reflecting such increase but otherwise identical in form and substance to the Letter of Credit

Exhibits 4 and 5 are added to the Letter of Credit in the form attached hereto.

Very truly yours,

LANDESBANK HESSEN-THÜRINGEN
GIROZENTRALE, Acting Through Its New York
Branch

By: _____

Name:

Title:

By: _____

Name:

Title:

EXHIBIT 4

CERTIFICATE REGARDING REDUCTION OF LETTER OF CREDIT AMOUNT

City of Austin, Texas, Combined Utility Systems Taxable Commercial Paper Notes

Irrevocable Letter of Credit No. HLG 28925

The undersigned, a duly authorized officer of U.S. Bank Trust National Association (the "Issuing and Paying Agent"), hereby certifies to Landesbank Hessen-Thüringen Girozentrale, acting through its New York Branch (the "Bank"), with reference to Irrevocable Letter of Credit No. HLG 28925 (the "Letter of Credit"; any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in favor of the Issuing and Paying Agent, that:

1. The City has instructed the Issuing and Paying Agent to reduce the Letter of Credit Amount of the Letter of Credit.

2. Pursuant to paragraph 12 of the Letter of Credit, the Letter of Credit Amount shall be reduced automatically by \$_____ (Minimum of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof). After giving effect to such reduction, the Letter of Credit Amount is not below an amount equal to the aggregate principal amount of Notes outstanding, together with interest to accrue thereon to maturity.

IN WITNESS WHEREOF, the Issuing and Paying Agent has executed and delivered this Certificate as of the ____ day of _____, _____.

U.S. BANK TRUST NATIONAL
ASSOCIATION, as Issuing and Paying Agent

By: _____
Name: _____
Title: _____

EXHIBIT 5

NOTICE OF INCREASE IN THE LETTER OF CREDIT AMOUNT

Irrevocable Letter of Credit No.: HLG 28925

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

Attention: Corporate Trust Department

City of Austin, Texas, Combined Utility Systems Taxable Commercial Paper Notes

The undersigned, duly authorized officers of Landesbank Hessen-Thüringen Girozentrale, acting through its New York Branch (the "Bank"), hereby advise you, with reference to the above-referenced Irrevocable Letter of Credit (the "Letter of Credit"); any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit issued by the Bank in your favor, that:

1. At the request and for the accuracy of the City, we hereby increase the Letter of Credit Amount by the amount of \$_____ (Minimum of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof).
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 Increase in the Letter of Credit Amount is an integral part of the Letter of Credit.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice of Increase in the Letter of Credit Amount as of the ____ day of _____, _____.

LANDESBANK HESSEN-THÜRINGEN
GIROZENTRALE, acting through its
New York Branch

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT G
FORM OF REQUEST FOR INCREASE

[DATE]

Landesbank Hessen-Thüringen Girozentrale
New York Branch
420 Fifth Avenue
New York, NY 10018-2779
Attention: Gudrun Dronca

\$50,000,000

City of Austin, Texas, Combined Utility Systems Taxable Commercial Paper Notes

Ladies and Gentlemen:

This is a Request for Increase identified in the Letter of Credit and Reimbursement Agreement dated as of July 1, 2000, as amended by the First Amendment to Letter of Credit and Reimbursement Agreement dated as of August 14, 2001, as further amended by a Second Amendment to Letter of Credit and Reimbursement Agreement dated as off October 6, 2004 (as it may be further amended, supplemented, restated, replaced, substituted, or otherwise modified from time to time, the "Reimbursement Agreement") by and between the City of Austin, Texas ("the "City"), and Landesbank Hessen-Thüringen Girozentrale, acting through its New York Branch (the "Bank"). Capitalized terms used herein and not defined shall have the meaning assigned in the Reimbursement Agreement.

The Bank is hereby requested to increase the Letter of Credit Amount of Letter of Credit No. HLG 28925 relating to the above-referenced Commercial Paper Notes by completing a Notice of Increase in the Letter of Credit Amount in the form of Exhibit 5 to the Letter of Credit (a copy of which is attached hereto) and delivering the same to the Issuing and Paying Agent as described in paragraph 13 of the Letter of Credit. Please be informed of the following:

(a) The amount of the requested increase is \$_____ (Minimum of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof), of which \$_____ will be available to pay principal of Notes at maturity and \$_____ will be available to pay interest on Notes at maturity.

(b) Once so increase, the Letter of Credit Amount, without taking into account reductions in the Letter of Credit Amount subject to reinstatement, shall equal \$_____, of which \$_____ will be available to pay principal of Notes at maturity and \$_____ will be available to pay interest on Notes at maturity.

(c) The amount of the total increase in the Letter of Credit Amount requested hereby and identified in paragraph (a) above does not exceed the Unutilized Commitment.

(d) The Increase Date for which such increase is requested is [DATE] which is at least five Business Days after the date the Bank receives this Request for Increase and is prior to the Commitment Termination Date.

(e) The City hereby represents and warrants that:

(i) all representations and warranties of the City contained in Article III of the Reimbursement Agreement shall be true and correct on the Increase Date identified in paragraph (d) above;

(ii) this Request for Increase has been duly authorized and validly executed by a duly authorized representative of the City; and

(iii) no Event of Default has occurred and is continuing and no Event of Default will occur as a result of the Increase in the Letter of Credit Amount hereby requested.

Please execute and deliver a Notice of Increase in the Letter of Credit Amount in the form of Exhibit 5 to the Letter of Credit properly completed to the Paying Agent as provided in Section 2.15 of the Reimbursement Agreement on the Increase Date identified in paragraph (d) above.

Sincerely,

CITY OF AUSTIN, TEXAS

By: _____
Name: _____
Title: _____

EXHIBIT H

FORM OF REQUEST FOR REDUCTION OR TERMINATION

[DATE]

Landesbank Hessen-Thüringen Girozentrale
New York Branch
420 Fifth Avenue
New York, NY 10018-2779
Attention: Gudrun Dronca

\$50,000,000

City of Austin, Texas, Combined Utility Systems Taxable Commercial Paper Notes

Ladies and Gentlemen:

1. This is a Request for Reduction or Termination identified in the Letter of Credit and Reimbursement Agreement dated as of July 1, 2000, as amended by the First Amendment to Letter of Credit and Reimbursement Agreement dated as of August 14, 2001, as further amended by a Second Amendment to Letter of Credit and Reimbursement Agreement dated as off October 6, 2004 (as it may be further amended, supplemented, restated, replaced, substituted, or otherwise modified from time to time, the "Reimbursement Agreement") by and between the City of Austin, Texas ("the "City"), and Landesbank Hessen-Thüringen Girozentrale, acting through its New York Branch (the "Bank"). Capitalized terms used herein and not defined shall have the meaning assigned in the Reimbursement Agreement.

2. The Bank is hereby requested to (select one):

☐ (a) Termination the Commitment.

☐ (b) Reduce the Commitment by \$_____ (Minimum of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof).

3. After giving effect thereto, the Commitment will be \$_____.

4. (Select One)

☐ (x) After any such requested termination or reduction, the existing Letter of Credit Amount plus the principal amount of all unreimbursed drawings under the Letter of Credit does not exceed the amount stated in paragraph 3 above.

☐ (y) To give effect to the requested termination or reduction, the Letter of Credit Amount must be reduced by \$_____. Attached is a completed Certificate Regarding Reduction of Letter of Credit Amount in the form of Exhibit 4 to the Letter of Credit to so reduce the Letter of Credit Amount.

Sincerely,

CITY OF AUSTIN, TEXAS

By: _____

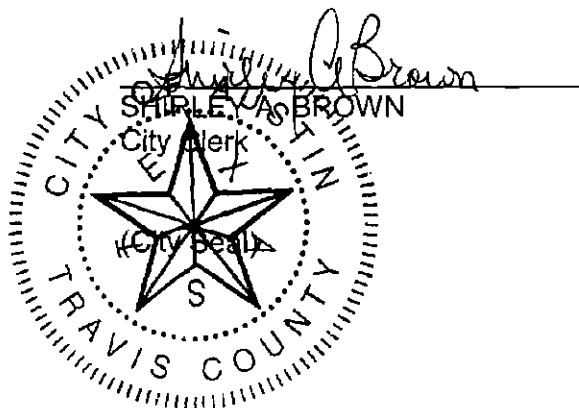
Name: _____

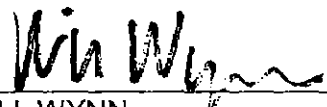
Title: _____

PASSED AND ADOPTED, this September 30, 2004

CITY OF AUSTIN, TEXAS

ATTEST:




WILL WYNN
Mayor

APPROVED:


DAVID ALLAN SMITH
City Attorney