

ORDINANCE NO 20061019-055

AN ORDINANCE authorizing the issuance and sale of "CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2006A", prescribing the terms, features and specifications of said Bonds, pledging the net revenues of the City's Electric Utility System to the payment of principal of and interest on said Bonds, enacting other provisions incident and related to the issuance, payment, sale and delivery of such Bonds, including the approval and execution of a Paying Agent/Registrar Agreement, a Bond Purchase Agreement and a Special Escrow Agreement, and the approval and distribution of an Official Statement pertaining thereto, providing for the redemption of certain outstanding bonds of the City, and providing an effective date

WHEREAS, the City has heretofore authorized and issued, or assumed the payment of, the following described obligations in the aggregate principal amount of \$141,885,000 (hereinafter collectively referred to as the "Refunded Bonds"), which are being paid in whole or in part from the revenues of the City's Electric Utility System, to wit

(1) City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1996A, dated August 1, 1996, scheduled to mature on May 15 and/or November 15 in each of the years 2009 through 2013 and 2016, and aggregating in principal amount of \$74,585,000 (the "Series 1996A Refunded Bonds"),

(2) City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2001, dated January 1, 2001, scheduled to mature on November 15 in each of the years 2011 through 2021, and aggregating in principal amount of \$48,500,000 (the "Series 2001 Refunded Bonds"), and

(3) City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2003, dated February 1, 2003, scheduled to mature on November 15 in each of the years 2021 and 2022, and aggregating in principal amount of \$18,800,000 (the "Series 2003 Refunded Bonds"),

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 any place of payment for the Refunded Bonds, or other authorized depository, and such deposit, when made in accordance with said statute, and ordinances 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 \$8,024,020 18 in debt service payments on such indebtedness and further provide present value savings of approximately \$6,277,591 86, and

WHEREAS, the City Council further finds and determines the refunding bonds herein authorized to be issued can and shall be on a parity with the outstanding "Parity Electric Utility Obligations" issued in accordance with and under the terms and provisions of Ordinance No 010118-53A (the "Master Ordinance") and the Prior Supplements, now, therefore,

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

**SECTION 1 DEFINITIONS** In addition to the definitions set forth in the preamble of this Ordinance (hereinafter referred to as the "Sixth Supplement"), the terms used herein and not otherwise defined shall have the meanings given in the Master Ordinance, the Prior Supplements or in Exhibit A to this Sixth Supplement

**SECTION 2 AUTHORIZATION DESIGNATION PRINCIPAL AMOUNT - PURPOSE** Revenue bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of ONE HUNDRED THIRTY-SEVEN MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$137,800,000) to be designated and bear the title "CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2006A" (hereinafter referred to as the "Bonds"), for the purpose of refinancing and refunding the Refunded Bonds (identified and defined in the preamble hereof) and paying costs of issuance, in conformity with the Constitution and laws of the State of Texas, including V T C A , Government Code, Chapter 1207, as amended

**SECTION 3 FULLY REGISTERED OBLIGATIONS - AUTHORIZED DENOMINATIONS - STATED MATURITIES - DATE** The Bonds shall be issued as fully registered obligations, without coupons, shall be dated October 15, 2006 (the "Bond Date") and, other than the single fully registered Initial Bond referenced in Section 9 hereof, shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity), shall be numbered consecutively from One (1) upward and shall become due and payable on November 15 in each of the years (the "Stated Maturities") and in principal amounts and bear interest at per annum rates in accordance with the following schedule

Stated Maturity	Principal Amount (\$)	Interest Rate(s)	Stated Maturity	Principal Amount (\$)	Interest Rate(s)
2009	17,070,000	5 00%	2016	4,360,000	5 00%
2010	13,305,000	5 00%	2017	4,645,000	5 00%
2011	12,625,000	5 00%	2018	4,935,000	5 00%
2012	10,930,000	5 00%	2019	5,140,000	5 00%
2013	14,315,000	5 00%	2020	5,440,000	5 00%
2014	9,745,000	5 00%	2021	14,930,000	5 00%
2015	10,750,000	5 00%	2022	9,610,000	5 00%

The Bonds shall bear interest on the unpaid principal amounts from the Bond Date at the rate(s) per annum shown in the above schedule (calculated on the basis of a 360 day year of twelve 30 day months) Interest on the Bonds shall be payable on May 15 and November 15 in each year, commencing May 15, 2007, until maturity or prior redemption

**SECTION 4 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 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 Wells Fargo Bank, National Association, Austin, Texas to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, transfer and exchange of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement", substantially in the form attached hereto as Exhibit B, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor and City Clerk are authorized to execute and deliver a Paying Agent/Registrar Agreement (substantially in the form of Exhibit B attached hereto). 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 upon earlier redemption thereof, only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices in Minneapolis, Minnesota (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (the last business day of the month next preceding each interest payment date), and such interest shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the 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 maturities on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment for such maturity or maturities (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder of such maturity or maturities appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

## **SECTION 5 REDEMPTION**

(a) Optional Redemption The Bonds maturing on and after November 15, 2017, 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, 2016, or on any date thereafter, at the redemption price of par plus accrued interest to the date of redemption

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

(c) Selection of Bonds for Redemption If less than all Outstanding Bonds of the 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 specify the date of redemption for the Bonds, 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, state the redemption price, 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 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 6 REGISTRATION - TRANSFER - EXCHANGE OF BONDS - PREDECESSOR BONDS** The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each registered owner of the Bonds issued under and pursuant to the provisions of this Sixth Supplement. 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 9 hereof) at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds, executed on behalf of, and furnished by, the City of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer

At the option of the Holder, Bonds (other than the Initial Bond(s) authorized in Section 9 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds, executed on behalf of, and furnished by, the City to the Holder requesting the exchange

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States Mail, first class postage prepaid, to the Holder and, upon the delivery thereof, the same shall be valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Sixth Supplement, 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 canceled 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 19 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 7 BOOK-ENTRY-ONLY TRANSFERS AND TRANSACTIONS**

Notwithstanding the provisions contained in Sections 4, 5 and 6 hereof relating to the payment, redemption and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company (DTC), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representation, by and between the City and DTC (the "Depository Agreement")

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the "DTC Participants") 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 of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 4, 5 and 6 hereof

**SECTION 8 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, as amended

No Bond shall be entitled to any right or benefit under this Sixth Supplement, 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 10(c), manually executed by the Comptroller of Public Accounts of the State of Texas or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 10(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 9 INITIAL BOND(S)** The Bonds shall be initially issued either (i) as a single fully registered bond in the total principal amount referenced in Section 2 hereof with principal installments to become due and payable as provided in Section 3 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 10 FORMS

(a) Forms Generally The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of Registration, 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 Sixth Supplement 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 insurance legends in the event the Bonds, or any maturities thereof, are purchased with insurance 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 thereof. 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, or 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 thereof.

(b) Form of Definitive Bond

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

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

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF AUSTIN, TEXAS,  
ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BOND,  
SERIES 2006A

Bond Date	Interest Rate	Stated Maturity	CUSIP NO
October 15, 2006	_____	_____	_____

Registered Owner

Principal Amount \_\_\_\_\_ DOLLARS

The City of Austin (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Travis and Williamson, State of Texas, for value received, hereby promises to pay to 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 on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial

interest payment date in which case it shall bear interest from the Bond Date) at the per annum rate of interest specified above computed on the basis of a 360 day year of twelve 30 day months, such interest being payable on May 15 and November 15 of each year, commencing May 15, 2007 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 Sixth Supplement 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 or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner 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 All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the 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 \$137,800,000 (herein referred to as the "Bonds") for the purpose of refinancing and refunding the Refunded Bonds (identified and defined in the Sixth Supplement hereinafter referenced) and paying costs of issuance, in 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 a Master Ordinance and Sixth Supplement adopted by the City Council of the City (herein collectively referred to as the "Ordinances")

The Bonds maturing on and after November 15, 2017, 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, 2016, or on any date thereafter, at the redemption price of par plus accrued interest thereon to the redemption date

At least thirty days prior to the date fixed for any redemption of Bonds, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinances 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 Ordinances 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 payable solely from and, together with the Previously Issued Electric Utility Obligations and Prior Subordinate Lien Obligations currently Outstanding, equally and ratably secured by a parity lien on and pledge of, the Net Revenues of the Electric Utility System in the manner provided in the Ordinances. Additionally, the Bonds, together with the Previously Issued Electric Utility Obligations, shall be secured by a lien on the funds, if any, deposited to the credit of the Debt Service Fund and Reserve Fund in accordance with the terms of the Ordinances. The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the Electric Utility System, except with respect to the Net Revenues. The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the terms and conditions prescribed therefor, the City has reserved the right to issue additional revenue obligations payable from and equally and ratably secured by a parity lien on and pledge of the Net Revenues of the Electric Utility System, in the same manner and to the same extent as the Previously Issued Electric Utility Obligations and the Bonds.

Reference is hereby made to the Ordinances, copies of which are on file with 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 properties constituting the Electric Utility System, the Net Revenues pledged to the payment of the principal of and interest on 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 Ordinances may be amended or supplemented with or without the consent of the Holders, the rights, duties, and obligations of the City and the Paying Agent/Registrar, the terms and provisions upon which the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity of this Bond, and this Bond deemed to be no longer Outstanding thereunder, and for the other terms and provisions contained therein. Capitalized terms used herein have the same meanings assigned in the Ordinances.

This Bond, subject to certain limitations contained in the Ordinances, 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 a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (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 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 by virtue of 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 Ordinances, 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 Net Revenues of the Electric Utility System as aforesaid. In case any provision in this Bond or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinances 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         )  
                                          )  
THE STATE OF TEXAS         )

REGISTER NO \_\_\_\_\_

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)

(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 Ordinances, 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 Minneapolis, Minnesota is the Designated Payment/Transfer Office" for this Bond

WELLS FARGO BANK,  
NATIONAL ASSOCIATION,  
as Paying Agent/Registrar

Registration date

\_\_\_\_\_

By \_\_\_\_\_  
Authorized Signature

(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

REGISTERED  
NO T-1

REGISTERED  
\$137,800,000

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF AUSTIN, TEXAS,  
ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BOND,  
SERIES 2006A

Bond Date October 15, 2006

Registered Owner

Principal Amount ONE HUNDRED THIRTY-SEVEN MILLION EIGHT HUNDRED  
THOUSAND DOLLARS

The City of Austin (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Travis and Williamson, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues hereinafter identified, the Principal Amount hereinabove stated on November 15 in each of the years and in principal installments in accordance with the following schedule

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

(Information to be inserted from schedule in Section 3 hereof)

(or so much thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the Bond Date) at the per annum rate of interest specified above computed on the basis of a 360 day year of twelve 30 day months, such interest being payable on May 15 and November 15 in each year, commencing May 15, 2007 Principal installments of this Bond are payable in the year of maturity or on a redemption date to the registered owner hereof by Wells Fargo Bank, National Association (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices in Minneapolis, Minnesota (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 or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner 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. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the 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.

**SECTION 11 CRITERIA FOR ISSUANCE OF PARITY ELECTRIC UTILITY OBLIGATIONS** The City has provided certain criteria and established certain covenants and agreements in relation to the issuance of Parity Electric Utility Obligations of the Electric Utility System pursuant to the Master Ordinance. This Sixth Supplement provides for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment and redemption, and security of the Bonds which are a series of Parity Electric Utility Obligations. The Master Ordinance is incorporated herein by reference and made a part hereof for all purposes, except to the extent modified and supplemented by the Prior Supplements and this Sixth Supplement, and the Bonds are hereby declared to be Parity Electric Utility Obligations under the Master Ordinance and the Prior Supplements. The City hereby determines that it will have sufficient funds to meet the financial obligations of the Electric Utility System, including sufficient Net Revenues to pay the Annual Debt Service Requirements of the Bonds and to meet all financial obligations of the City relating to the Electric Utility System.

**SECTION 12 PLEDGE** Subject to the prior claim on and lien on the Net Revenues of the Electric Utility System to the payment and security of the Prior First Lien Obligations currently Outstanding, including the funding and maintenance of the special funds established and maintained for the payment and security of such Prior First Lien Obligations, the Net Revenues of the Electric Utility System are hereby pledged to the payment of the Bonds, and the Bonds, together with the Prior Subordinate Lien Obligations and the Previously Issued Electric Utility Obligations currently Outstanding, shall be equally and ratably secured by a parity lien on and pledge of the Net Revenues of the Electric Utility System in accordance with the terms of the Master Ordinance and this Sixth Supplement. Additionally, the Bonds and the Previously Issued Electric Utility Obligations shall be secured by a lien on the funds, if any, deposited to the credit of the Debt Service Fund and the Reserve Fund in accordance with and to the extent required by the terms of the Master Ordinance, the Prior Supplements and this Sixth Supplement. The Bonds are and will be secured by and payable only from the Net Revenues of the Electric Utility System, and are not secured by or payable from a mortgage or deed of trust on any properties, whether real, personal, or mixed, of the Electric Utility System. It is hereby ordained that the Parity Electric Utility Obligations, and the interest thereon, shall constitute a lien on the Net Revenues of the Electric Utility System and be valid and binding and fully perfected from and after the date of adoption of this Sixth Supplement without physical delivery or transfer or transfer of control of the Net Revenues, the filing of this Sixth Supplement or any other act, all as provided in Chapter 1208 of the Texas Government Code, as amended. The owners of the Parity Electric Utility Obligations shall never have the right to demand payment out of funds raised or to be raised by taxation, or from any source other than specified in the Master Ordinance, the Prior Supplements and this Sixth Supplement.

Chapter 1208, Government Code, as amended, applies to the issuance of the Bonds and the pledge of the Net Revenues of the Electric Utility System granted by the City under this Section 12, 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 Net Revenues of the

Electric Utility System granted by the City under this Section 12 is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur

**SECTION 13 DEBT SERVICE FUND** By reason of the issuance of the Bonds, the City need not establish any special accounts within the Debt Service Fund and, following the delivery of the Bonds, the City hereby agrees and covenants to cause to be deposited to the credit of the Debt Service Fund an amount equal to one hundred per cent (100%) of the amount required to fully pay the interest on and principal of the Bonds falling due on or before each maturity, mandatory redemption date and interest payment date, and such deposits shall be made in substantially equal monthly amounts on or before the 14th day of each month beginning on or before the 14th day of the month next following the month the Bonds are delivered to the initial purchaser

The required monthly deposits to the Debt Service Fund for the payment of principal of and interest on the Bonds shall continue to be made in the manner provided herein until such time as (i) the total amount on deposit in the Debt Service Fund is equal to the amount required to fully pay and discharge all Parity Electric Utility Obligations then Outstanding or (ii) the Bonds are no longer outstanding, i.e., fully paid as to principal and interest or all the Bonds have been refunded

Accrued interest received from the initial purchaser(s) of the Bonds shall be deposited in the Debt Service Fund, and shall be taken into consideration and reduce the amount of the monthly deposits that would otherwise be required to be deposited to the credit of such Debt Service Fund from the Net Revenues of the Electric Utility System

#### **SECTION 14 RESERVE FUND**

(a) Establishment A Reserve Fund shall not be required to be established or maintained by the City for the payment of the Parity Electric Utility Obligations so long as the "Pledged Net Revenues" of the System for a Fiscal Year (the Net Revenues of the System in a Fiscal Year remaining after deducting the amounts, if any, expended to pay the annual debt service requirements for Prior First Lien Obligations and Prior Subordinate Lien Obligations in such Fiscal Year) equal or exceed one hundred fifty per cent (150%) of the Annual Debt Service Requirements of the Parity Electric Utility Obligations due and payable in such Fiscal Year. If for any Fiscal Year such "Pledged Net Revenues" do not exceed 150% of the Annual Debt Service Requirements of the Parity Electric Utility Obligations, the City shall be obligated to establish and maintain on the books of the City a separate fund or account designated as the "Electric Utility System Revenue Obligation Reserve Fund" (the "Reserve Fund"). Upon being established and except as provided in subsection (f) below, the amount on deposit to the credit of the Reserve Fund shall be maintained for the benefit of the owners of the Parity Electric Utility Obligations. There shall be deposited into the Reserve Fund any Reserve Fund Obligations so designated by the City. The amounts deposited to the credit of the Reserve Fund shall be in a special fund maintained at an official depository of the City. Reserve Fund Obligations in the Reserve Fund shall be used for the purpose of retiring the last of the Parity Electric Utility Obligations as they become due or paying principal of and interest on the Parity Electric Utility Obligations when and to the extent the amounts in the Debt Service Fund are insufficient for such purpose

When a Reserve Fund is required to be established as noted above and while the same is required to be maintained, the Required Reserve Amount to be accumulated and maintained in such Fund shall be determined and redetermined as follows

(i) ten per cent (10%) of the Maximum Debt Service Requirement for all Parity Electric Utility Obligations then Outstanding if the Pledged Net Revenues for the previous Fiscal Year were less than 150% of the annual Debt Service Requirement for such Fiscal Year, but greater than or equal to 140% of the annual Debt Service Requirement for such Fiscal Year,

(ii) twenty per cent (20%) of the Maximum Debt Service Requirement for all Parity Electric Utility Obligations then Outstanding if the Pledged Net Revenues for the previous Fiscal Year were less than 140% of the annual Debt Service Requirement for such Fiscal Year, but greater than or equal to 130% of the annual Debt Service Requirement for such Fiscal Year,

(iii) thirty per cent (30%) of the Maximum Debt Service Requirement for all Parity Electric Utility Obligations then Outstanding if the Pledged Net Revenues for the previous Fiscal Year were less than 130% of the annual Debt Service Requirement for such Fiscal Year, but greater than or equal to 120% of the annual Debt Service Requirement for such Fiscal Year,

(iv) forty per cent (40%) of the Maximum Debt Service Requirement for all Parity Electric Utility Obligations then Outstanding if the Pledged Net Revenues for the previous Fiscal Year were less than 120% of the annual Debt Service Requirement for such Fiscal Year, but greater than or equal to 110% of the annual Debt Service Requirement for such Fiscal Year,

(v) fifty per cent (50%) of the Maximum Debt Service Requirement for all Parity Electric Utility Obligations then Outstanding if the Pledged Net Revenues for the previous Fiscal Year were less than 110% of the annual Debt Service Requirement for such Fiscal Year,

If at any time the City is required to fund the Required Reserve Amount, or to increase the Required Reserve Amount pursuant to a Supplement, the Required Reserve Amount or increase in the Required Reserve Amount, as applicable, may be funded in up to twelve (12) substantially equal consecutively monthly deposits commencing not later than the month following that receipt of audited financial statements for the System for the preceding Fiscal Year

(b) Credit Facility The City may initially fund the Reserve Fund or replace or substitute a Credit Facility for cash or Eligible Investments on deposit in the Reserve Fund or in substitution for or replacement of any existing Credit Facility Upon such replacement or substitution, the cash or Eligible Investments on deposit in the Reserve Fund, taken together with the face amount of any existing Credit Facilities, in excess of the Required Reserve Amount may be withdrawn by the City, at its option, and transferred to the System Fund unless such excess was funded with the proceeds of sale of Parity Electric Utility Obligations in which case such excess shall be deposited to the credit of the Debt Service Fund, provided that the face amount of any Credit Facility may be reduced at the option of the City in lieu of such transfer



(c) Priority of Draws If the City is required to make a withdrawal from the Reserve Fund for any of the purposes described in this Section, the City shall promptly notify the issuer of such Credit Facility of the necessity for a withdrawal from the Reserve Fund for any such purposes, and shall make such withdrawal FIRST from available moneys and cash resulting from the sale or liquidation of Eligible Investments then on deposit in the Reserve Fund, and NEXT from a drawing under any Credit Facility to the extent of such deficiency

In the event of a draw on a Credit Facility, the City shall reimburse the issuer of such Credit Facility for such draw, in accordance with the terms of any agreement pursuant to which the Credit Facility is issued, from Net Revenues, however, such reimbursement from Net Revenues shall be subject to the provisions of Section 14(d) below and shall be subordinate and junior in right of payment to the payment of principal of and premium, if any, and interest on the Parity Electric Utility Obligations

(d) Reserve Amount Deficiency In the event of a deficiency in the Reserve Fund, or in the event that on the date of termination or expiration of any Credit Facility there is not on deposit in the Reserve Fund sufficient Reserve Fund Obligations, all in an aggregate amount at least equal to the Required Reserve Amount, then the City shall, subject to satisfying or making provision for the uses having a priority on the Gross Revenues before any deposits for the payment and security of the Parity Electric Utility Obligations and after making required deposits to the Debt Service Fund in accordance with the terms of this Sixth Supplement and any Supplement, cause the aggregate Required Reserve Amount then required to be on deposit in the Reserve Fund to be fully restored within 12 months from the date such deficiency, termination or expiration occurred by (i) making substantially equal cash deposits to the Reserve Fund on or before the last day of each month from the available Net Revenues, (ii) depositing Eligible Investments or Credit Facility to the credit of the Reserve Fund or (iii) a combination of (i) and (ii)

(e) Excess Required Reserve As Parity Electric Utility Obligations secured by the Reserve Fund are paid, redeemed or defeased and cease to be Outstanding under the terms of the Master Ordinance or any Supplement, the Required Reserve Amount may be recalculated and redetermined, and any Reserve Fund Obligations on deposit in the Reserve Fund in excess of the Required Reserve Amount may be withdrawn and transferred, at the option of the City, to (i) the System Fund, if an amount equal to such excess was funded with Net Revenues, or (ii) the Debt Service Fund

(f) Application to Commercial Paper/Credit Agreements For the purpose of this Section, the Reserve Fund shall not secure Parity Electric Utility Obligations issued in the form of commercial paper, or any Credit Agreement issued in support of such Parity Electric Utility Obligations issued in the form of commercial paper, except as otherwise may be provided in any Supplement

**SECTION 15 PAYMENT OF BONDS** On or before the first scheduled interest payment date, and on or before each interest payment date and principal payment date thereafter while any of the Bonds are Outstanding, the City shall cause an amount to be transferred to the Paying Agent/Registrar in immediately available funds from the Debt Service Fund sufficient to pay such interest on and such principal amount of the Bonds, as shall become due on such dates, respectively, at maturity or by redemption prior to maturity. The Paying Agent/Registrar shall destroy all paid Bonds and furnish the City with an appropriate certificate of cancellation or destruction

## **SECTION 16 COVENANTS TO MAINTAIN TAX EXEMPT STATUS**

(a) Definitions When used in this Section, the following terms have the following meanings

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

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

"Computation Date" has the meaning set forth in Section 1 148-1(b) of the Regulations

"Gross Proceeds" means any proceeds as defined in Section 1 148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1 148 1(c) of the Regulations, of the Bonds

"Investment" has the meaning set forth in Section 1 148-1(b) of the Regulations

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

"Rebate Amount" has the meaning set forth in Section 1 148-1(b) of the Regulations

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

"Yield" of (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

(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 Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 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 148-3(h) of the Regulations.

(i) 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 Mayor, City Manager, Chief Financial Officer or City Treasurer, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document

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

(l) Current Refunding The payment and discharge of the Series 1996A Refunded Bonds will occur within ninety (90) days after the issuance of the Bonds and, therefore, the Bonds are a current refunding of the Series 1996A Refunded Bonds

(m) Qualified Advance Refunding The Bonds are issued to refund the Series 2001 Refunded Bonds and the Series 2003 Refunded Bonds (collectively referred to as the "Advance Refunded Bonds"), and the Bonds will be issued more than 90 days before the redemption of the Advance Refunded Bonds. The City represents as follows

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

(2) The Advance 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 Advance 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 Advance Refunded Bonds will be invested in Nonpurpose Investments having a Yield in excess of the Yield on such Advance Refunded Bonds

(5) The Bonds are being issued for the purposes stated in the preamble of this Sixth Supplement. 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 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 17 AMENDMENT OF SIXTH SUPPLEMENT**

(a) Required Owner Consent for Amendments The owners of a majority in Outstanding Principal Amount of the Bonds shall have the right from time to time to approve any amendment to this Sixth Supplement which may be deemed necessary or desirable by the City, provided, however, nothing contained herein shall permit or be construed to permit the amendment of the terms and conditions in this Sixth Supplement so as to

- (1) Make any change in the maturity of any of the Outstanding Bonds,
- (2) Reduce the rate of interest borne by any of the Outstanding Bonds,
- (3) Reduce the amount of the principal payable on the Bonds,
- (4) Modify the terms of payment of principal of, premium, if any, or interest on the Outstanding Bonds or impose any conditions with respect to such payment,
- (5) Affect the rights of the owners of less than all of the Bonds then Outstanding,
- (6) Amend this subsection (a) of this Section, or
- (7) Change the minimum percentage of the principal amount of Bonds necessary for consent to any amendment,

unless such amendment or amendments be approved by the owners of all of the Bonds affected by the change or amendment then Outstanding

(b) Notice of Amendment Requiring Consent If at any time the City shall desire to amend the Sixth Supplement under this Section, the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal published in The City of New York, New York, and a newspaper of general circulation in the City, once during each calendar week for at least two successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file with the Paying Agent for the Bonds. Such publication is not required, however, if notice in writing is given by mail, first class postage prepaid, to each owner of the Bonds

(c) Time Period for Obtaining Consent If within one year from (i) the date of the first publication of said notice or (ii) the date of the mailing by the Paying Agent of written notice to the owners of the Bonds, whichever date first occurs if both methods of giving notice are used, the City shall receive an instrument or instruments executed by the owners of at least a majority in Outstanding Principal Amount of the Bonds consenting to and approving such amendment in substantially the form of the copy thereof on file with each Paying Agent, the governing body of the City may pass the amendatory ordinance in substantially the same form

(d) Revocation of Consent Any consent given by the owner of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date for measuring the one year period to obtain consents noted in paragraph (c) above, and shall be conclusive and binding upon all future owners of the same Bonds during such period. At any time after six months from the date for measuring the one year period to obtain consents noted in paragraph (c) above, such consent may be revoked by the owner who gave such consent, or by a successor in title, by filing written notice thereof with the Paying Agent for such Bonds and the City, but such revocation shall not be effective if the owners of at least a majority in Outstanding Principal Amount of the then Outstanding Bonds as determined in accordance with

this Section have, prior to the attempted revocation, consented to and approved the amendment

(e) Implementation of Amendment Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Sixth Supplement shall be deemed to be amended, and the respective rights, duties and obligations of the City under this Sixth Supplement and all the owners of then Outstanding Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such amendment

(f) Amendment without Consent The foregoing provisions of this Section notwithstanding, the City by action of its governing body may amend this Sixth Supplement for any one or more of the following purposes

(1) To vest the management and control of the Electric Utility System in an independent board of trustees or similar board pursuant to authority conferred by V T C A , Government Code, Section 1502 070 et seq or other law now or hereafter enacted,

(2) To add to the covenants and agreements of the City in this Sixth Supplement contained, other covenants and agreements thereafter to be observed, grant additional rights or remedies to the owners of the Bonds or to surrender, restrict or limit any right or power herein reserved to or conferred upon the City,

(3) To make such provisions for the purpose of curing any ambiguity, or curing, correcting or supplementing any defective provision contained in this Sixth Supplement, or in regard to clarifying matters or questions arising under this Sixth Supplement, as are necessary or desirable and not contrary to or inconsistent with this Sixth Supplement and which shall not adversely affect the interests of the owners of the Bonds then Outstanding,

(4) To modify any of the provisions of this Sixth Supplement in any other respect whatever, provided that such modification shall be, and be expressed to be, effective only after all the Bonds Outstanding at the date of the adoption of such modification shall cease to be Outstanding,

(5) To make such amendments to this Sixth Supplement as may be required, in the opinion of Bond Counsel, to ensure compliance with sections 103 and 141 through 150 of the Code and the regulations promulgated thereunder and applicable thereto,

(6) To make such changes, modifications or amendments as may be necessary or desirable in order to allow the owners of the Bonds to thereafter avail themselves of a book entry system for payments, transfers and other matters relating to the Bonds, which changes, modifications or amendments are not contrary to or inconsistent with other provisions of this Sixth Supplement and which shall not adversely affect the interests of the owners of the Bonds,

(7) To make such changes, modifications or amendments as may be necessary or desirable in order to obtain or maintain the granting of a rating on

the Bonds by a Rating Agency or to obtain or maintain a Credit Agreement or a Credit Facility, and

(8) To make such changes, modifications or amendments as may be necessary or desirable, which shall not adversely affect the interests of the owners of the Bonds, in order, to the extent permitted by law, to facilitate the economic and practical utilization of interest rate swap agreements, foreign currency exchange agreements, or similar types of agreements with respect to the Bonds. Notice of any such amendment may be published by the City in the manner described in clause (b) of this Section, provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory ordinance and the failure to publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory ordinance

(g) Ownership For the purpose of this Section, the ownership and other matters relating to all Bonds shall be established by the Security Register maintained by the Paying Agent. Furthermore, the owner of any Bonds insured as to the payment of principal of and interest thereon shall be deemed to be the insurance company providing the insurance coverage on such Bonds, provided such amendment to this Sixth Supplement is an amendment that can be made with the consent of a majority in Outstanding Principal Amount of the Bonds and such insurance company is not in default with respect to its obligations under its insurance policy

**SECTION 18 FINAL DEPOSITS, GOVERNMENTAL OBLIGATIONS** All or any of the Bonds shall be deemed to be paid, retired and no longer Outstanding within the meaning of this Sixth Supplement when payment of the principal of such Bonds, redemption premium, if any, on such Bonds, plus interest thereon to the due date thereof (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption), or (ii) shall have been provided by irrevocably depositing with, or making available to, the Paying Agent/Registrar, in trust and irrevocably set aside exclusively for such payment, (1) money sufficient to make such payment or (2) Government Obligations, certified by an independent public accounting firm of national reputation, to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to make such payment, and all necessary and proper fees, compensation and expenses of the Paying Agent/Registrar with respect to which such deposit is made shall have been paid *or the payment thereof provided for the satisfaction of the Paying Agent/Registrar*. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefit of this Sixth Supplement, the Master Ordinance or a lien on and pledge of the Net Revenues of the Electric Utility System, and shall be entitled to payment solely from such money or Government Obligations

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, may at the direction of the City also be invested in Government Obligations, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Government Obligations not required for the payment of the Bonds, and interest thereon, with respect to which such money has been so deposited, shall be turned over to the City or deposited as directed by the City. The City covenants that no deposit will be made or accepted under clause (ii) of 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

Notwithstanding any other provisions of this Sixth Supplement, all money or Government Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of the Bonds, the redemption premium, if any, and interest thereon, shall be applied to and used for the payment of such Bonds, the redemption premium, if any, and interest thereon and the income on such money or Government Obligations shall not be considered to be "Gross Revenues" under this Sixth Supplement

#### **SECTION 19 DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS**

In the event any Outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new bond of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Bond, in replacement for such Bond in the manner hereinafter provided. An application for the replacement of damaged, mutilated, lost, stolen, or destroyed Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the applicant for a replacement bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the applicant shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the applicant shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated. Prior to the issuance of any replacement bond, the Paying Agent/Registrar shall charge the owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Sixth Supplement equally and proportionately with any and all other Bonds duly issued under this Sixth Supplement.

Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section. Furthermore, in accordance with V T C A , Government Code, Section 1206 022, this Section shall constitute authority for the issuance of any such replacement bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such bonds in the form and manner and with the effect, as provided in Section 6 of this Sixth Supplement for Bonds issued in exchange for other Bonds.

**SECTION 20 SIXTH SUPPLEMENT TO CONSTITUTE A CONTRACT, EQUAL SECURITY** In consideration of the acceptance of the Bonds, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Sixth Supplement shall be deemed to be and shall constitute a contract between the City and the Holders from time to time of the Bonds and the pledge made in this Sixth Supplement by the City and the covenants and agreements set forth in this Sixth Supplement to be performed by

the City shall be for the equal and proportionate benefit, security, and protection of all Holders, without preference, priority, or distinction as to security or otherwise of any of the Bonds authorized hereunder over any of the others by reason of time of issuance, sale, or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Sixth Supplement

## **SECTION 21 CONTINUING DISCLOSURE UNDERTAKING**

(a) Definitions As used in this Section, the following terms have the meanings ascribed to such terms below

"MSRB" means the Municipal Securities Rulemaking Board

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

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

"SEC" means the United States Securities and Exchange Commission

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

(b) Annual Reports The City shall provide annually to each NRMSIR and any SID, within six months after the end of each fiscal year (beginning with the fiscal year ending September 30, 2006) financial information and operating data with respect to the City of the general type included in the final Official Statement approved by Section 23 of this Sixth Supplement, being the information described in Exhibit C hereto. Financial statements to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit C hereto 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

(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 Sixth Supplement for purposes of any other provision of this Sixth Supplement

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 or the Electric Utility System, 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 Sixth Supplement 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 21 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 22 REMEDY IN EVENT OF DEFAULT** In addition to all rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Debt Service Fund as required by this Sixth Supplement or the Master Ordinance, (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Sixth Supplement or the Master Ordinance or (c) the City declares bankruptcy, the Holders of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the City and its City Manager, Chief Financial Officer and City Treasurer, individually or jointly, to observe and perform any covenant, condition or obligation prescribed in this Sixth Supplement or the Master Ordinance. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

The specific remedy herein provided shall be cumulative of all other existing remedies and the specification of such remedy shall not be deemed to be exclusive.

**SECTION 23 SALE OF BONDS OFFICIAL STATEMENT APPROVAL** The Bonds authorized by this Sixth Supplement are hereby sold by the City to Merrill Lynch, Pierce, Fenner & Smith Incorporated, Bear, Stearns & Co., Inc., Citigroup Global Markets Inc., Estrada Hinojosa & Company, Inc., First Albany Corporation, Goldman, Sachs & Co., Jackson Securities, LLC, Loop Capital Markets, LLC, and Southwest Securities, Inc. (herein referred to as the "Underwriters") in accordance with the Bond Purchase Agreement, dated October 19, 2006, attached hereto as Exhibit D and incorporated herein by reference as a part of this Sixth Supplement 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 City Council, and in regard to the approval and execution of the Bond Purchase Agreement, the City 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 October 11, 2006, 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, any Deputy 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 October 19, 2006, in the offering, sale and delivery of the Bonds to the public.

#### **SECTION 24 SPECIAL ESCROW AGREEMENT APPROVAL AND EXECUTION**

The "Special Escrow Agreement" (the "Agreement") by and between the City and Wells Fargo Bank, National Association (the "Escrow Agent"), attached hereto as Exhibit E and incorporated herein by reference as a part of this Sixth Supplement for all purposes, is hereby approved as to form and content, and such Agreement in substantially the form and substance attached hereto, together with such changes or revisions as may be necessary to accomplish the refunding or benefit the City, is hereby authorized to be executed by the Mayor or City Manager and City Clerk for and on behalf of the City and as the act and deed of 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 Escrowed 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 2006A CITY OF AUSTIN, TEXAS, ELECTRIC REVENUE REFUNDING BOND ESCROW FUND" (the "Escrow Fund"), all as contemplated and provided in V T C A , Government Code, Chapter 1207, as amended, this Sixth Supplement and the Agreement.

**SECTION 25 REDEMPTION OF REFUNDED BONDS** (a) A portion of the bonds of that series known as "City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1996A, dated August 1, 1996, identified and described in the preamble hereof and aggregating in principal amount \$74,585,000, shall be redeemed and the same are hereby called for redemption on December 1, 2006, at the price of par plus accrued interest to such date of redemption. The City Clerk is hereby authorized and directed to file a copy of this Sixth Supplement, together with a suggested form of notice of redemption to be sent to bondholders, with The Bank of New York Trust Company, N A , Dallas, Texas (successor paying agent/registrars to Texas Commerce Bank, National Association), in accordance with the redemption provisions applicable to such bonds, such suggested form of notice of redemption being attached hereto as Exhibit F and incorporated herein by reference as a part of this Sixth Supplement for all purposes.

(b) The bonds of that series known as "City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2001", dated January 1, 2001, identified and described in the preamble hereof and aggregating in principal amount \$48,500,000, shall be redeemed and the same are hereby called for redemption on November 15, 2010, at the price of par plus accrued interest to such date of redemption. The City Clerk is hereby authorized and directed to file a copy of this Sixth Supplement, together with a suggested form of notice of redemption to be sent to bondholders, with UMB Bank, St. Louis, Missouri (successor paying agent/registrars to

State Street Bank & Trust Company, N A , St Louis, Missouri), in accordance with the redemption provisions applicable to such bonds, such suggested form of notice of redemption being attached hereto as Exhibit G and incorporated herein by reference as a part of this Sixth Supplement for all purposes

(c) The bonds of that series known as "City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2003", dated February 1, 2003, identified and described in the preamble hereof and aggregating in principal amount \$18,800,000, shall be redeemed and the same are hereby called for redemption on May 15, 2013, at the price of par plus accrued interest to such date of redemption. The City Clerk is hereby authorized and directed to file a copy of this Sixth Supplement, together with a suggested form of notice of redemption to be sent to bondholders, with The Bank of New York Trust Company, N A , Dallas, Texas (successor paying agent/registrars to Bank One, National Association), in accordance with the redemption provisions applicable to such bonds, such suggested form of notice of redemption being attached hereto as Exhibit H and incorporated herein by reference as a part of this Sixth Supplement for all purposes

The redemption of the bonds described above being associated with the refunding of such obligations, the approval, authorization and arrangements herein given and provided for the redemption of such bonds 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 bonds of the City's decision to redeem such bonds on the dates and in the manner herein provided and in accordance with the respective ordinance authorizing the issuance of the obligations and this Sixth Supplement

**SECTION 26 PROCEEDS OF SALE** Immediately following the delivery of the Bonds, proceeds of sale in the sum of (i) \$145,429,011.99 shall be deposited to the credit of the Escrow Fund and (ii) \$593,305.56 shall be deposited to the credit of the Debt Service 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 Fund

Additionally, the City Treasurer of the City is hereby authorized and directed to cause to be transferred in immediately available funds to the Escrow Agent an amount, if any, which, together with the Escrowed Securities referenced in the Escrow Agreement and investment income therefrom, will be sufficient to pay the Refunded Bonds on their respective redemption dates

**SECTION 27 CONTROL AND CUSTODY OF BONDS** The City Manager 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 Manager, Chief Financial Officer, any Deputy Chief Financial Officer, City Clerk, City Treasurer and City Attorney, 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, bond counsel and the Paying Agent/Registrar, make

the necessary arrangements for printing of definitive Bonds and the delivery of the Bonds to the Underwriters

**SECTION 28 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 29 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 30 PAYMENT AND PERFORMANCE ON BUSINESS DAYS** Whenever under the terms of this Sixth Supplement or the Bonds, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Bonds, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Bonds, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment

**SECTION 31 LIMITATION OF BENEFITS WITH RESPECT TO THE SIXTH SUPPLEMENT** With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Sixth Supplement or the Bonds is intended or should be construed to confer upon or give to any person other than the City, the Holders, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Sixth Supplement or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Sixth Supplement and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City, the Holders, and the Paying Agent/Registrar as herein and therein provided

**SECTION 32 NOTICES TO HOLDERS WAIVER** Wherever this Sixth Supplement 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 appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice

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 Sixth Supplement 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 33 GOVERNING LAW** This Sixth Supplement shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America

**SECTION 34 EFFECT OF HEADINGS** The Section headings herein are for convenience only and shall not affect the construction hereof

**SECTION 35 CONSTRUCTION OF TERMS** If appropriate in the context of this Sixth Supplement, 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 36 SEVERABILITY** If any provision of this Sixth Supplement or the application thereof to any circumstance shall be held to be invalid, the remainder of this Sixth Supplement and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Sixth Supplement would have been enacted without such invalid provision

**SECTION 37 INSURANCE** The Bonds have been sold with the principal of and interest thereon being insured by Ambac Assurance Corporation (hereinafter called "Ambac") pursuant to a Financial Guaranty Insurance Policy. In accordance with the terms and conditions applicable to insurance provided by Ambac, the City covenants and agrees that, in the event the principal and interest due on the Bonds shall be paid by Ambac pursuant to the policy referred to in this Section, the assignment and pledge of all funds and all covenants, agreements and other obligations of the City to the Holders shall continue to exist and Ambac shall be subrogated to the rights of such Holders, and furthermore, the City covenants and agrees that

(a) Consent of Ambac in Lieu of Holder Consent Ambac's consent shall be required in lieu of Holder consent, when required, for the following purposes (i) execution and delivery of any amendment, change or modification of this Sixth Supplement, (ii) removal of the Paying Agent and Registrar and selection and appointment of any successor paying agent/registrar and (iii) initiation or approval of any action not described in (i) or (ii) which requires Holder consent. Ambac reserves the right to charge the City a fee for any consent or amendment to the Sixth Supplement so long as the Policy is in effect,

(b) Defeasance In the event that the principal and redemption price, if applicable, and interest due on the Bonds shall be paid by Ambac pursuant to the Financial Guaranty Insurance Policy referred to in this Section, all covenants, agreements and other obligations of the City to the Holders shall continue to exist and Ambac shall be subrogated to the rights of such Holders

(c) Notices to be Given to Ambac While the Financial Guaranty Insurance Policy is in effect, the City shall furnish to Ambac

(1) as soon as practicable after the filing thereof, a copy of any financial statement of the City and a copy of any audit and annual report of the City,

(2) a copy of any notice to be given to the registered owners of the Bonds, including, without limitation, notice of any redemption or defeasance of Bonds, and any certificate rendered pursuant to this Sixth Supplement relating to the security for the Bonds,



(3) Ambac shall be included as a party to be notified with respect to any continuing disclosure agreement relating to the Bonds, and

(4) such additional information as it may reasonably request

The City will permit Ambac to discuss the affairs, finances and accounts of the City, or any information Ambac may reasonably request regarding the security for the Bonds with appropriate officers of the City. The City will permit Ambac to have access to and make copies of all books and records relating to the Bonds at any reasonable time.

Notwithstanding any other provision of this Ordinance, the Paying Agent/Registrar shall immediately notify the General Counsel Office of Ambac if at any time there are insufficient moneys to make payments of principal and/or interest as required and immediately upon the occurrence of any event of default hereunder. The Paying Agent/Registrar shall also notify the General Counsel Office of Ambac of any failure of the City to provide relevant notices, certificates, etc.

(d) Consent of Ambac Any provision of this Sixth Supplement expressly recognizing or granting rights in or to Ambac may not be amended in any manner which affects the rights of Ambac hereunder without the prior written consent of Ambac. Furthermore, anything in this Sixth Supplement to the contrary notwithstanding, upon the occurrence and continuance of an event of default, Ambac shall be entitled to control and direct the enforcement of all rights and remedies granted to the Holders of the Bonds for the benefit of such Holders under this Sixth Supplement. Any reorganization or liquidation plan with respect to the City must be acceptable to Ambac. In the event of any reorganization or liquidation, Ambac shall have the right to vote on behalf of all Holders who hold Ambac-insured Bonds absent a default by Ambac under the applicable Policy insuring the Bonds.

(e) Interested Parties (1) To the extent this Sixth Supplement confers upon or gives or grants to Ambac any right, remedy or claim under or by reason of this Sixth Supplement, Ambac is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

(2) Nothing in this Sixth Supplement express or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the City, the Paying Agent/Registrar and Ambac and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Sixth Supplement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Sixth Supplement contained by and on behalf of the City shall be the sole and exclusive benefit of the City, the Paying Agent/Registrar, Ambac and the registered owners of the Bonds.

(f) Concerning the Bond Insurance Policy (A) As long as insurance for the Bonds shall be in full force and effect, the City agrees to comply with the following provisions:

(1) at least one (1) business day prior to all interest payment dates, the Paying Agent/Registrar shall determine whether there will be sufficient funds in the Debt Service Fund to pay the principal of and interest on the Bonds on such interest payment date. If the Paying Agent/Registrar determines that there will be insufficient funds in the Debt Service Fund, the Paying Agent/Registrar shall notify Ambac. Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such

Bonds will be deficient as to principal or interest, or both. If the Paying Agent/Registrar has not so notified Ambac at least one (1) business day prior to an interest payment date, Ambac will make payments of principal or interest due on the Bonds on or before the first (1st) business day next following the date on which Ambac shall have received notice of nonpayment from the Paying Agent/Registrar.

(2) The Paying Agent/Registrar shall, after giving notice to Ambac as provided in paragraph (1) above, make available to Ambac and, at Ambac's direction, to The Bank of New York, in New York, New York, as insurance trustee for Ambac or any successor insurance trustee (the "Insurance Trustee"), the registration books of the City maintained by the Paying Agent/Registrar and all records relating to the funds and accounts maintained under this Sixth Supplement.

(3) The Paying Agent/Registrar shall provide Ambac and the Insurance Trustee with a list of registered owners of the Bonds entitled to receive principal or interest payments from Ambac under the terms of the Financial Guaranty Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the registered owners of Bonds entitled to receive full or partial interest payments from Ambac and (ii) to pay principal upon Bonds surrendered to the Insurance Trustee by the registered owners of Bonds entitled to receive full or partial principal payments from Ambac.

(4) The Paying Agent/Registrar shall, at the time it provides notice to Ambac pursuant to paragraph (1) above, notify registered owners of the Bonds entitled to receive payment of principal or interest thereon from Ambac (i) as to the fact of such entitlement, (ii) that Ambac will remit to them all or a part of the interest payments next coming due upon proof of Holder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (iii) that should they be entitled to receive full payment of principal from Ambac, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of Ambac) for payment to the Insurance Trustee, and not the Paying Agent/Registrar, and (iv) that should they be entitled to receive partial payment of principal from Ambac, they must surrender this Bonds for payment thereon first to the Paying Agent/Registrar, who shall note on such Bonds the portion of the principal paid by the Paying Agent/Registrar and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(5) In the event that the Paying Agent/Registrar has notice that any payment of principal or interest on a Bond which has become due for payment and which is made to a Holder by or on behalf of the City has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Paying Agent/Registrar shall, at the time Ambac is notified pursuant to paragraph (1) above, notify all registered owners that in the event that any registered

owner's payment is so recovered, such registered owner will be entitled to payment from Ambac to the extent of such recovery if sufficient funds are not otherwise available, and the Paying Agent/Registrar shall furnish to Ambac its records evidencing the payments of principal of and interest on the Bonds which have been made by the Paying Agent/Registrar and subsequently recovered from registered owners and the date on which such payments were made

(6) In addition to those rights grant Ambac under this Sixth Supplement, Ambac shall, to the extent it makes a payment of principal of or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Financial Guaranty Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the City shall cause the Paying Agent/Registrar to note Ambac's rights as subrogee on the registration books of the City maintained by the Paying Agent/Registrar upon receipt from Ambac of proof of the payment of interest thereon to the registered owners of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the City shall cause the Paying Agent/Registrar to note Ambac's rights as subrogee on the registration books of the City maintained by the Paying Agent/ Registrar upon surrender of the Bonds by the registered owners thereof together with proof of the payment of principal thereof

(B) The City hereby covenants and agrees that it shall reimburse Ambac for any amounts paid under the Policy and all costs of collection thereof and enforcement of this Sixth Supplement and any other documents executed in connection with this Sixth Supplement, together with interest thereon, from the date paid or incurred by Ambac until payment thereof in full by the City, payable at the Insurer Payment Rate (as hereinafter defined), including without limitation (to the extent permitted by applicable law) interest on claims paid by Ambac in respect of interest on the Bonds. Such payment obligations shall be payable on demand and on a parity with, and from the same sources and secured by the same security as, regularly scheduled principal and interest payments in respect of the Bonds. For purposes of the foregoing, "Insurer Payment Rate" shall mean the lesser of (i) the maximum rate permissible under applicable usury or similar laws limiting interest rates and (ii) the greater of (a) the then applicable highest rate of interest on the Bonds and (b) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N A ("Chase") at its principal office in the City of New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by Chase) plus 3 percent. The Insurer Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event that Chase ceases to announce its Prime Rate publicly, Prime Rate shall be the publicly announced prime or base rate of such national bank as Ambac shall specify

Ambac shall, to the extent it makes a payment of principal of or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the City shall cause the Paying Agent/Registrar to note Ambac's rights as subrogee on the registration books of the City maintained by the Paying Agent/Registrar upon receipt from Ambac of proof of the payment of interest thereon to the registered owners of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the City shall cause the Paying Agent/Registrar to note Ambac's rights as subrogee on the registration books of the

City maintained by the Paying Agent/ Registrar upon surrender of the Bonds by the registered owners thereof together with proof of the payment of principal thereof

(g) Ambac as Third Party Beneficiary To the extent that this Ordinance confers upon or gives or grants to Ambac any right, remedy or claim under or by reason of this Ordinance, Ambac is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder

(h) Paying Agent/Registrar Related Provisions

(1) Ambac shall receive prior written notice of any Paying Agent/Registrar resignation

(2) Every successor Paying Agent/Registrar shall not be appointed unless Ambac approves such successor in writing

(3) Notwithstanding any other provision of this Sixth Supplement, in determining whether the rights of the Holders will be adversely affected by any action taken pursuant to the terms and provisions of this Sixth Supplement, the Paying Agent/Registrar shall consider the effect on the Holders as if there were no Financial Guaranty Insurance Policy

(4) Notwithstanding any other provisions of this Sixth Supplement, no removal, resignation or termination of the Paying Agent/Registrar shall take effect until a successor, acceptable to Ambac, shall be appointed

**SECTION 38 PUBLIC MEETING** It is officially found, determined, and declared that the meeting at which this Sixth Supplement 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 Sixth Supplement, was given, all as required by V T C A , Government Code, Chapter 551, as amended

**SECTION 39 EFFECTIVE DATE** This Sixth Supplement is hereby passed on one reading as authorized by V T C A , Government Code, Section 1201 028 and shall be effective immediately upon its passage and adoption

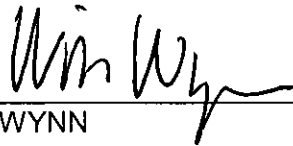
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PASSED AND ADOPTED, this October 19, 2006


CITY OF AUSTIN, TEXAS

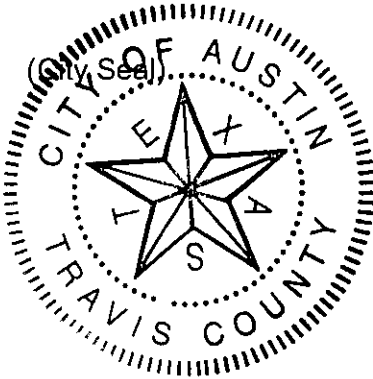
ATTEST

  
SHIRLEY A. GENTRY  
City Clerk

  
WILL WYNN  
Mayor

APPROVED

  
DAVID ALLAN SMITH  
City Attorney



## EXHIBIT A

That, as used in this Sixth Supplement, the following terms shall have the meanings set forth below, unless the text hereof specifically indicates otherwise

"Bonds" means collectively, the "CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2006A" authorized for issuance by the Sixth Supplement

"Business Day" means a day other than a Sunday, Saturday, a legal holiday, or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close

"Master Ordinance" means Ordinance No 010118-53A providing for the issuance of "Parity Electric Utility Obligations", as defined therein, passed by the City on January 18, 2001

"Maximum Debt Service Requirement" means, as of the date of calculation, an amount equal to the greatest Annual Debt Service Requirement for the current or any future Fiscal Year for the Parity Electric Utility Obligations then outstanding at the time such calculation is made

"Paying Agent/Registrar" means the financial institution specified in Section 4 of the Sixth Supplement

"Previously Issued Electric Utility Obligations" mean the outstanding "CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2001" dated January 1, 2001, "CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2002", dated February 15, 2002, "CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2002A", dated July 15, 2002, "CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2003", dated February 1, 2003, and "CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2006", dated May 15, 2006

"Prior Supplements" means Ordinances No 010118-53B, 020228-13, 020718-17 030206-34 and 20060518-040 authorizing the issuance of the Previously Issued Electric Utility Obligations

"Required Reserve Amount" means the total amount to be accumulated and maintained in the Reserve Fund pursuant to the provisions of Section 14 of the Sixth Supplement and the provisions of any subsequent Supplement

"Reserve Fund" means the "Electric Utility System Revenue Obligation Reserve Fund" to be established and maintained pursuant to the Prior Supplements and Section 14 of this Sixth Supplement

"Reserve Fund Obligations" means cash, Eligible Investments, any Credit Facility, or any combination of the foregoing

"Sixth Supplement" means Ordinance No 20061019-055 authorizing the issuance of the Bonds

"Security Register" shall have the meaning given said term in Section 4 of this Sixth Supplement

EXHIBIT B  
PAYING AGENT REGISTRAR AGREEMENT



## PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT entered into as of October 19, 2006 (this "Agreement"), by and between the City of Austin, Texas (the "Issuer"), and Wells Fargo Bank, National Association, a banking corporation organized and existing under the laws of the United States of America, or its successors or assigns hereunder (the "Bank"),

### RECITALS

WHEREAS, the Issuer has duly authorized and provided for the execution and delivery of its "City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2006A" (the "Securities"), dated October 15, 2006, which Securities are scheduled to be delivered to the initial purchaser on or about November 16, 2006, and

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

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

NOW, THEREFORE, it is mutually agreed as follows

### ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1 01 Appointment The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof, all in accordance with this Agreement and the "Bond Resolution" (hereinafter defined) The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the "Bond Resolution"

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

Section 1 02 Compensation As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Annex A attached hereto

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel)

## ARTICLE TWO DEFINITIONS

Section 2 01 Definitions For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires

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

"Bank Office" means the designated office of the Bank as indicated in Section 3 01 hereof The Bank will notify the Issuer in writing of any change in location of the Bank Office

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

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

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

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

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

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

"Predecessor Securities" of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4 06 hereof and the Resolution)

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

"Responsible Officer" when used with respect to the Bank means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust

matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject

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

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

Section 2 02 Other Definitions The terms "Bank," "Issuer," and "Securities (Security)" have the meanings assigned to them in the recital paragraphs of this Agreement

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

### ARTICLE THREE PAYING AGENT

Section 3 01 Duties of Paying Agent As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date, or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following office

Wells Fargo Bank,  
National Association  
Corporate Trust Services  
Sixth and Marquette  
Minneapolis, Minnesota 55479-0113

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the fiduciary account provided in Section 5 05 hereof, sent by United States mail, first class, postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense

Section 3 02 Payment Dates The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities at the dates specified in the Bond Resolution

### ARTICLE FOUR REGISTRAR

Section 4 01 Security Register - Transfers and Exchanges The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Security Register") for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the

payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and Bank may prescribe. All transfers, exchanges and replacement of Securities shall be noted in the Security Register.

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

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

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

**Section 4 02 Certificates** The Issuer shall provide an adequate inventory of printed Securities to facilitate transfers or exchanges thereof. The Bank covenants that the inventory of printed Securities will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

**Section 4 03 Form of Security Register** The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

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

**Section 4 04 List of Security Holders** The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

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

Section 4 05 Return of Cancelled Certificates The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid

Section 4 06 Mutilated, Destroyed, Lost or Stolen Securities The Issuer hereby instructs the Bank, subject to the provisions of the Bond Resolution, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance

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

Section 4 07 Transaction Information to Issuer The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3 01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4 01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4 06

## ARTICLE FIVE THE BANK

Section 5 01 Duties of Bank The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof

Section 5 02 Reliance on Documents, Etc (a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank

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

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

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document believed by it to be genuine

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

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

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

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

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

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

Section 5.05 Moneys Held by Bank - Paying Agent Account. Money deposited by the Issuer with the Bank for payment of principal (or redemption price, if applicable) of or interest on any Securities shall be segregated from other funds of the Bank and the Issuer and shall be held in trust for the benefit of the Holders of such Securities. All money deposited with the Bank hereunder shall be secured in the manner and to the fullest extent required by law for the security of funds of the Issuer. Payments shall be made by check unless the owner of such Securities shall, at its own expense and risk, request such other medium of payment.

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

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be paid by the Bank to the Issuer, and the Holder of such Security shall thereafter look only to the Issuer for payment thereof, and all liability of the Bank with respect to such moneys shall thereupon cease.

Section 5 06 Indemnification To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement

Section 5 07 Interpleader The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the State and County where the administrative offices of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6 03 of this Agreement shall constitute adequate service The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein

Section 5 08 DT Services It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements", which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls

## ARTICLE SIX MISCELLANEOUS PROVISIONS

Section 6 01 Amendment This Agreement may be amended only by an agreement in writing signed by both of the parties hereto

Section 6 02 Assignment This Agreement may not be assigned by either party without the prior written consent of the other

Section 6 03 Notices Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on page 9

Section 6 04 Effect of Headings The Article and Section headings herein are for convenience only and shall not affect the construction hereof

Section 6 05 Successors and Assigns All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not

Section 6 06 Severability In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby

Section 6 07 Benefits of Agreement Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder

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

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

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

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

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

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

*[remainder of page left blank intentionally]*



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

WELLS FARGO BANK, NATIONAL  
ASSOCIATION

Attest:

By \_\_\_\_\_  
Title

\_\_\_\_\_  
Title:

Address. 400 West 15th Street, 1st Floor  
Austin, Texas 78701

CITY OF AUSTIN, TEXAS

Attest:

By \_\_\_\_\_  
Title: Mayor

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

Address: 700 Lavaca, Suite 1510  
Austin, Texas 78701

EXHIBIT C  
CONTINUING DISCLOSURE REQUIREMENTS UNDER THE RULE  
DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 21 of this Ordinance.

*Annual Financial Statements and Operating Data*

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

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

*Accounting Principles*

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

EXHIBIT D  
BOND PURCHASE AGREEMENT

EXHIBIT E  
SPECIAL ESCROW AGREEMENT

## SPECIAL ESCROW AGREEMENT

THIS SPECIAL ESCROW AGREEMENT (the "Agreement"), dated and made effective as of October 19, 2006, made by and between the City of Austin, Texas, a duly incorporated municipal corporation principally located in Travis County, Texas (the "City") acting by and through the City Manager and City Clerk, and Wells Fargo Bank, National Association (the "Bank"), a banking corporation organized and existing under the laws of the United States of America, or its successors or assigns hereunder,

### WITNESSETH

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 \$141,885,000 (collectively, the "Refunded Bonds") more particularly described as follows.

(1) City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1996A, dated August 1, 1996, scheduled to mature on May 15 and/or November 15 in each of the years 2009 through 2013 and 2016, and aggregating in principal amount of \$74,585,000 (the "Series 1996A Refunded Bonds"),

(2) City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2001, dated January 1, 2001, scheduled to mature on November 15 in each of the years 2011 through 2021, and aggregating in principal amount of \$48,500,000 (the "Series 2001 Refunded Bonds"); and

(3) City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2003, dated February 1, 2003, scheduled to mature on November 15 in each of the years 2021 and 2022, and aggregating in principal amount of \$18,800,000 (the "Series 2003 Refunded Bonds"),

AND WHEREAS, in accordance with the provisions of V.T.C.A., Government Code, Chapter 1207, as amended (the "Act") and the ordinance authorizing the issuance of the Refunded Bonds, the City is authorized to sell refunding bonds and deposit the proceeds of such refunding bonds with any place of payment for such obligations, or other authorized depository, in an amount sufficient to provide for the full payment thereof and enter into an escrow or similar agreement with such place of payment for the safekeeping, investment, reinvestment, administration and disposition of such deposit, upon such terms and conditions as the parties may agree, provided such deposits may be invested only in (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 (hereinafter referred to as the "Governmental Securities") that mature and/or bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment of the Refunded Bonds, and

WHEREAS, the ordinance authorizing the Series 1996A Refunded Bonds restrict the escrowed securities eligible for deposit to direct obligations of the United States of America, including obligations the principal of and interest on are unconditionally guaranteed by the United States of America (the "Federal Securities"), and

WHEREAS, such deposit, if made on or before the payment date for such obligations, shall constitute the making of firm banking and financial arrangements for their discharge and final payment and such obligations shall cease to be outstanding obligations of the City for all purposes except for being paid from the deposit of funds placed in escrow, and

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

WHEREAS, the City on the 19<sup>th</sup> day of October, 2006, pursuant to an ordinance (the "Ordinance") finally passed and adopted by the City Council, authorized the issuance of bonds known as "City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2006A" (the "Bonds") being issued to refund, discharge and make final payment of the principal of and interest on the Refunded Bonds, and

WHEREAS, upon the delivery of the Bonds, the proceeds of sale, together with other available funds of the District to be deposited with the Bank, are to be used in part to purchase the Governmental Securities and Federal Securities listed and identified in Exhibit B attached hereto and incorporated herein by reference as a part of this Agreement for all purposes (together with substituted securities therefor in accordance with the provisions of Section 11 hereof hereinafter referred to as the "Escrowed Securities") , and

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

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

WHEREAS, the Bank is a banking corporation organized and existing under the laws of the United States of America, possessing trust powers and is fully qualified and empowered to enter into this Agreement and the Bank does not act as a depository of the City, and

WHEREAS, in Section 24 of the Ordinance, the City Council duly approved and authorized the execution of this Agreement, and

WHEREAS, the City and the Bank, as the case may be, shall take all action necessary to pay the full aggregate amount of the Refunded Bonds in accordance with the provisions

thereof, including, without limitation, all actions required by the ordinances pertaining to the Refunded Bonds, the Act, the Ordinance, and this Agreement;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and to secure the payment of the Refunded Bonds as provided in Exhibit A attached hereto, the City and the Bank hereby mutually undertake, promise and agree as follows:

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

SECTION 2: Escrow Fund Creation/Funding. There is hereby created by the City with the Bank a special segregated and irrevocable trust fund designated "SPECIAL 2006A CITY OF AUSTIN, TEXAS, ELECTRIC UTILITY SYSTEM REVENUE REFUNDING BONDS ESCROW FUND" (hereinafter called the "Escrow Fund") for the payment of the Refunded Bonds, and the City agrees and covenants to cause to be deposited with the Bank the following

\$145,429,011 00 for the purchase of the Escrowed Securities identified in Exhibit B to be held for the account of the Escrow Fund;

\$ 0 99 for deposit in the Escrow Fund as a beginning cash balance

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

SECTION 3: Escrow Fund Sufficiency-Warranty. The City hereby represents that the cash and Escrowed Securities specified in Section 2 hereof, together with the interest to be earned thereon, deposited to the credit of the Escrow Fund will be sufficient to pay in full and in a timely manner the Refunded Bonds as shown in Exhibit A, and such Refunded Bonds shall be paid at the times and in the amounts set forth and identified in Exhibit A attached hereto

SECTION 4: Pledge of Escrow The Bank agrees that all cash and Escrowed Securities, together with any income or interest earned thereon, held in the Escrow Fund shall be and is hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Bonds in the amounts and timely manner shown in Exhibit A, and such funds initially deposited and to be received from maturing principal and interest on the Escrowed Securities in the Escrow Fund shall be applied solely in accordance with the provisions of this Agreement.

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

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

SECTION 7: Escrow Fund Collections/Payments. The Bank shall collect and receive the principal of and interest on the Escrowed Securities as they respectively mature and become due and credit the same to the Escrow Fund. On or before each principal and/or interest payment date for the Refunded Bonds shown in Exhibit A attached hereto, the Bank, without further direction from anyone, including the City, shall cause to be withdrawn from the Escrow Fund the amounts required to pay the accrued interest due and payable on said payment date on the Refunded Bonds and the principal of the Refunded Bonds due and payable on said payment date and the amount withdrawn from the Escrow Fund shall be immediately transmitted and deposited with the paying agent for the Refunded Bonds to be paid with such amount. The paying agent for the Series 1996A Refunded Bonds and the Series 2003 Refunded Bonds is The Bank of New York Trust Company, N A , and the paying agent for the Series 2001 Refunded Bonds is UMB Bank, N.A., Kansas City, Missouri.

SECTION 8. Escrow Fund Encumbrance. The escrow created hereby shall be irrevocable and an express lien shall exist on all moneys and Escrowed Securities in the Escrow Fund as security for the payment of the Refunded Bonds until such funds are paid out, used and applied in accordance with this Agreement

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

SECTION 9: Absence of Bank Claim/Lien on Escrow Fund. The Bank shall have no lien whatsoever upon any of the moneys or Escrowed Securities in the Escrow Fund for payment of services rendered hereunder, services rendered as Paying Agent for the Refunded Bonds, or for any costs or expenses incurred hereunder and reimbursable from the City

SECTION 10: Substitution of Investments/Reinvestments.

(a) The Bank shall be authorized to accept initially and temporarily cash and/or substituted Escrowed Securities pending the delivery of the Escrowed Securities attached hereto, or shall be authorized to redeem the Escrowed Securities and reinvest the proceeds thereof, together with other moneys held in the Escrow Fund in Escrowed Securities provided such early redemption and reinvestment of proceeds does not change the repayment schedule of the Refunded Bonds appearing in Exhibit A and the Bank receives the following.



(1) an opinion by an independent certified public accountant to the effect that (i) the initial and/or temporary substitution of cash and/or securities for one or more of the Escrowed Securities identified in Exhibit B pending the receipt and delivery thereof to the Escrow Agent or (ii) the redemption of one or more of the Escrowed Securities and the reinvestment of such funds in one or more substituted Governmental Securities or Federal Securities, as applicable, together with the interest thereon and other available moneys then held in the Escrow Fund, will, in either case, be sufficient without reinvestment to pay, as the same become due in accordance with Exhibit A, the principal of, and interest on, the Refunded Bonds which have not previously been paid, and

(2) with respect to an early redemption of Escrowed Securities and the reinvestment of the proceeds thereof, an unqualified opinion of nationally recognized municipal bond counsel to the effect that (i) such investment will not cause interest on the Bonds or Refunded Bonds to be included in the gross income for federal income tax purposes, under the Code and related regulations as in effect on the date of such investment, or otherwise make the interest on the Bonds or the Refunded Bonds subject to Federal income taxation and (ii) such reinvestment complies with the Constitution and laws of the State of Texas and with all relevant documents relating to the issuance of the Refunded Bonds and the Bonds.

(b) If on the dates and in the amounts shown in Exhibit C attached hereto there exists cash in the Escrow Fund, the Bank and the City agree at least fifteen (15) days prior to such date, to subscribe for the purchase of United States Treasury Securities - State and Local Government Series (SLGS) bearing zero interest (0%) and on such date, in the amount and scheduled to mature as provided in Exhibit C and subscription forms prepared therefor as may be then required by the United States Department of the Treasury; provided that the then existing rules and regulations and policy of United States Department of the Treasury permit and authorize such investments. Should the policy, rules and regulations of the United States Department of Treasury not permit or authorize the purchase of such SLGS at such time or times, such cash balance or balances shall remain uninvested and held in trust for the benefit of the holders of the Refunded Bonds and used for the payment of the Refunded Bonds on the dates and in the amount such moneys would have been expended had such SLGS been acquired and matured

SECTION 11. Restriction on Escrow Fund Investments – Reinvestments. Except as provided in Section 10 hereof, moneys in the Escrow Fund will be invested only in the Escrowed Securities listed in Exhibit B, and neither the City nor the Bank shall reinvest any moneys deposited in the Escrow Fund except as specifically provided by this Agreement.

SECTION 12. Excess Funds. If at any time through redemption or cancellation of the Refunded Bonds there exists or will exist excesses of interest on or maturing principal of the Escrowed Securities in excess of the amounts necessary hereunder for the Refunded Bonds, the Bank may transfer such excess amounts to or on the order of the City, provided that the City delivers to the Bank the following

(1) an opinion by an independent certified public accountant that after the transfer of such excess, the principal amount of securities in the Escrow Fund, together with the interest thereon, and other available monies then held in the Escrow Fund, will be sufficient to pay, as the same become due and without

reinvestment, in accordance with Exhibit A, the principal of, and interest on, the Refunded Bonds which have not previously been paid, and

(2) an unqualified opinion of nationally recognized municipal bond counsel to the effect that (a) such transfer will not cause interest on the Bonds or the Refunded Bonds to be included in gross income for federal income tax purposes, under the Code and related regulations as in effect on the date of such transfer, or otherwise make the interest on the Bonds or the Refunded Bonds subject to Federal income taxation, and (b) such transfer complies with the Constitution and laws of the State of Texas and with all relevant documents relating to the issuance of the Refunded Bonds or the Bonds

SECTION 13: Collateralization The Bank shall continuously secure the monies in the Escrow Fund not invested in Escrowed Securities by a pledge of direct obligations of the United States of America, in the par or face amount at least equal to the principal amount of said uninvested monies to the extent such money is not insured by the Federal Deposit Insurance Corporation

SECTION 14: Absence of Bank's Liability for Investments The Bank shall not be liable or responsible for any loss resulting from any investment made in the Escrowed Securities or substitute securities as provided in Section 10 hereof.

SECTION 15: Bank's Compensation – Escrow Administration/Settlement of Paying Agent's Charges The City agrees to pay the Bank for the performance of services hereunder and as reimbursement for anticipated expenses to be incurred hereunder the amount of \$\_\_\_\_\_ and, except for reimbursement of costs and expenses incurred by the Bank pursuant to Sections 3 and 19 hereof, the Bank hereby agrees said amount is full and complete payment for the administration of this Agreement

The City also agrees to deposit with the Bank on the effective date of this Agreement, the sum of \$\_\_\_\_\_, which represents the total charge due the paying agents for the Refunded Bonds and the City acknowledges and agrees that \$\_\_\_\_\_ of such amount is and represents the total amount of compensation due The Bank of New York Trust Company, N.A. for services rendered as paying agent for the Series 1996A Refunded Bonds and Series 2003 Refunded Bonds and \$\_\_\_\_\_ of such amount is and represents the total amount of compensation due UMB Bank, N.A. for services rendered as paying agent for the Series 2001 Refunded Bonds. Furthermore, the Bank agrees to transmit to the paying agents for the Refunded Bonds the amounts included in such deposit for paying agent services to be rendered for the Refunded Bonds in accordance with the City's instructions

SECTION 16: Escrow Agent's Duties/Responsibilities/Liability The Bank shall not be responsible for any recital herein, except with respect to its organization and its powers and authority. As to the existence or nonexistence of any fact relating to the City or as to the sufficiency or validity of any instrument, paper or proceedings relating to the City, the Bank shall be entitled to rely upon a certificate signed on behalf of the City by its Mayor or City Manager of the City as sufficient evidence of the facts therein contained. The Bank may accept a certificate of the City Clerk under the City's seal, to the effect that a resolution or other instrument in the form therein set forth has been adopted by the City Council of the City, as conclusive evidence that such resolution or other instrument has been duly adopted and is in full force and effect.

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

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

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

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

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

SECTION 17: Time of the Essence Time shall be of the essence in the performance of obligations from time to time imposed upon the Bank by this Agreement

SECTION 18 Interpleader. In the event conflicting demands or notices are made upon the Bank growing out of or relating to this Agreement or the Bank in good faith is in doubt as to what action should be taken hereunder, the Bank shall have the right at its election to

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

(b) File a suit in interpleader and obtain an order from a court of appropriate jurisdiction in the State of Texas requiring all persons involved to

interplead and litigate in such court their several claims and rights among themselves.

In the event the Bank becomes involved in litigation in connection with this Section, the City to the extent permitted by law agrees to indemnify and save the Bank harmless from all loss, cost, damages, expenses and attorney fees suffered or incurred by the Bank as a result thereof. *The obligations of the Bank under this Agreement shall be performable at the principal corporate office of the Bank in the City of Austin, Texas*

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

SECTION 19: Accounting – Annual Report Promptly after September 30<sup>th</sup> of each year, commencing with the year 2007, so long as the Escrow Fund is maintained under this Agreement, the Bank shall forward by letter to the City, to the attention of the Treasurer, or other designated official of the City, a statement in detail of the Escrowed Securities and monies held, and the current income and maturities thereof, and the withdrawals of money from the Escrow Fund for the preceding 12 month period ending September 30<sup>th</sup> of each year

SECTION 20. Notices Any notice, authorization, request or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed as follows

CITY OF AUSTIN

P O Box 1088  
Austin, Texas 78767

700 Lavaca, Suite 1510  
Austin, Texas 78701

Attention City Treasurer

WELLS FARGO BANK, NATIONAL ASSOCIATION

400 West 15th Street, 1st Floor  
Austin, Texas 78701

Attention. Corporate Trust

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

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

SECTION 21. Performance Whenever under the terms of this Agreement the performance date of any provision hereof, including the payment dates for the Refunded Bonds shown in Exhibit A, shall be a Sunday or a legal holiday or a day when the Bank is authorized

by law to close, then the performance thereof need not be made on such date but may be performed or paid, as the case may be, on the next succeeding business day of the Bank with the same force and effect as if made on the date of performance or payment and with respect to a payment, no interest shall accrue for the period after such date

**SECTION 22. Warranty of Parties re: Power to Execute and Deliver Escrow Agreement**

The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Agreement, in any and every said Refunded Bond as executed, authenticated and delivered and in all proceedings pertaining thereto as said Refunded Bonds shall have been modified as provided in this Agreement. The City covenants that it is duly authorized under the Constitution and laws of the State of Texas to execute and deliver this Agreement, that all actions on its part for the payment of said Refunded Bonds as provided herein and the execution and delivery of this Agreement have been duly and effectively taken.

**SECTION 23. Severability.** If any one or more of the covenants or agreements provided in this Agreement on the part of the parties to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement. In the event any covenant or agreement contained in this Agreement is declared to be severable from the other provisions of this Agreement, written notice of such event shall immediately be given to each national rating service (Moody's Investors Service, Inc., Standard & Poor's Corporation, a division of The McGraw-Hill Companies, Inc., or Fitch Investors Service) which has rated the Refunded Bonds on the basis of this Agreement.

**SECTION 24. Termination.** This Agreement shall terminate when the Refunded Bonds have been paid in full in accordance with the provisions of this Agreement. If any Refunded Bond is not paid when due because of failure to satisfy a condition for payment such as surrender and presentation to the paying agent, the nonpayment thereof shall not prevent the termination of this Agreement. Funds for the payment of such Refunded Bonds shall be held by the Bank for such purpose in accordance with Section 7 hereof. Any moneys or Escrowed Securities held in the Escrow Fund at termination and not needed for the payment of the Refunded Bonds shall be paid or transferred to the City.

**SECTION 25. Successors/Assigns.** (a) Should the Bank not be able to legally serve or perform the duties and obligations under this Agreement, or should the Bank be declared to be insolvent or closed for any reason by federal or state regulatory authorities or a court of competent jurisdiction, the City, upon being notified or discovering the Bank's inability or disqualification to serve hereunder, shall forthwith appoint a successor to replace the Bank, and upon being notified of such appointment, the Bank shall (i) transfer all funds and securities held hereunder, together with all books, records and accounts relating to the Escrow Fund and the Refunded Bonds, to such successor and (ii) assign all rights, duties and obligations under this Agreement to such successor. If the City should fail to appoint such a successor within ninety (90) days from the date the City discovers, or is notified of, the event or circumstance causing the Bank's inability or disqualification to serve hereunder, the Bank, or a bondholder of the Refunded Bonds, may apply to a court of competent jurisdiction to appoint a successor or assigns of the Bank and such court, upon determining the Bank is unable to continue to serve, shall appoint a successor to serve under this Agreement and the amount of compensation, if any, to be paid to such successor for the remainder of the term of this Agreement for services to

be rendered both for administering the Escrow Fund and for paying agent duties and responsibilities for the Refunded Bonds.

(b) Furthermore, the Bank may resign and be discharged from performing its duties and responsibilities under this Agreement upon notifying the City in writing of its intention to resign and requesting the City to appoint a successor. No such resignation shall take effect until a successor has been appointed by the City and such successor has accepted such appointment and agreed to perform all duties and obligations hereunder for a total compensation equal to the unearned proportional amount paid the Bank under Section 16 hereof for the administration of this Agreement and the unearned proportional amount of the paying agents fees for the Refunded Bonds due the Bank.

Any successor to the Bank shall be a bank, trust company or other financial institution that is duly qualified under applicable law to serve as escrow agent hereunder and authorized and empowered to perform the duties and obligations contemplated by this Agreement and organized and doing business under the laws of the United States or the State of Texas, having its principal office and place of business in the State of Texas, having a combined capital and surplus of at least \$5,000,000 and be subject to the supervision or examination by Federal or State authority.

Any successor or assigns to the Bank shall execute, acknowledge and deliver to the City and the Bank, or its successor or assigns, an instrument accepting such appointment hereunder, and the Bank shall execute and deliver an instrument transferring to such successor, subject to the terms of this Agreement, all the rights, powers and trusts created and established and to be performed under this Agreement. Upon the request of any such successor Bank, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Bank all such rights, powers and duties. The term "Bank" as used herein shall be the Bank and its legal assigns and successor hereunder.

SECTION 26: Limitation re. Bank's Duties, Responsibilities and Liabilities to Third Parties. The Bank shall not be responsible or liable to any person in any manner whatever for the sufficiency, correctness, genuineness, effectiveness, or validity of this Agreement with respect to the City, or for the identity or authority of any person making or executing this Agreement on behalf of the City. The Bank is authorized by the City to rely upon the representations of the City with respect to this Agreement and the deposits made pursuant hereto and as to the City's right and power to execute and deliver this Agreement, and the Bank shall not be liable in any manner as a result of such reliance. The duty of the Bank hereunder shall only be to the City and the holders of the Refunded Bonds. Neither the City nor the Bank shall assign or attempt to assign or transfer any interest hereunder or any portion of any such interest. Any such assignment or attempted assignment shall be in direct conflict with this Agreement and be without effect.

SECTION 27. Escrow Agreement – Amendment/Modification. This Agreement shall be binding upon the City and the Bank and their respective successors and legal representatives and shall inure solely to the benefit of the holders of the Refunded Bonds, the City, the Bank and their respective successors and legal representatives. Furthermore, no alteration, amendment or modification of any provision of this Agreement (1) shall alter the firm financial arrangements made for the payment of the Refunded Bonds or (2) shall be effective unless (i) prior written consent of such alteration, amendment or modification shall have been obtained from the holders of all Refunded Bonds outstanding at the time of such alteration, amendment or modification and (ii) such alteration, amendment or modification is in writing and signed by

the parties hereto; provided, however, the City and the Bank may, without the consent of either the holders of the Refunded Bonds, amend or modify the terms and provisions of this Agreement to cure any ambiguity, formal defect or omission in this Agreement. If the parties hereto agree to any amendment or modification to this Agreement, prior written notice of such amendment or proposed modification, together with the legal documents amending or modifying this Agreement, shall be furnished to each national rating service (Moody's Investors Service, Inc., Standard & Poor's Corporation, a division of The McGraw-Hill Companies, Inc., or Fitch Investors Inc.) which has rated the Refunded Bonds on the basis of this Agreement, prior to such amendment or modification being executed

SECTION 28. Bank Not a Depository The Bank and the City each hereby acknowledge and certify that the Bank does not act as a depository of the City

SECTION 29. Counterparts This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument

SECTION 30. Governing Law This Agreement shall be governed by the laws of the State of Texas.

*[remainder of page left blank intentionally]*

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed by their duly authorized officers and their corporate seals to be hereunto affixed and attested as of the date first above written

CITY OF AUSTIN, TEXAS

\_\_\_\_\_  
Title City Manager

ATTEST:

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

(City Seal)

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Escrow Agent

\_\_\_\_\_  
Title \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Authorized Signer

(Bank Seal)



EXHIBIT F  
NOTICE OF REDEMPTION  
CITY OF AUSTIN, TEXAS  
COMBINED UTILITY SYSTEM REVENUE  
REFUNDING BONDS, SERIES 1996A  
DATED AUGUST 1, 1996

NOTICE IS HEREBY GIVEN that the bonds of the above series maturing on May 15 and/or November 15 in each of the years 2009 through 2013 and 2016, and aggregating in principal amount \$74,585,000 have been called for redemption on December 1, 2006 at the redemption price of par and accrued interest to the date of redemption, such bonds being identified as follows:

<u>Stated Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>	<u>Stated Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>
11-15-2009	\$11,480,000		05-15-2011	\$ 6,630,000	
05-15-2010	\$11,485,000		05-15-2012	\$ 8,965,000	
11-15-2010	\$ 6,635,000		05-15-2013	\$ 7,125,000	
			05-15-2016	\$22,265,000	

ALL SUCH BONDS shall become due and payable on December 1, 2006, 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 thereof to The Bank of New York Trust Company, N.A., Dallas, Texas (successor paying agent/registrar to Texas Commerce Bank, National Association) at its designated offices at the following addresses:

First Class/ Registered/Certified The Bank of New York Trust Company, N.A Institutional Trust Services P O. Box 2320 Dallas, Texas 75221-2320	Express Delivery/Courier The Bank of New York Trust Company, N.A. Institutional Trust Services 2001 Bryan Street, 9th Floor Dallas, Texas 75201	By Hand Only The Bank of New York Trust Company, N.A. Room 234-North Building Institutional Trust Securities Window 55 Water Street New York, New York 10041
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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.

THE BANK OF NEW YORK TRUST  
COMPANY, N.A ,  
Address: 2001 Bryan Street, 8th Floor  
Dallas, Texas 75201

Exhibit G

NOTICE OF REDEMPTION  
CITY OF AUSTIN, TEXAS  
ELECTRIC UTILITY SYSTEM REVENUE  
REFUNDING BONDS, SERIES 2001  
DATED JANUARY 1, 2001

NOTICE IS HEREBY GIVEN that the bonds of the above series maturing on November 15, 2011 through November 15, 2021, and aggregating in principal amount \$48,500,000 have been called for redemption on November 15, 2010 at the redemption price of par and accrued interest to the date of redemption, such bonds being identified as follows:

<u>Year of</u> <u>Maturity</u>	<u>Principal Amount</u>	<u>CUSIP</u> <u>Number</u>	<u>Year of</u> <u>Maturity</u>	<u>Principal Amount</u>	<u>CUSIP</u> <u>Number</u>
2011	\$3,300,000		2017	\$4,600,000	
2012	\$3,500,000		2018	\$4,900,000	
2013	\$3,700,000		2019	\$5,100,000	
2014	\$3,900,000		2020	\$5,400,000	
2015	\$4,100,000		2021	\$5,700,000	
2016	\$4,300,000				

ALL SUCH BONDS shall become due and payable on November 15, 2010 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 thereof to UMB Bank, N.A., Kansas City, Missouri (successor paying agent/registrar to State Street Bank and Trust of Missouri, N.A.), at the following address: 2401 Grand Blvd., Kansas City, Missouri 64108-2551.

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.

UMB BANK, N.A.  
Address. 2401 Grand Blvd.  
Kansas City, MO 64108

Exhibit H

NOTICE OF REDEMPTION  
CITY OF AUSTIN, TEXAS  
ELECTRIC UTILITY SYSTEM REVENUE  
REFUNDING BONDS, SERIES 2003  
DATED FEBRUARY 1, 2003

NOTICE IS HEREBY GIVEN that the bonds of the above series maturing on November 15, 2021 and November 15, 2022, and aggregating in principal amount \$18,800,000 have been called for redemption on May 15, 2013 at the redemption price of par and accrued interest to the date of redemption, such bonds being identified as follows.

<u>Year of</u> <u>Maturity</u>	<u>Principal Amount</u>	<u>CUSIP</u> <u>Number</u>	<u>Year of</u> <u>Maturity</u>	<u>Principal Amount</u>	<u>CUSIP</u> <u>Number</u>
2021	\$9,200,000		2022	\$9,600,000	

ALL SUCH BONDS shall become due and payable on May 15, 2013 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 thereof to The Bank of New York Trust Company, N A , Dallas, Texas (successor paying agent/registrar to Bank One, National Association) at its designated offices at the following addresses.

First Class/

Registered/Certified  
The Bank of New York Trust  
Company, N.A.  
Institutional Trust Services  
P. O. Box 2320  
Dallas, Texas 75221-2320

Express Delivery/Courier  
The Bank of New York Trust  
Company, N.A.  
Institutional Trust Services  
2001 Bryan Street, 9th Floor  
Dallas, Texas 75201

By Hand Only  
The Bank of New York Trust  
Company, N A  
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.

THE BANK OF NEW YORK TRUST  
COMPANY, N A.,  
Address: 2001 Bryan Street, 8th Floor  
Dallas, Texas 75201