

## EXHIBIT F

### SPECIAL ESCROW AGREEMENT

THIS SPECIAL ESCROW AGREEMENT (the "Agreement"), dated and made effective as of June 10, 2010, made by and between the City of Austin, Texas, a duly incorporated municipal corporation principally located in Travis County, Texas (the "City"), and Regions Bank, Houston, Texas (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 \$74,390,000 (hereinafter collectively referred to as the "Refunded Obligations") of the following issues or series, to wit:

(1) City of Austin, Texas, Combined Utility Systems Revenue Refunding Bonds, Series 1993, dated January 15, 1993, representing a portion of such bonds scheduled to mature on May 15, 2014, and aggregating in principal amount of \$5,190,000 (the "Series 1993 Refunded Bonds"); and

(2) City of Austin, Texas, Electric Utility System Revenue Refunding Bonds, Series 2001, dated January 1, 2001, scheduled to mature on November 15, 2023 and November 15, 2030, and aggregating in principal amount \$69,200,000 ("Series 2001 Refunded Bonds"); and

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 the 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 1993 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 10<sup>th</sup> day of June, 2010, 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 2010A" (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 26 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 2010A 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:

\$\_\_\_\_\_ for the purchase of the Escrowed Securities identified in Exhibit B to be held for the account of the Escrow Fund;

\$\_\_\_\_\_ 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 1993 Refunded Bonds is The Bank of New York Mellon Trust Company, N.A., and the paying agent for the Series 2001 Refunded Bonds is U. S. Bank, National Association, Dallas, Texas.

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 \$600.00 of such amount is and represents the total amount of compensation due The Bank of New York Mellon Trust Company, N.A. for services rendered as paying agent for the Series 1993 Refunded Bonds and \$\_\_\_\_\_ of such amount is and represents the total amount of compensation due U. S. Bank, National Association 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 2010, 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

REGIONS BANK

1717 St. James Place, Suite 500  
Houston, Texas 77056

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.

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

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

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Lee Leffingwell, Mayor

ATTEST:

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Shirley A. Gentry, City Clerk

(City Seal)

REGIONS BANK, Houston, Texas, as  
Escrow Agent

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

ATTEST:

\_\_\_\_\_  
Authorized Signer  
(Bank Seal)