

MINUTES  
MEETING OF APRIL 21, 2004  
CITY COUNCIL - CITY OF HOUSTON

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF HARRIS   §

The City Council of the City of Houston, Texas, convened in regular meeting, open to the public, in the City Hall of such City on April 21, 2004, and the roll was called of the duly constituted members of such City Council, to-wit:

Bill White	Mayor
Toni Lawrence	Council Member, District A
Carol Mims Galloway	Council Member, District B
Mark Goldberg	Council Member, District C
Ada Edwards	Council Member, District D
Addie Wiseman	Council Member, District E
M. J. Khan	Council Member, District F
Pam Holm	Council Member, District G
Adrian Garcia	Council Member, District H
Carol Alvarado	Council Member, District I
Mark Ellis	Council Member, At-Large Position No. 1
Gordon Quan	Council Member, At-Large Position No. 2
Shelley Sekula-Gibbs, M.D.	Council Member, At-Large Position No. 3
Ronald C. Green	Council Member, At-Large Position No. 4
Michael Berry	Council Member, At-Large Position No. 5

and the following members were absent, to-wit: None, constituting a quorum of such City Council, when the following, among other business, was transacted:

The Mayor introduced Ordinance No. 2004-300, such Ordinance being entitled:

AN ORDINANCE SUPPLEMENTING THE CITY OF HOUSTON, TEXAS MASTER ORDINANCE PROVIDING FOR THE ISSUANCE OF COMBINED UTILITY SYSTEM REVENUE OBLIGATIONS AND AUTHORIZING ISSUANCE OF CITY OF HOUSTON, TEXAS, COMBINED UTILITY SYSTEM FIRST LIEN REVENUE REFUNDING BONDS IN SEVERAL SERIES DESIGNATIONS, AUTHORIZING THE MAYOR AND CITY CONTROLLER TO APPROVE THE AMOUNTS, INTEREST RATES, PRICES, AND TERMS THEREOF AND CERTAIN OTHER MATTERS RELATING THERETO; PROVIDING FOR THE PAYMENT THEREOF; MAKING OTHER PROVISIONS REGARDING SUCH BONDS AND MATTERS INCIDENT THERETO; AWARDED THE SALE OF THE BONDS; AUTHORIZING THE DEFEASANCE, FINAL PAYMENT, AND DISCHARGE OF CERTAIN WATER AND SEWER SYSTEM COMMERCIAL PAPER NOTES AND CERTAIN WATER AND SEWER SYSTEM OUTSTANDING BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF ESCROW AGREEMENTS; AUTHORIZING THE PURCHASE OF AND SUBSCRIPTION FOR CERTAIN ESCROWED SECURITIES; AUTHORIZING QUALIFIED HEDGE AGREEMENTS WITH RESPECT TO THE BONDS; AUTHORIZING BOND INSURANCE, RESERVE FUND SURETY POLICIES, ESCROW VERIFICATION AND ENGAGEMENT OF ESCROW AGENTS, A CO-BOND COUNSEL AGREEMENT, SPECIAL DISCLOSURE CO-COUNSEL AGREEMENT, SUPPLEMENTAL FINANCIAL ADVISOR AGREEMENT, SWAP ADVISOR AGREEMENT, AND AGREEMENTS WITH RESPECT TO PAYMENT OF BOND COUNSEL AND FINANCIAL ADVISOR FEES OF THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT; AND DECLARING AN EMERGENCY

which Ordinance was read by caption. The Mayor called for a vote on such Ordinance, and the same passed by the following vote:

AYES: Mayor White, Council Members Lawrence, Galloway, Goldberg, Edwards, Khan, Holm, Garcia, Alvarado, Ellis, Quan, Sekula-Gibbs, and Green

NAYS: Council Members Wiseman and Berry

The Mayor thereupon announced that the Ordinance had duly and lawfully passed.

MAYOR'S OFFICE  
HOUSTON, TEXAS

April 14, 2004

To the Honorable City Council of the City of Houston, Texas  
City Hall Annex

In accordance with the provisions of Article VII, Section 7 of the Charter of the City of Houston, Texas, I submit to you the ordinance set out below with the request that it be passed finally on the date of its introduction. There exists a public emergency requiring such action, and I accordingly request that you pass the same if it meets with your approval.



---

City of Houston, Texas  
Mayor

City of Houston Ordinance No. 2004- 300

**CITY OF HOUSTON ORDINANCE NO. 2004-300**

AN ORDINANCE SUPPLEMENTING THE CITY OF HOUSTON, TEXAS MASTER ORDINANCE PROVIDING FOR THE ISSUANCE OF COMBINED UTILITY SYSTEM REVENUE OBLIGATIONS AND AUTHORIZING ISSUANCE OF CITY OF HOUSTON, TEXAS, COMBINED UTILITY SYSTEM FIRST LIEN REVENUE REFUNDING BONDS IN SEVERAL SERIES DESIGNATIONS, AUTHORIZING THE MAYOR AND CITY CONTROLLER TO APPROVE THE AMOUNTS, INTEREST RATES, PRICES, AND TERMS THEREOF AND CERTAIN OTHER MATTERS RELATING THERETO; PROVIDING FOR THE PAYMENT THEREOF; MAKING OTHER PROVISIONS REGARDING SUCH BONDS AND MATTERS INCIDENT THERETO; AWARDED THE SALE OF THE BONDS; AUTHORIZING THE DEFEASANCE, FINAL PAYMENT, AND DISCHARGE OF CERTAIN WATER AND SEWER SYSTEM COMMERCIAL PAPER NOTES AND CERTAIN WATER AND SEWER SYSTEM OUTSTANDING BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF ESCROW AGREEMENTS; AUTHORIZING THE PURCHASE OF AND SUBSCRIPTION FOR CERTAIN ESCROWED SECURITIES; AUTHORIZING QUALIFIED HEDGE AGREEMENTS WITH RESPECT TO THE BONDS; AUTHORIZING BOND INSURANCE, RESERVE FUND SURETY POLICIES, ESCROW VERIFICATION AND ENGAGEMENT OF ESCROW AGENTS, A CO-BOND COUNSEL AGREEMENT, SPECIAL DISCLOSURE CO-COUNSEL AGREEMENT, SUPPLEMENTAL FINANCIAL ADVISOR AGREEMENT, SWAP ADVISOR AGREEMENT, AND AGREEMENTS WITH RESPECT TO PAYMENT OF BOND COUNSEL AND FINANCIAL ADVISOR FEES OF THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT; AND DECLARING AN EMERGENCY

## TABLE OF CONTENTS

	Page
ARTICLE I FINDINGS AND DETERMINATIONS .....	1
Section 1.1. Findings and Determinations .....	1
ARTICLE II DEFINITIONS AND INTERPRETATIONS .....	4
Section 2.1. Definitions Generally .....	4
Section 2.2. Definitions .....	4
ARTICLE III TERMS OF THE SERIES 2004 BONDS .....	6
Section 3.1. Name, Premium Amount, Purpose, Authorization .....	6
Section 3.2. Numbers, Date, and Denomination .....	6
Section 3.3. Terms .....	7
Section 3.4. Further Delegations For Adjustable Rate Obligations Issued in an Auction Rate Mode .....	9
Section 3.5. Redemption Prior to Maturity .....	10
Section 3.6. Manner of Payment, Characteristics, Execution, and Authentication .....	10
Section 3.7. The Depository Trust Company of New York .....	10
ARTICLE IV PLEDGE AND SOURCE OF PAYMENT FOR SERIES 2004 BONDS .....	11
Section 4.1. Pledge and Source of Payment .....	11
ARTICLE V CONCERNING THE PAYING AGENT/REGISTRAR, AUCTION AGENT, AND AUCTION RATE BOND BROKER/DEALER .....	12
Section 5.1. Acceptance .....	12
Section 5.2. Fiduciary Account .....	12
Section 5.3. Series 2004 Bonds Presented .....	12
Section 5.4. Series 2004 Bonds Not Timely Presented .....	12
Section 5.5. Paying Agent/Registrar May Own Series 2004 Bonds .....	13
Section 5.6. Successor Paying Agents/Registrars .....	13
Section 5.7. Auction Agent .....	13
Section 5.8. Successor Auction Agents .....	14
Section 5.9. Series 2004 Auction Rate Bond Broker/Dealers .....	14
Section 5.10. Successor Broker/Dealers .....	14

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
ARTICLE VI    PROVISIONS CONCERNING SALE AND APPLICATION OF PROCEEDS OF SERIES 2004 BONDS .....	14
Section 6.1.    Sale of Series 2004 Bonds .....	14
Section 6.2.    Approval, Registration, and Delivery .....	15
Section 6.3.    Offering Documents.....	15
Section 6.4.    Application of Proceeds of Series 2004 Bonds and Other Available Funds .....	16
Section 6.5.    Covenants to Maintain Tax Exempt Status.....	16
Section 6.6.    Escrow Agreements .....	20
Section 6.7.    Purchase of United States Treasury Obligations .....	20
Section 6.8.    Bond Insurance .....	20
Section 6.9.    Reserve Fund Surety Policy.....	21
Section 6.10.    Paying Agent/Registrar Agreement.....	21
Section 6.11.    Qualified Hedge Agreements.....	21
Section 6.12.    Professional Services .....	22
Section 6.13.    Related Matters .....	23
ARTICLE VII    CONTINUING DISCLOSURE UNDERTAKING.....	23
Section 7.1.    Annual Reports .....	23
Section 7.2.    Material Event Notices .....	24
Section 7.3.    Limitations, Disclaimers, and Amendments.....	24
Section 7.4.    Definitions.....	26
ARTICLE VIII    MISCELLANEOUS .....	26
Section 8.1.    Further Proceedings .....	26
Section 8.2.    Severability .....	26
Section 8.3.    Open Meeting.....	26
Section 8.4.    Declaration of Emergency and of Public Security Authorization .....	27
Section 8.5.    Authority to Modify Attachments.....	27
Section 8.6.    Repealer .....	27

CITY OF HOUSTON ORDINANCE NO. 2004-300

AN ORDINANCE SUPPLEMENTING THE CITY OF HOUSTON, TEXAS MASTER ORDINANCE PROVIDING FOR THE ISSUANCE OF COMBINED UTILITY SYSTEM REVENUE OBLIGATIONS AND AUTHORIZING ISSUANCE OF CITY OF HOUSTON, TEXAS, COMBINED UTILITY SYSTEM FIRST LIEN REVENUE REFUNDING BONDS IN SEVERAL SERIES DESIGNATIONS, AUTHORIZING THE MAYOR AND CITY CONTROLLER TO APPROVE THE AMOUNTS, INTEREST RATES, PRICES, AND TERMS THEREOF AND CERTAIN OTHER MATTERS RELATING THERETO; PROVIDING FOR THE PAYMENT THEREOF; MAKING OTHER PROVISIONS REGARDING SUCH BONDS AND MATTERS INCIDENT THERETO; AWARDING THE SALE OF THE BONDS; AUTHORIZING THE DEFEASANCE, FINAL PAYMENT, AND DISCHARGE OF CERTAIN WATER AND SEWER SYSTEM COMMERCIAL PAPER NOTES AND CERTAIN WATER AND SEWER SYSTEM OUTSTANDING BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF ESCROW AGREEMENTS; AUTHORIZING THE PURCHASE OF AND SUBSCRIPTION FOR CERTAIN ESCROWED SECURITIES; AUTHORIZING QUALIFIED HEDGE AGREEMENTS WITH RESPECT TO THE BONDS; AUTHORIZING BOND INSURANCE, RESERVE FUND SURETY POLICIES, ESCROW VERIFICATION AND ENGAGEMENT OF ESCROW AGENTS, A CO-BOND COUNSEL AGREEMENT, SPECIAL DISCLOSURE CO-COUNSEL AGREEMENT, SUPPLEMENTAL FINANCIAL ADVISOR AGREEMENT, SWAP ADVISOR AGREEMENT, AND AGREEMENTS WITH RESPECT TO PAYMENT OF BOND COUNSEL AND FINANCIAL ADVISOR FEES OF THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON:

ARTICLE I

FINDINGS AND DETERMINATIONS

Section 1.1. Findings and Determinations. It is hereby officially found and determined that:

(a) The City of Houston, Texas (the "City") is an incorporated city operating under a home-rule charter adopted pursuant to Article XI, Section 5, of the Constitution of Texas having a population according to the latest federal decennial census of 50,000 or more and having outstanding long-term debt secured by the Net Revenues of the System which is rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long-term obligations.

(b) The City has adopted a Master Ordinance providing for the issuance of bonds and other obligations to be secured by revenues from the City's combined utility system (the "Master Ordinance").

(c) The City has heretofore issued and there presently remain outstanding certain of the City's Water and Sewer Commercial Paper Notes, Series A (hereinafter defined as the "Refunded Notes"), which are to be refunded and defeased with a portion of the revenue refunding bonds proposed to be issued pursuant to this Supplemental Ordinance.

(d) The City is authorized by Chapter 1207, Texas Government Code, as amended to issue revenue refunding bonds substantially in the form set forth in Exhibit A attached hereto for the purpose of refunding the Refunded Notes and to accomplish such refunding by depositing directly with the paying agent for the Refunded Notes proceeds of such refunding bonds, together with other available funds, which may be invested in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, which shall 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 Notes, and such deposits shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Notes.

(e) The City has determined to enter into an escrow agreement with U.S. Bank Trust National Association, as escrow agent, as authorized in said Chapter 1207, pursuant to which proceeds of the revenue refunding bonds herein authorized, and other available funds, will be deposited, invested and applied in a manner independently certified to be sufficient to provide for the full and timely payment of all principal of and interest on the Refunded Notes.

(f) Upon the issuance of the revenue refunding bonds and the making of the deposit herein authorized, the Refunded Notes shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such escrow agreement, and the pledges, liens, trusts, and all other covenants, provisions, terms, and conditions of the ordinance authorizing the issuance of the Refunded Notes shall be discharged, terminated, and defeased as to the Refunded Notes.

(g) The City has heretofore issued and there presently remain outstanding water and sewer system bonds described in Exhibit B attached to this Supplemental Ordinance, which outstanding bonds (the "Refunded Bonds") are to be refunded with a portion of the revenue refunding bonds proposed to be issued pursuant to this Supplemental Ordinance.

(h) The City desires to redeem the Refunded Bonds in advance of their maturities in order to terminate and defease the pledges and liens securing payment of the Refunded Bonds, thereby releasing the City as to the Refunded Bonds from the covenants, provisions, terms, and conditions contained in the ordinances authorizing the issuance of the Refunded Bonds.

(i) The City is also authorized by said Chapter 1207, to issue revenue refunding bonds substantially in the form of Exhibit A attached hereto for the purpose of refunding the Refunded Bonds and effecting the redemption thereof in advance of their maturities, and to

accomplish such refunding by depositing directly with a paying agent for the Refunded Bonds the proceeds of such refunding bonds, together with other available funds, which may be invested in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, which shall 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 such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Bonds.

(j) The City has determined to enter into an escrow agreement with JPMorgan Chase Bank, as escrow agent, as authorized in said Chapter 1207, pursuant to which proceeds of the revenue refunding bonds herein authorized, and other available funds, will be deposited, invested and applied in a manner independently certified to be sufficient to provide for the full and timely payment of all principal of, premium, if any, and interest on the Refunded Bonds.

(k) Upon the issuance of the revenue refunding bonds and the making of the deposit herein authorized, the Refunded Bonds shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such escrow agreement, and the pledges, liens, trusts, and all other covenants, provisions, terms, and conditions of the ordinances authorizing the issuance of the Refunded Bonds shall be discharged, terminated, and defeased as to the Refunded Bonds.

(l) The City desires to authorize the purchase of certain direct obligations of the United States of America in the open market and/or the subscription for certain book entry United States Treasury certificates of indebtedness, notes and bonds and other obligations of the United States of America to be purchased with a portion of proceeds of the revenue refunding bonds herein authorized, all for deposit into the escrow authorized pursuant to this Supplemental Ordinance.

(m) The City has determined that the revenue refunding bonds are the first series of Bonds to be issued under the Master Ordinance and therefore are not subject to the requirements in Article VI of the Master Ordinance relating to the issuance of Additional First Lien Bonds, that the issuance of the revenue refunding bonds to redeem the Refunded Notes and the Refunded Bonds is in the best interests of the City, and that the manner in which the refunding is being executed does not make it practical to make the determination required by Section 1207.008(a) of the Texas Government Code, as amended.

(n) The City has further determined that the purchase of a Credit Agreement in the form of a municipal bond insurance policy or policies with respect to the Series 2004 Bonds is cost effective.

(o) The City has further determined to purchase a Reserve Fund Surety Policy or deposit cash to satisfy the Reserve Fund Requirements for the Series 2004 Bonds.

(p) In order to manage its borrowings for the System, the City desires to enter into one or more Qualified Hedge Agreements with respect to certain revenue refunding bonds to be issued pursuant to this Supplemental Ordinance.

## ARTICLE II

### DEFINITIONS AND INTERPRETATIONS

Section 2.1. Definitions Generally. All terms capitalized but not defined in Section 2.2 or elsewhere in this Supplemental Ordinance shall have the meanings assigned to them in the Master Ordinance.

Section 2.2. Definitions. In this Supplemental Ordinance, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

“Bond Insurer” shall mean a third party financial institution that provides a Credit Agreement in the form of a municipal bond insurance policy, as determined in the Officers’ Pricing Certificate.

“Business Day” shall mean, for purposes of this Supplemental Ordinance, a day other than (i) a Saturday and Sunday, (ii) a day on which the Paying Agent/Registrar, the Tender Agent, the Auction Agent, the Broker-Dealers, the Bond Insurer or banks and trust companies in New York, New York are authorized or required to remain closed, or (iii) a day on which the New York Stock Exchange is closed.

“Conversion Date” shall mean any date on which all or any portion of a subseries of Taxable Obligations are subject to mandatory tender and are remarketed as Tax Exempt Obligations.

“Convertible Obligations” shall mean Series 2004 Bonds that are initially issued as Taxable Obligations and convert to Tax Exempt Obligations on a Conversion Date.

“DTC” shall mean The Depository Trust Company of New York, New York or any successor securities company.

“DTC Participant” shall mean securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities and to facilitate the clearance and settlement of securities transactions among DTC Participants through electronic book-entry changes in the accounts of the DTC Participants, thereby eliminating the need for physical movement of definitive certificates.

“Escrow Agent for Refunded Bonds” shall mean JPMorgan Chase Bank, and its successors in such capacity.

“Escrow Agent for Refunded Notes” shall mean U.S. Bank Trust National Association, and its successors in such capacity.

“Escrow Agreement for Refunded Bonds” shall mean the agreement between the City and the Escrow Agent for Refunded Bonds in substantially the form attached hereto as Exhibit C.

"Escrow Agreement for Refunded Notes" shall mean the agreement between the City and the Escrow Agent for Refunded Notes in substantially the form attached hereto as Exhibit D.

"Escrow Agreements" shall mean, collectively, the Escrow Agreement for Refunded Bonds and Escrow Agreement for Refunded Notes.

"Fixed Rate Obligations" shall mean Series 2004 Bonds that bear interest at rates fixed to maturity.

"Officers' Pricing Certificate" shall mean a certificate or certificates to be signed by the Mayor and the City Controller pursuant to Section 3.3 hereof and delivered to the City Secretary, in substantially the form attached hereto as Exhibit E.

"Ordinance" shall mean collectively, the Master Ordinance, this Supplemental Ordinance, and all amendments hereof and supplements hereto.

"Paying Agent/Registrar" shall mean JPMorgan Chase Bank, Houston, Texas, and its successors in that capacity.

"Refunded Bonds" shall mean all or that portion of outstanding City of Houston, Texas, Water and Sewer System Junior Lien Revenue Bonds identified in Exhibit B attached hereto, which are being refunded and defeased upon the issuance of the Series 2004 Bonds.

"Refunded Notes" shall mean the outstanding City of Houston, Texas, Water and Sewer System Commercial Paper Notes, Series A, in an aggregate principal amount of \$645,250,000, which are being redeemed and defeased upon the issuance of the Series 2004 Bonds.

"Report" shall mean the report or reports prepared by a nationally recognized firm or firms of certified public accountants, with respect to the adequacy of the escrowed securities referred to in the Escrow Agreement for Refunded Bonds and the Escrow Agreement for Refunded Notes to pay, when due, the principal of, interest on, and any call premium requirements on the Refunded Bonds and Refunded Notes, respectively.

"Series 2004 Bond Reserve Fund Requirement" shall mean an amount equal to 50% of the Maximum Annual Debt Service Requirements on (i) all First Lien Bonds issued through the date of this Supplemental Ordinance, and (ii) all subsequent issues of First Lien Bonds for which the City elects to fund a shared Bond Reserve Fund on a parity with the Bond Reserve Fund funded by this Supplemental Ordinance. All such issues electing this Series 2004 Bond Reserve Fund Requirement shall be entitled to a parity claim on the funds deposited in this shared Bond Reserve Fund.

"Series 2004 Bonds" shall mean the bonds authorized by this Supplemental Ordinance, which shall be issued in several subseries as provided for in Article III.

"Series 2004A Bonds" shall mean the City of Houston, Texas, Combined Utility System First Lien Revenue Refunding Bonds, Series 2004A, which may include several subseries, issued pursuant to this Supplemental Ordinance.

"Series 2004B Bonds" shall mean the City of Houston, Texas, Combined Utility System First Lien Revenue Refunding Bonds, Series 2004B, which may include several subseries, issued pursuant to this Supplemental Ordinance.

"Series 2004C Bonds" shall mean the City of Houston, Texas, Combined Utility System First Lien Revenue Refunding Bonds, Series 2004C, which may include several subseries, issued pursuant to this Supplemental Ordinance.

"Surety" shall mean a third party financial institution that provides a Reserve Fund Surety Policy.

"Tax Exempt Obligations" shall mean Series 2004 Bonds during the period that the interest on such Series 2004 Bonds is excludable from the gross income of the owners thereof for federal income tax purposes.

"Taxable Obligations" shall mean Series 2004 Bonds during any period that the interest on such Series 2004 Bonds is included in the gross income of the owners thereof for federal income tax purposes.

### ARTICLE III

#### TERMS OF THE SERIES 2004 BONDS

Section 3.1. Name, Premium Amount, Purpose, Authorization. The Series 2004 Bonds, to be known and designated as the "CITY OF HOUSTON, TEXAS, COMBINED UTILITY SYSTEM FIRST LIEN REVENUE REFUNDING BONDS, SERIES 2004," the original aggregate principal amount not to exceed \$3,700,000,000, are authorized to be issued in multiple subseries, either as Fixed Rate Obligations or Adjustable Rate Obligations, and as Tax-Exempt Obligations, Taxable Obligations, or Convertible Obligations, all as determined in the Officers' Pricing Certificate, in fully registered form, without coupons, in substantially the form set forth in Exhibit A hereto with such appropriate variations, omissions and insertions as are permitted by this Supplemental Ordinance and in accordance with the terms of the Master Ordinance and the further provisions of this Article. The Series 2004 Bonds are being issued for the purpose of refunding the Refunded Notes and the Refunded Bonds, under and pursuant to the authority of Chapters 1207 and 1371, Texas Government Code, and all other applicable law.

Section 3.2. Numbers, Date, and Denomination. The Series 2004 Bonds shall be dated as of May 15, 2004, unless otherwise provided in the Officers' Pricing Certificate. The Series 2004 Bonds shall initially be evidenced by Initial Bonds numbered AG\_\_\*-1 and thereafter by definitive bonds numbered in sequence beginning with R\_\_\*-1 where \* will be filled in based upon the letter of the Series and the number of any subseries of the series (e.g., "A" for Series 2004A, "B-1" for Series 2004B-1, etc.) (unless, otherwise provided in the Officers' Pricing Certificate). The Series 2004 Bonds that are issued as Fixed Rate Obligations shall be in the denomination of \$5,000 principal amount (or maturity amount) or any integral multiple thereof. Series 2004 Bonds that are issued as Adjustable Rate Obligations shall be in the denomination of \$25,000 principal amount or any integral multiple thereof. The Series 2004A Bonds shall be

issued as Fixed Rate Obligations and Tax Exempt Obligations. The Series 2004B Bonds shall be issued as Adjustable Rate Obligations and Tax Exempt Obligations. The Series 2004C Bonds shall be issued as Adjustable Rate Obligations and Convertible Obligations.

Section 3.3. Terms.

(a) The Series 2004 Bonds shall bear interest from the dates and at the rates per annum to be set forth in the Officers' Pricing Certificates for the Series 2004 Bonds, until maturity or earlier redemption, payable or compounded semiannually on May 15 and November 15 of each year commencing no later than November 15, 2004, with respect to Series 2004 Bonds that are issued as Fixed Rate Obligations, and payable as set forth in the Officers' Pricing Certificates with respect to Series 2004 Bonds that are issued as Adjustable Rate Obligations. The Series 2004 Bonds shall mature not later than May 15, 2035, and shall be payable on the dates and in the principal amounts set forth in the Officers' Pricing Certificates. The Series 2004 Bonds that are issued as Adjustable Rate Obligations shall initially be issued in an Auction Rate Mode and shall have initial "Auction Dates," initial "Auction Periods," and initial "Interest Payment Dates," and be divisible into such series as set out in the Officers' Pricing Certificate.

(b) As authorized by Chapters 1207 and 1371, Texas Government Code, as amended, the Mayor and City Controller (and in the absence of the City Controller, the Deputy City Controller) are hereby authorized to act on behalf of the City in selling and delivering the Series 2004 Bonds and carrying out the other procedures specified in this Supplemental Ordinance, including any additional designation or title by which the Series 2004 Bonds shall be known, the number of subseries of Series 2004 Bonds to be issued and the principal amount of each subseries, the price at which each series of the Series 2004 Bonds will be sold, the date or dates (which may be different dates for each series of the Series 2004 Bonds) on which the Series 2004 Bonds shall be sold, the form in which the Series 2004 Bonds that are issued as Fixed Rate Obligations shall be issued whether as current interest bonds, as compound interest bonds, or as a combination of current interest bonds and compound interest bonds, the final provisions and terms of the Provisions for Multi-Modal Obligations set forth in Exhibit F and F-1, and the initial Auction Periods and Auction Dates for the Adjustable Rate Obligations that are initially issued in an Auction Rate Mode, the year or years in which each series of the Series 2004 Bonds will mature, the principal amount to mature in each of such years, the aggregate principal amount of each series of the Series 2004 Bonds, the rate of interest to be borne by each such maturity, the first interest payment date or compounding date, as the case may be, the dates, prices, and terms, if any, upon and at which each series of the Series 2004 Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, and such officers are also hereby authorized to act on behalf of the City in approving the purchase of a bond insurance policy or policies for all or any portion of the Series 2004 Bonds, one or more swap insurance policies for all or any portion of the City's obligations under related Qualified Hedge Agreements, and one or more Reserve Fund Surety Policies for the First Lien Bond Reserve Fund to satisfy the Series 2004 Bond Reserve Fund Requirement, the execution of one or more Qualified Hedge Agreements that are expected to enable the City to obtain a fixed rate for the Debt Service Requirements on the Series 2004 Bonds that are issued as Adjustable Rate Obligations that is less than the fixed rate such Series 2004 Bonds would bear if

such Series 2004 Bonds were issued as Fixed Rate Obligations, and all other matters relating to the issuance, sale and delivery of the Series 2004 Bonds, including the refunding of the Refunded Notes and the Refunded Bonds, all of which shall be specified in the Officers' Pricing Certificate for each subseries of the Series 2004 Bonds or in such Qualified Hedge Agreements, provided that:

- (i) the price to be paid for each series of the Series 2004 Bonds shall not be less than 90% of the aggregate original principal amount of the current interest bonds plus accrued interest, if any, thereon from their date to their delivery and 90% of the aggregate present value of any compound interest bonds from their date of delivery,
- (ii) none of the Series 2004 Bonds that are issued as Fixed Rate Obligations shall bear interest at a rate greater than 10% per annum or in excess of the maximum rate allowed by Chapter 1204, Texas Government Code,
- (iii) the aggregate principal amount of the Series 2004 Bonds shall equal an amount sufficient to provide for the redemption of the Refunded Notes and of the Refunded Bonds identified in Exhibit B and to pay costs of issuance of the Series 2004 Bonds,
- (iv) each subseries of the Series 2004 Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations,
- (v) each such Qualified Hedge Agreement shall be substantially in the form and to the effect attached hereto as Exhibit O, with such changes and completions thereto as they may deem advisable to obtain the lowest available expected net cost of the Debt Service Requirements on the Series 2004 Bonds that are issued as Adjustable Rate Obligations, including revisions necessary to qualify such Qualified Hedge Agreements for swap insurance (such as the addition of Additional Termination Events based upon the default or credit deterioration of the insurer, recognition of the insurer as a third party beneficiary, and recognition of the insurer's right to subrogation following advances, to receive notices, to approve assignments, and to control the designation of Early Termination Dates); *provided* that (1) the term of the initial transactions evidenced by such Qualified Hedge Agreements shall not extend beyond the term of the related series of Adjustable Rate Obligations, the notional amounts of such transactions shall not exceed the aggregate principal of such related series of Adjustable Rate Obligations scheduled to be Outstanding from time to time after giving effect to any mandatory redemption requirements for such Adjustable Rate Obligations; and the Fixed Rate for each period does not exceed 4.90% per annum; (2) such Qualified Hedge Agreements are entered into with entities the long-term senior unsecured debt of which (or of such entity's Credit Support Provider) is rated at least "Aa3" by Moody's Investors Service, Inc. or "AA-" by Standard & Poor's Ratings Group, and all such swap insurance policies are entered into with entities

the claims-paying ability of which is rated at least "Aaa" by Moody's Investors Service, Inc. or "AAA" by Standard & Poor's Ratings Group; (3) the City receives a written opinion from Swap Financial Group LLC to the effect that the terms of such swap transactions are fair based on market conditions as of the Trade Date referred to in the Qualified Hedge Agreement; and (4) this Ordinance and the Qualified Hedge Agreements are approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of the State of Texas before such Qualified Hedge Agreements become effective, and

- (vi) any finding by the Mayor or the City Controller relating to the sale and delivery of the Series 2004 Bonds, the purchase of bond insurance or surety bonds, and the execution of Qualified Hedge Agreements shall have the same force and effect as a finding or determination made by the City Council.

Section 3.4. Further Delegations For Adjustable Rate Obligations Issued in an Auction Rate Mode. The person from time to time holding the office of City Controller is hereby designated as the initial Authorized Representative with respect to the Adjustable Rate Obligations issued in an Auction Rate Mode (the "Authorized Representative"). The Authorized Representative shall have the authority to appoint (subject to the requirements of this Supplemental Ordinance, the Paying Agent/Registrar Agreement, the Auction Agreement and the Broker/Dealer Agreement) one or more other persons to act on behalf of the Authorized Representative. Any such appointment(s) shall be in writing and shall be delivered to the Broker/Dealers, Paying Agent/Registrar, and Auction Agents. Pursuant to the provisions of Chapters 1207 and 1371, Texas Government Code, as amended, and subject to the terms and provisions of the Master Ordinance, the City delegates to the Authorized Representative the authority, under the terms of this Supplemental Ordinance, to determine the number of subseries and principal amount of each subseries of the Adjustable Rate Obligations issued in an Auction Rate Mode, to establish, alter, or consent to changes in and to any and all of the terms or modes of the Adjustable Rate Obligations, including without limitation, Auction Dates, Auction Periods, Mode Change Date and Interest Payment Dates, any conversions to different interest rate modes now or hereafter permitted by this Supplemental Ordinance or amendments hereto, to appoint or replace or consent to the appointment or replacement of any Auction Agent or any Broker/Dealer and to execute and enter into or consent to on behalf of the City the Paying Agent/Registrar Agreement, any Auction Agreement, and any Broker/Dealer Agreement and any certificate or other instrument in connection therewith or any agreement with any Bond Insurer or Reserve Fund Surety Policy provider for the Adjustable Rate Obligations; provided however that the Authorized Representative and any appointee(s) must consult with representatives of the Department of Public Works and Engineering, Department of Finance and Administration, and the Financial Advisor to the System prior to taking any action, with respect to any subseries of the Adjustable Rate Obligations issued in an Auction Rate Mode, that may alter the initial or any subsequently established Auction Date, Auction Period, Auction Period Commencement Date or Interest Payment Date or change any Auction Agent or change or add any Broker/Dealer, or convert to a new or different interest rate mode, if authorized by future amendments to this Supplemental Ordinance. So long as any Adjustable Rate Obligations remain Outstanding in an Auction Rate Mode, the City shall at all times appoint an Authorized Representative.

Section 3.5. Redemption Prior to Maturity. The Series 2004 Bonds are subject to redemption in the manner provided in the FORM OF SERIES 2004 BONDS set forth in Exhibit A of this Supplemental Ordinance.

Section 3.6. Manner of Payment, Characteristics, Execution, and Authentication. The Paying Agent/Registrar shall be the paying agent for the Series 2004 Bonds. The Series 2004 Bonds shall be payable, shall have the characteristics, shall be signed and executed, shall be sealed, and shall be authenticated, all as provided and in the manner indicated in the FORM OF SERIES 2004 BONDS set forth in Exhibit A of this Supplemental Ordinance, subject to revisions as are necessary or advisable to describe the terms approved in the Officers Pricing Certificates.

Section 3.7. The Depository Trust Company of New York.

(a) Notwithstanding any provision of this Supplemental Ordinance to the contrary, unless the City shall otherwise direct, all Series 2004 Bonds issued hereunder shall be registered in the name of Cede & Co., as nominee of DTC, as the Registered Owner of the Series 2004 Bonds, and held in the custody of DTC. Unless otherwise requested by DTC, a single certificate will be issued and delivered to DTC for each maturity of Series 2004 Bonds. Beneficial owners of Series 2004 Bonds will not receive physical delivery of Series 2004 Bond certificates except as provided hereinafter as long as DTC shall continue to serve as securities depository for the Series 2004 Bonds as provided herein, all transfers of beneficial ownership interests in the Series 2004 Bonds will be made by book-entry only, and no investor or other party purchasing, selling, or otherwise transferring beneficial ownership interests in Series 2004 Bonds is to receive, hold, or deliver any Series 2004 Bond certificate; provided, that, if DTC fails or refuses to act as securities depository for the Series 2004 Bonds, the City shall take the actions necessary to provide for the issuance of Series 2004 Bond certificates to the Registered Owners of such Series 2004 Bonds.

With respect to Series 2004 Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom a DTC Participant holds an interest in the Series 2004 Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Series 2004 Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner, as shown on the Register, of any notice with respect to the Series 2004 Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a Registered Owner, as shown in the Register, of any amount with respect to the principal of, premium, if any, or interest on the Series 2004 Bonds.

(b) In the event that (i) DTC determines not to continue to act as securities depository for the Series 2004 Bonds (which determination shall become effective no less than ninety (90) days after written notice to such effect to the City and the Paying Agent/Registrar); (ii) the City or the Paying Agent/Registrar determines (which determination is conclusive as to DTC and the beneficial owners of the Series 2004 Bonds) that DTC is incapable of discharging its

responsibilities described herein; or (iii) the City or the Paying Agent/Registrar determines (which determination is conclusive as to DTC and the beneficial owners of the Series 2004 Bonds) that it is in the best interests of the beneficial owners of the Series 2004 Bonds not to continue DTC's book-entry only system of transfer for the Series 2004 Bonds, then the City shall use its best efforts to appoint a successor securities depository, qualified to act as such under Section 17A of the Securities Exchange Act of 1934, as amended. In the event of such an appointment, the City shall notify DTC of the appointment of such successor securities depository and transfer one or more separate Series 2004 Bonds to such successor securities depository or notify DTC Participants of the availability through DTC of Series 2004 Bonds and transfer one or more separate Series 2004 Bonds to DTC Participants having Series 2004 Bonds credited to their DTC accounts. In such event, the Series 2004 Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Registered Owners transferring or exchanging Series 2004 Bonds shall designate, in accordance with the provisions of this Supplemental Ordinance.

In the event the City fails to appoint a successor securities depository for the Series 2004 Bonds, the City shall cause to be authenticated and delivered replacement Series 2004 Bonds, in certificated form, to the beneficial owners of the Series 2004 Bonds.

(c) Notwithstanding any other provision of this Supplemental Ordinance to the contrary, as long as any Series 2004 Bonds are registered in the name of Cede & Co., as nominee of DTC, (i) all payments with respect to the principal of, premium, if any, and interest on the Series 2004 Bonds and all notices with respect to such Series 2004 Bonds shall be made and given, respectively, in accordance with DTC's Operational Arrangements, as provided in the Blanket Letter of Representations between DTC and the City; (ii) the requirements of this Supplemental Ordinance of holding, delivering or transferring Series 2004 Bonds shall be deemed modified to require the appropriate person or entity to meet the requirements of DTC; and (iii) delivery of the Series 2004 Bonds will be in accordance with arrangements among the City, the Paying Agent/Registrar, and DTC.

(d) If at any time DTC ceases to hold the Series 2004 Bonds in book-entry only form, all references herein to DTC shall be of no further force or effect.

#### ARTICLE IV

##### PLEDGE AND SOURCE OF PAYMENT FOR SERIES 2004 BONDS

Section 4.1. Pledge and Source of Payment. In the Master Ordinance, the City covenants and agrees that gross revenues (as defined in the Previous Ordinance) shall, as collected and received by the City, be applied first to provide for the payment of all Required Payments and then Gross Revenues shall be deposited and paid into the special funds established by the Master Ordinance, to provide for the payment of all remaining Maintenance and Operation Expenses that are not paid as Required Payments. Under the Master Ordinance, Net Revenues shall be applied to provide for the payment of all principal of, interest on and any

redemption premiums on the First Lien Bonds (including the Series 2004 Bonds), any parity Obligations under Qualified Hedge Agreements and Credit Agreements, and all expenses of paying same. Remaining Net Revenues thereafter shall be applied as set forth in the Master Ordinance. The First Lien Bonds, including the Series 2004 Bonds, shall constitute special obligations of the City that shall be payable solely from and shall be equally and ratably secured by a lien on the Net Revenues as collected and received by the City from the operation and ownership of the System, which Net Revenues shall, in the manner provided by the Master Ordinance, be set aside for and pledged to the payment of the First Lien Bonds and parity Obligations in the First Lien Bond Interest and Sinking Fund and the First Lien Bond Reserve Fund as provided by the Master Ordinance, and the First Lien Bonds shall be, in all respects, on a parity with and of equal dignity with one another. The Owners of the First Lien Bonds shall never have the right to demand payment of either the principal of, interest on or any redemption premium on the First Lien Bonds out of any funds raised or to be raised by taxation.

#### ARTICLE V

#### CONCERNING THE PAYING AGENT/REGISTRAR, AUCTION AGENT, AND AUCTION RATE BOND BROKER/DEALER

Section 5.1. Acceptance. JPMorgan Chase Bank, Houston, Texas, is hereby appointed as the initial Paying Agent/Registrar for the Series 2004 Bonds. Such initial Paying Agent/Registrar and any successor Paying Agent/Registrar, by undertaking the performance of the duties of the Paying Agent/Registrar hereunder, and in consideration of the payment of fees and/or deposits of money pursuant to this Supplemental Ordinance, shall be deemed to accept and agree to abide by the terms of this Supplemental Ordinance.

Section 5.2. Fiduciary Account. All money transferred to the Paying Agent/Registrar under this Supplemental Ordinance (except sums representing Paying Agent/Registrar's fees) shall be held in a fiduciary account for the benefit of the City, shall be the property of the City, and shall be disbursed in accordance with this Supplemental Ordinance.

Section 5.3. Series 2004 Bonds Presented. Subject to the provisions of Section 5.4, all matured Bonds presented to the Paying Agent/Registrar for payment shall be paid without the necessity of further instructions from the City. Such Series 2004 Bonds shall be canceled as provided herein.

Section 5.4. Series 2004 Bonds Not Timely Presented. The Paying Agent/Registrar shall remit to the City, upon receipt of the certificate provided for herein, a sum equal to the aggregate face amount of all Series 2004 Bonds which have not been presented for payment prior to the date specified in such certificate. Such certificate shall:

(a) Specify the Series 2004 Bonds or portions thereof to which it applies and the amount of each;

(b) Specify the date on which the City believes itself to be no longer obligated to pay such Bonds or portions thereof by virtue of the expiration of the applicable statute of limitations under the laws of the State of Texas; and

(c) Be signed by the Mayor and attested by the City Secretary.

Funds held by the Paying Agent/Registrar that represent principal of and interest on the Series 2004 Bonds remaining unclaimed by any Registered Owner after the expiration of three years from the date such funds have become due and payable (a) shall be reported and disposed of by the Paying Agent/Registrar in accordance with the provisions of Title 6 of the Texas Property Code, as amended, to the extent such provisions are applicable to such funds, or (b) to the extent such provisions do not apply to the funds, such funds shall be paid by the Paying Agent/Registrar to the City upon receipt by the Paying Agent/Registrar of a written request therefor from the City.

The Paying Agent/Registrar shall have no liability to the Owners of Series 2004 Bonds by virtue of actions taken in compliance with this Section.

Section 5.5. Paying Agent/Registrar May Own Series 2004 Bonds. The Paying Agent/Registrar in its individual or any other capacity, may become the owner or pledgee of Series 2004 Bonds with the same rights it would have if it were not the Paying Agent/Registrar.

Section 5.6. Successor Paying Agents/Registrars. The City covenants that at all times while any series of Series 2004 Bonds are Outstanding it will provide a legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar for the Series 2004 Bonds. If the Paying Agent/Registrar or its successor for any reason no longer acts as Paying Agent/Registrar hereunder, the City covenants that it will appoint a bank in the same city as the Paying Agent/Registrar initially appointed to perform the duties of Paying Agent/Registrar hereunder. Any successor Paying Agent/Registrar shall be either a national or state banking institution and a corporation organized and doing business under the laws of the United States of America or any state, which is authorized under such laws to exercise trust powers and is subject to supervision or examination by federal or state authority.

The City reserves the right to change the Paying Agent/Registrar for any series of Series 2004 Bonds on not less than sixty (60) days written notice to the Paying Agent/Registrar, as long as any such notice is effective not less than sixty (60) days prior to the next succeeding principal or interest payment date on the Series 2004 Bonds. Promptly upon the appointment of any successor Paying Agent/Registrar and the payment by the City of any fees due to be paid to the previous Paying Agent/Registrar, the previous Paying Agent/Registrar shall deliver the Register or a copy thereof to the new Paying Agent/Registrar and the new Paying Agent/Registrar shall notify each Registered Owner, by first-class mail, postage prepaid, of such change and of the address of the new Paying Agent/Registrar. Each Paying Agent/Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Supplemental Ordinance.

Section 5.7. Auction Agent. The City is hereby authorized to enter into one or more Auction Agent Agreements with the initial Auction Agent designated in the Officers Pricing

Certificate in substantially the form attached hereto as Exhibit G, which is hereby authorized and approved subject to such revisions as may be authorized by the Authorized Representative pursuant to Section 3.4 of this Supplemental Ordinance.

Section 5.8. Successor Auction Agents. If any Auction Agent or its successors become unable for any reason to act as Auction Agent hereunder, the City covenants that the Authorized Representative, designated pursuant to Section 3.4 of this Supplemental Ordinance, will appoint a successor Auction Agent to perform the duties of such Auction Agent hereunder.

Section 5.9. Series 2004 Auction Rate Bond Broker/Dealers. Bear, Stearns & Co. Inc., Goldman Sachs & Co., and UBS Financial Services Inc. are hereby appointed Broker/Dealers for the Series 2004B Bonds and J.P. Morgan Securities Inc. and Lehman Brothers are hereby appointed Broker/Dealers for the Series 2004C Bonds, and the City is hereby authorized to enter into a Broker/Dealer Agreement with each Broker/Dealer in substantially the form attached hereto as Exhibit H, which Broker/Dealer Agreements are hereby authorized and approved subject to such revisions as may be authorized by the Authorized Representative pursuant to Section 3.4 of this Supplemental Ordinance. In addition to such Broker/Dealer Agreements, by undertaking the performance of the duties of the Broker/Dealers hereunder, and in consideration of the payment of fees and/or deposits of money pursuant to this Supplemental Ordinance, each Broker/Dealer accepts and agrees to abide by the terms of this Supplemental Ordinance.

Section 5.10. Successor Broker/Dealers. If any Broker/Dealer or Successor Broker/Dealer become unable for any reason to act as Broker/Dealer hereunder, the City covenants that the Authorized Representative, designated pursuant to Section 3.4 of this Supplemental Ordinance, will appoint a successor Broker/Dealer to perform the duties of Broker/Dealer hereunder.

## ARTICLE VI

### PROVISIONS CONCERNING SALE AND APPLICATION OF PROCEEDS OF SERIES 2004 BONDS

Section 6.1. Sale of Series 2004 Bonds. Sale of the Series 2004 Bonds is hereby awarded to the several underwriters shown on the cover of, and more particularly described under the heading "UNDERWRITING" in, the Preliminary Official Statement for the Series 2004 Bonds attached hereto as Exhibit I, in accordance with the provisions of multiple Bond Purchase Agreements for the Series 2004 Bonds substantially in the form presented to the City Council concurrently with the adoption of this Supplemental Ordinance and attached hereto as Exhibit J, the terms and provisions of which are hereby accepted, approved, and authorized, and, upon the completion of the terms of the Bond Purchase Agreements in accordance with the terms of the Officers' Pricing Certificate for the Series 2004 Bonds and this Supplemental Ordinance, the Mayor and the City Controller are authorized and directed to enter into and execute and the City Secretary to attest and affix the City's seal to said Bond Purchase Agreements for the Series 2004 Bonds on behalf of the City.

Section 6.2. Approval, Registration, and Delivery. The Mayor and the City Controller are hereby authorized to have control and custody of the Series 2004 Bonds and all necessary records and proceedings pertaining thereto pending their delivery, and the Mayor, the City Controller, and the City Secretary and other officers and employees of the City are hereby authorized, directed and instructed to make such certifications and to execute such instruments (including by printed facsimile signature, the Series 2004 Bonds) as may be necessary to accomplish the delivery of the Series 2004 Bonds and to assure the investigation, examination, and approval thereof by the Attorney General of Texas and the registration of the initial Series 2004 Bonds by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Series 2004 Bonds, the Comptroller of Public Accounts of the State of Texas (or a deputy designated in writing to act for him) shall be requested to sign manually the registration certificate prescribed herein to be attached or affixed to each Series 2004 Bond initially delivered and the seal of the Comptroller of Public Accounts of the State of Texas shall be impressed or printed or lithographed thereon. Delivery of the Series 2004 Bonds is subject to the unqualified approving opinions as to the legality of the Series 2004 Bonds of the Attorney General of Texas and of Fulbright & Jaworski L.L.P., Houston, Texas and Burney & Foreman, Houston, Texas, Co-Bond Counsel.

Section 6.3. Offering Documents. The City Council hereby authorizes and approves, in connection with the sale of the Series 2004 Bonds, the preparation and distribution of a Preliminary Official Statement relating to the Series 2004 Bonds, substantially in the form attached hereto as Exhibit I, and one or more final Official Statements containing such additional information and amendments as may be necessary to conform to the terms of the Series 2004 Bonds, the Officers' Pricing Certificates, and this Supplemental Ordinance and to include information concerning the applicable municipal bond insurance policy issued by the Bond Insurer and the applicable Surety Policy issued by the Surety.

The City hereby ratifies and confirms that the Preliminary Official Statement approved by this Section 6.3 is deemed to be "final" by the City as of its date, except for the omission of no more than the information permitted by Subsection (b)(1) of Rule 15c2-12 of the Securities and Exchange Commission.

Further, the City Council hereby ratifies, authorizes, and approves the actions of the Mayor, City Controller and the City's financial advisor and other consultants in seeking ratings on the Series 2004 Bonds from one or more of the Rating Agencies, and such action is hereby ratified and confirmed.

Section 6.4. Application of Proceeds of Series 2004 Bonds and Other Available Funds.

Proceeds from the sale of the Series 2004 Bonds and other available funds shall, promptly upon receipt by the City, be applied as follows:

- (a) Accrued interest, if any, shall be deposited into the First Lien Bond Interest and Sinking Fund.
- (b) Sufficient proceeds shall be applied, together with available funds in the Renewal and Replacement Fund established by the Previous Ordinance and other legally available funds of the City, to establish Escrow Funds in the amount shown on the Report to pay the principal of premium, if any, and accrued interest on the Refunded Notes and the Refunded Bonds on their respective maturities or redemption dates and to pay all expenses (or to reimburse amounts withdrawn from legally available funds of the City to pay such expenses) arising in connection with the issuance of the Series 2004 Bonds, the establishment of such Escrow Funds and the refunding of the Refunded Notes and the Refunded Bonds.
- (c) Any proceeds of the Series 2004 Bonds remaining after making all such deposits and payments shall be deposited into the Bond Interest and Sinking Fund.
- (d) Any unencumbered funds remaining in the Renewal and Replacement Fund following the transfer required by Section 6.4(b) shall be transferred to the General Purpose Fund.

Section 6.5. Covenants to Maintain Tax Exempt Status.

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

“Code” means the Internal Revenue Code of 1986, as amended by all legislation, if any, enacted on or before the Issue Date.

“Computation Date” has the meaning stated in section 1.148-1(b) of the Regulations.

“Gross Proceeds” has the meaning stated in section 1.148-1(b) of the Regulations.

“Investment” has the meaning stated in section 1.148-1(b) of the Regulations.

“Issue Date” for each series or sub-series of the Bonds or other obligations of the City is the respective date on which such series or sub-series of the Bonds or other obligations of the City is delivered against payment therefor.

“Net Sale Proceeds” has the meaning stated in section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" has the meaning stated in section 1.148-1(b) of the Regulations.

"Proceeds" has the meaning stated in section 1.148-1(b) of the Regulations.

"Rebate Amount" has the meaning stated in section 1.148-3 of the Regulations.

"Regulations" means the temporary or final Income Tax Regulations applicable to the Bonds issued pursuant to sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to sections 141 through 150 of the Code and applicable to the Bonds.

"Yield of"

(1) any Investment shall be computed in accordance with section 1.148-5 of the Regulations, and

(2) the Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C Bonds shall be computed in accordance with 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 Series 2004A Bonds, Series 2004B Bonds, and, after their respective Conversion Dates, Series 2004C Bonds 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 shall have received 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 Series 2004A Bond, Series 2004B Bond, and, after the Conversion Date, Series 2004C 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 the Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C Bonds,

(1) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with Gross Proceeds of such series of the Bonds (including property financed with Gross Proceeds of the Refunded Notes or the Refunded Bonds or notes or bonds refunded by the Refunded Notes or the Refunded Bonds) and not use or permit the use of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds in any activity

carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or

(2) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such series of the Bonds or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Notes or the Refunded Bonds or notes or bonds refunded by the Refunded Notes or the Refunded Bonds) other than taxes of general application and 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 Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C Bonds, to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be "loaned" to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds (including property financed with Gross Proceeds of the Refunded Notes or the Refunded Bonds or notes or bonds refunded by the Refunded Notes or the Refunded Bonds) 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 such property 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 earlier of the final stated maturity or final payment of the Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C Bonds, directly or indirectly invest Gross Proceeds of such Bonds in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C 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 Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C 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 with the Secretary of the Treasury the information required by section 149(e) of the Code with respect to each of the Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C Bonds, on such forms and in such place as such Secretary may prescribe.

(h) Payment of Rebate Amount. Except to the extent otherwise provided in section 148(f) of the Code and the regulations and rulings thereunder, the City shall:

(1) 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 such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of the Series 2004 Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith,

(2) calculate the Rebate Amount with respect to the Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C Bonds, not less frequently than each Computation Date, in accordance with rules set forth in section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date,

(3) as additional consideration for the purchase of the Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C Bonds, by the initial purchaser thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (2) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by section 148(f) of the Code and the regulations and rulings thereunder, and

(4) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (2) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by 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 final stated maturity or final payment of the Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C 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 Series 2004A Bonds, the Series 2004B Bonds, and, after the Conversion Date, the Series 2004C Bonds, not been relevant to either party.

(j) Not Hedge Bonds. The City did not invest more than 50 percent of the Proceeds of each series of the Refunded Notes and the Refunded Bonds (or, if applicable, the obligations refunded by the Refunded Bonds (the "Original Bonds")) in Nonpurpose Investments having a

guaranteed yield for four years or more. On the Issue Date of each series of the Refunded Notes, Refunded Bonds, or, if applicable, the Original Bonds, the City reasonably expected that at least 85 percent of the Net Sale Proceeds of each series of the Refunded Notes, Refunded Bonds, or, if applicable, the Original Bonds, would be used to carry out the governmental purpose of such series within three years after the respective Issue Date of such series.

Section 6.6. Escrow Agreements. (a) To provide for the deposit of proceeds of the Series 2004 Bonds into escrow funds, the discharge and defeasance of the Refunded Notes and the Refunded Bonds may be effectuated pursuant to the terms and provisions of one or more Escrow Agreements as determined in the Officers' Pricing Certificate to be entered into by and between the City and the Escrow Agent for Refunded Bonds and by and between the City and the Escrow Agent for Refunded Notes, which shall be substantially in the form of Exhibits C and D, respectively, the terms and provisions of which are hereby approved, subject to such insertions, additions, and modifications as shall be necessary (a) to carry out the program designed for the City by the underwriters, and which shall be certified as to mathematical accuracy by the Report, (b) to comply with all applicable laws and regulations relating to the refunding of the Refunded Notes and the Refunded Bonds, and (c) to carry out the other intents and purposes of this Supplemental Ordinance and the Officers' Pricing Certificates, and the Mayor and the City Controller are hereby authorized to execute and deliver such Escrow Agreements on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the City's seal.

Section 6.7. Purchase of United States Treasury Obligations. In order to assure the purchase of the escrowed securities shown in the Officers' Pricing Certificates and to be held pursuant to the Escrow Agreements, the City Controller is hereby authorized to subscribe for, agree to purchase and purchase, securities authorized by the ordinances relating to the Refunded Bonds and the Refunded Notes and by applicable law, in such amounts, maturities, and bearing interest at such rates as may be provided for in the Report, and the Mayor and the City Controller are authorized to execute, and the City Secretary is authorized to attest and affix the City's seal, as appropriate, to any and all subscriptions, purchase agreements, forward purchase agreements, commitments, letters of authorization, and other documents necessary to effectuate the foregoing, and any actions heretofore taken by the City Controller for such purpose are hereby ratified and approved.

Section 6.8. Bond Insurance. In order to obtain the lowest attainable interest rates on the Series 2004 Bonds, the Mayor and the City Controller are authorized to enter into Credit Agreements with one or more Bond Insurers to obtain one or more bond insurance policies with respect to all or a portion of the Series 2004 Bonds. In consideration of the issuance of the bond insurance policies, the agreements and covenants of the City in favor of the Bond Insurers substantially in the form set forth in Exhibit K hereof are hereby approved, subject to such insertions, additions, and modifications as shall be necessary to satisfy the conditions set forth in the commitment of the Bond Insurers to issue the bond insurance policies. The Mayor and City Controller are authorized to execute and the City Secretary is authorized to attest and affix the City's seal to any documents required in connection with the purchase of any such policy or policies.

Section 6.9. Reserve Fund Surety Policy. In order to satisfy the Series 2004 Bond Reserve Fund Requirements in connection with the issuance of the Series 2004 Bonds, the Mayor and the City Controller are authorized to purchase one or more Reserve Fund Surety Policies from the Surety or Sureties identified in the Officers' Pricing Certificate. The Mayor and the City Controller are further authorized to execute and deliver on behalf of the City in multiple counterparts and the City Secretary is authorized to attest thereto and affix the City's seal to the Reserve Fund Surety Policy reimbursement agreements with the Sureties which shall be substantially in the form of Exhibit L, the terms and provisions of which are hereby approved, subject to such corrections, additions, and modifications as shall be necessary (a) to carry out the other intents and purposes of the Ordinance and comply with the terms of the Officers' Pricing Certificates and (b) to obtain the approval of the Attorney General of Texas; provided, however, that any interest due on any repayment obligation of the City under any of the foregoing documents by reason of payments made under a Reserve Fund Surety Policy may not exceed the highest lawful rate of interest which may be paid by the City at the time of the delivery of the Reserve Fund Surety Policy. In consideration of the issuance of the Reserve Fund Surety Policies to satisfy the Reserve Fund Requirements, the agreements and covenants of the City in favor of the Sureties substantially in the form set forth in Exhibit M hereof are hereby approved, subject to such insertions, additions, and modifications as shall be necessary to satisfy the conditions set forth in the respective commitments of the Sureties to issue the Reserve Fund Surety Policies to satisfy the Reserve Fund Requirements.

Section 6.10. Paying Agent/Registrar Agreement. The registration of and payment of the principal of, premium, if any, and interest on the Series 2004 Bonds when due shall be effectuated pursuant to the terms of one or more Paying Agent/Registrar Agreements to be entered into by and between the City and the Paying Agent/Registrar, which shall be substantially in the form attached hereto as Exhibit N, the terms and provisions of which are hereby approved, and the Mayor and the City Controller are hereby authorized to execute and deliver such Paying Agent/Registrar Agreement on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the City's seal.

Section 6.11. Qualified Hedge Agreements. In order to manage its borrowings for the System, the appropriate City officers and agents are authorized (within the terms of the authority delegated to them pursuant to Section 3.3(b) of this Supplemental Ordinance) to enter into one or more Qualified Hedge Agreements between the City and a qualifying institution (as described in the definition of "Qualified Hedge Agreements" in the Master Ordinance, as set forth in the Officers' Pricing Certificate) which shall be substantially in the form of Exhibit O, the terms and provisions of which are hereby approved, subject to such insertions, additions, and modifications as they may approve pursuant to Section 3.3(b) of this Supplemental Ordinance or as shall be necessary (a) to comply with all applicable laws and regulations relating to the Series 2004 Bonds, and (b) to carry out the other intents and purposes of this Supplemental Ordinance and the Officers' Pricing Certificates, and the Mayor and the City Controller are hereby authorized to execute and deliver such Qualified Hedge Agreements on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the City's seal thereto; provided that the Qualified Hedge Agreements must be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas before becoming effective. To obtain the lowest practicable fixed rate under such Qualified Hedge

Agreements, the Mayor and City Controller are also authorized to approve the purchase of one or more policies of insurance to insure the obligations of the City under the initial transactions under such Qualified Hedge Agreements (either only those obligations secured on a parity with the First Lien Bonds or also those comprising Third Lien Obligations, and for the full term of such transactions or any portion thereof, as such officers shall determine) and to execute and deliver on behalf of the City in multiple counterparts (and the City Secretary is authorized to attest thereto and affix the City's seal to) one or more reimbursement agreements with such insurers under which the City may agree to reimburse claims paid under such policies with interest at not more than 15% per annum, to make certain representations of fact and law, to agree to provide certain information, and to indemnify such insurers against certain losses and expenses (to the extent permitted by law). The City's obligations under such Qualified Hedge Agreements and insurer reimbursement agreements (excluding any obligation to deliver collateral or to make, or reimburse insurer advances to pay, a termination payment that is not payable in installments over the remaining term of the relevant transaction) shall be payable from and secured by a lien on Net Revenues on a parity with First Lien Bonds, pursuant to Section 5.4(a) of the Master Ordinance. The City's obligation to deliver collateral and to make, or reimburse insurer advances to pay, all termination payments under such Qualified Hedge Agreements that are not payable in installments over the remaining term of the relevant transaction shall be payable from and secured by a lien on Net Revenues on a parity with Third Lien Obligations pursuant to Section 5.4(e) of the Master Ordinance.

Section 6.12. Professional Services. Co-Bond Counsel services in connection with the issuance of the Series 2004 Bonds, Qualified Hedge Agreements and other matters pertaining thereto, shall be provided pursuant to the terms of a Co-Bond Counsel Letter Agreement to be entered into by and between the City and Fulbright & Jaworski L.L.P., Houston, Texas and Burney & Foreman, Houston, Texas, which shall be substantially in the form attached hereto as Exhibit P, the terms and provisions of which are hereby approved. Disclosure Co-Counsel services in connection with the issuance of the Bonds shall be provided pursuant to the terms of a Special Disclosure Co-Counsel Letter Agreement to be entered into by and between the City and Andrews Kurth LLP, Houston, Texas and Bates & Coleman, P.C., Houston, Texas, which shall be substantially in the form attached hereto as Exhibit Q, the terms and provisions of which are hereby approved. Supplemental financial advisory services in connection with the issuance of the Series 2004 Bonds shall be provided pursuant to the terms of a Supplemental Financial Advisory Agreement to be entered into by and between the City and Coastal Securities, Houston, Texas, which shall be substantially in the form attached hereto as Exhibit R, the terms and provisions of which are hereby approved. Advisory services in connection with Qualified Hedge Agreements to be negotiated pursuant to Section 6.11 hereof shall be provided pursuant to the terms of a Swap Advisor Agreement with Swap Financial Group, LLC, which shall be substantially in the form attached hereto as Exhibit S, the terms and provisions of which are hereby approved. The Mayor and the City Controller are hereby authorized to execute and deliver such Co-Bond Counsel Letter Agreement, Special Disclosure Co-Counsel Letter Agreement, Supplemental Financial Advisory Agreement, and Swap Advisor Agreement on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the City's seal. The Mayor and the City Controller are further authorized to approve payment of the fees and expenses of Bond Counsel and the Financial Advisor to the

Texas Water Development Board in connection with obtaining certain required actions by the Texas Water Development Board in order to issue the Series 2004 Bonds.

Section 6.13. Related Matters. In order that the City shall satisfy in a timely manner all of its obligations under the Ordinance and the Escrow Agreements, the Mayor, the City Secretary, and the City Controller of the City and all other appropriate officers and agents of the City are hereby authorized and directed to take all other actions that are reasonably necessary to provide for issuance and delivery of the Series 2004 Bonds and the refunding of the Refunded Notes and the Refunded Bonds, including without limitation, executing by manual or facsimile signature and delivering on behalf of the City all certificates, consents, receipts, requests, notices, investment agreements, and other documents as may be reasonably necessary to satisfy the City's obligations under the Escrow Agreements, the Qualified Hedge Agreements, the Reserve Fund Surety Policies and the Ordinance, and paying costs incurred in connection with the issuance of the Series 2004 Bonds and the refunding of the Refunded Notes and the Refunded Bonds, and to direct the transfer and application of funds of the City consistent with the provisions of such Escrow Agreements and this Supplemental Ordinance. If requested by the Attorney General of Texas or his representatives, the City Attorney or his designee may authorize such ministerial changes in the written text of this Supplemental Ordinance as are necessary to obtain the Attorney General's approval and as he determines are consistent with the intent and purposes of this Supplemental Ordinance, which determination shall be final.

## ARTICLE VII

### CONTINUING DISCLOSURE UNDERTAKING

Section 7.1. Annual Reports. The City shall provide annually to each NRMSIR and any SID, within six months after the end of each fiscal year ending in or after 2004, financial information and operating data with respect to the City of the general type included in the final Official Statements authorized by Section 6.3 of this Supplemental Ordinance, being the information described in Exhibit T hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit S 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 so provided, then the City shall provide audited financial statements for the applicable fiscal year to each NRMSIR and any SID, when and if audited financial statements become available but if such audited financial statements are unavailable the City will provide such financial statements on an unaudited basis within the above-described six-month period.

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, or may be provided in any other manner consistent with the Rule.

Section 7.2. 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 Series 2004 Bonds, if such event is material within the meaning of the federal securities laws:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions or events affecting the tax-exempt status of the Series 2004 Bonds;
- G. Modifications to rights of holders of the Series 2004 Bonds;
- H. Series 2004 Bond calls;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Series 2004 Bonds; and
- K. 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 Section 10.1 of this Supplemental Ordinance by the time required by such Section.

Section 7.3. Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an "obligated person" with respect to the Series 2004 Bonds within the meaning of the Rule, except that the City in any event will give the notice required by Section 10.2 of any Series 2004 Bond calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Series 2004 Bonds, and nothing in this Article, 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 Article 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 Article 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 Series 2004 Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY SERIES 2004 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 ARTICLE, 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 Article shall constitute a breach of or default under this Supplemental Ordinance for purposes of any other provision of this Supplemental Ordinance.

Nothing in this Article 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 Article may be amended by the City from time to time to adapt to changed circumstances that arise 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, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Series 2004 Bonds in the primary offering of the Series 2004 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 Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Supplemental Ordinance that authorizes such an amendment) of the Outstanding Series 2004 Bonds consent to such amendment or (b) a person or entity that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Series 2004 Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 10.1 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. The City may also amend or repeal the provisions of this Article if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Article in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence

would not prevent an underwriter from lawfully purchasing or selling Series 2004 Bonds in the primary offering of the Series 2004 Bonds.

Section 7.4. Definitions.

As used in this Article, 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.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Further Proceedings. The Mayor of the City, the City Controller of the City and the City Secretary of the City and other appropriate officials of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Supplemental Ordinance.

Section 8.2. Severability. If any Section, paragraph, clause, or provision of this Supplemental Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Supplemental Ordinance.

Section 8.3. Open Meeting. It is hereby found, determined, and declared that a sufficient written notice of the date, hour, place, and subject of the meeting of the City Council at which this Supplemental Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Supplemental Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves, and confirms such written notice and the contents and posting thereof.

Section 8.4. Declaration of Emergency and of Public Security Authorization. It is hereby officially found and determined that a case of emergency and urgent public necessity exists which requires the holding of the meeting at which this Supplemental Ordinance is passed and further requires that this Supplemental Ordinance be passed finally and take effect immediately on the date of its introduction, such emergency and urgent public necessity being that the proceeds from the sale of the Series 2004 Bonds are required as soon as possible and without delay for the purposes set forth herein. It is further officially found and determined that this Supplemental Ordinance is a public security authorization, and therefore this Supplemental Ordinance shall be effective immediately upon approval by the City Council pursuant to Section 1201.028 of the Texas Government Code, as amended.

Section 8.5. Authority to Modify Attachments. When used herein with respect to agreements and other documents that are attached as exhibits hereto, the phrase "substantially in the form of" authorizes the execution of an agreement or document that is not materially inconsistent with the purpose, intent and general substantive parameters of the agreement or other document as attached. The determination by an officer or employee of the City acting under authority delegated thereto by this Supplemental Ordinance or the Master Ordinance to execute any such agreement or other document in substantially the form attached to this Supplemental Ordinance shall have the same force and effect as a determination made by the City Council.

Section 8.6. Repealer. All ordinances, or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

EXHIBITS:

Exhibit A	Form of 2004 Bonds
Exhibit B	Refunded Bonds
Exhibit C	Escrow Agreements for Refunded Bonds
Exhibit D	Escrow Agreement for Refunded Notes
Exhibit E	Officer's Pricing Certificates
Exhibit F	Provisions for Multi-Modal Obligations
Exhibit G	Auction Agent Agreement
Exhibit H	Broker/Dealer Agreement
Exhibit I	Preliminary Official Statement
Exhibit J	Bond Purchase Agreements
Exhibit K	Covenants and Agreements with Bond Insurers
Exhibit L	Reserve Fund Surety Policy Reimbursement Agreement
Exhibit M	Covenants and Agreements with Sureties
Exhibit N	Paying Agent/Registrar Agreement
Exhibit O	Qualified Hedge Agreements
Exhibit P	Combined Utility System Co-Bond Counsel Letter Agreement
Exhibit Q	Combined Utility System Special Disclosure Co-Counsel Letter
Exhibit R	Combined Utility System Supplemental Financial Advisory Agreement
Exhibit S	Swap Advisor Letter Agreement
Exhibit T	Description of Annual Financial Information

PASSED AND APPROVED THIS 21<sup>st</sup> day of April, 2004.

Bill White  
 Mayor

Approved as to Form:

Gary J. Wood  
 Senior Assistant City Attorney  
 (Requested by Jon C. Vanden Bosch  
 Director of Department of  
 Public Works and Engineering)  
 (L.D. File No. 0340300230001)

AYE	NO.	2004-300
✓		MAYOR WHITE
....	.....	COUNCIL MEMBERS
✓		LAWRENCE
✓		GALLOWAY
✓		GOLDBERG
✓		EDWARDS
	✓	WISEMAN
✓		KHAN
✓		HOLM
✓		GARCIA
✓		ALVARADO
✓		ELLIS
✓		QUAN
✓		SEKULA-GIBBS
✓		GREEN
	✓	BERRY
CAPTION	ADOPTED	

MAY 017 Rev. 1/04

CITY SECRETARY'S CERTIFICATE

The undersigned, the duly appointed, qualified, and acting City Secretary of the City of Houston, Texas (the "City"), hereby certifies and states as follows:

1. The undersigned is the official custodian of all of the minutes, records, and ordinances of the City.

2. The foregoing pages constitute true and correct copies of (a) as much of the minutes of the regular meeting of the City Council of the City on April 21, 2004, as reflects the introduction and passage of City of Houston Ordinance No. 2004-300 (the "Ordinance"), (b) the written request signed by the Mayor of the City that such Ordinance be passed finally on the date of its introduction, and (c) the caption and body of the Ordinance and the passage and approval thereof.

3. The persons named in the aforesaid minutes of the meeting of the City Council of the City held April 21, 2004, are the duly chosen, qualified, and acting officers and members of the City Council of the City as indicated in said minutes; said meeting was a regular meeting of the City Council of the City held at the time and place prescribed by Rule 1(a) of Section 2-2 of the Code of Ordinances of the City of Houston, each of said persons was furnished in advance of such meeting with the agenda thereof in writing, which included the fact that the Ordinance would be introduced and considered for passage at said meeting; and said meeting was open to the public as required by law and public notice of the date, hour, place and purpose thereof was duly given as required by the Open Meetings Act, Tex. Gov't Code Ann. ch. 551 (Vernon 1994).

4. Immediately after the Ordinance was passed, it was presented to the Mayor, who duly signed it, and it thereupon became effective; and the Ordinance is now in the official custody of the undersigned awaiting permanent recording in the ordinance records of the City, which constitute a part of the official records of the proceedings of the City Council of the City.

To certify which, witness my hand and the official seal of the City of Houston, Texas, this 21st day of May, 2004.



\_\_\_\_\_  
City Secretary