

State of Delaware
Office of the Secretary of State PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE COURT ORDERED CERTIFICATE OF MERGER, WHICH MERGES: "J-HAWK CORPORATION", A TEXAS CORPORATION, WITH AND INTO "FIRST CITY BANCORPORATION OF TEXAS, INC." UNDER THE NAME OF "FIRSTCITY FINANCIAL CORPORATION", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRD DAY OF JULY, A.D. 1995, AT 12:31 O'CLOCK P.M.

A CERTIFIED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS FOR RECORDING.



Edward J. Freel, Secretary of State

2148655 8100M

950149223

AUTHENTICATION:

7562656

DATE:

07-03-95

SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 12:31 PM 07/03/1995
950149223 - 2148655

**CERTIFICATE OF MERGER
OF
J-HAWK CORPORATION
INTO
FIRST CITY BANCORPORATION OF TEXAS, INC.**

(to be filed with the Secretary of State of Delaware)

First City Bancorporation of Texas, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware,

DOES HEREBY CERTIFY:

FIRST: That the name and state of incorporation of each of the constituent corporations of the merger is as follows:

<u>Name</u>	<u>State of Incorporation</u>
J-Hawk Corporation	Texas
First City Bancorporation of Texas, Inc.	Delaware

SECOND: That an Agreement and Plan of Merger between the parties to the merger has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Sections 252 and 303 of the General Corporation Law of the State of Delaware to put into effect and carry out the Joint Plan of Reorganization by First City Bancorporation of Texas, Inc., Official Committee of Equity Security Holders, and J-Hawk Corporation, with the participation of Cargill Financial Services Corporation, under Chapter 11 of the United States Bankruptcy Code (the "Plan"), as confirmed by order of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division entered on May 31, 1995 (the "Order"). The applicable statute of the United States under which First City Bancorporation of Texas, Inc. was reorganized is Chapter 11 of Title 11, United States Code. An involuntary petition under Chapter 11 of Title 11, United States Code, was filed against First City Bancorporation of Texas, Inc. on October 31, 1992. On November 23, 1992, First City Bancorporation of Texas, Inc. consented to an order for relief under Chapter 11 of Title 11, United States Code.

THIRD: That the name of the surviving corporation of the merger is First City Bancorporation of Texas, Inc.

FOURTH: That the Amended and Restated Certificate of Incorporation of First City Bancorporation of Texas, Inc. attached hereto as Exhibit A shall be the certificate of incorporation of the surviving corporation.

FIFTH: That the executed Agreement and Plan of Merger is on file at the principal place of business of the surviving corporation. The address of the principal place of business of the surviving corporation is 6400 Imperial Drive, P.O. Box 8216, Waco, Texas 76714-8216.

SIXTH: That a copy of the Agreement and Plan of Merger will be furnished by the surviving corporation, on request and without cost to any stockholder of any constituent corporation.

SEVENTH: That the entire authorized capital stock of J-Hawk Corporation consists of 2,000,000 shares of common stock, par value \$10.00 per share.

EIGHTH: That provision for the making of this Certificate of Merger and the Agreement and Plan of Merger is contained in the Order, which is a decree or order of a court or judge having jurisdiction of a proceeding under an applicable statute of the United States for the reorganization of First City Bancorporation of Texas, Inc.

First City Bancorporation of Texas, Inc.

By: Robert W. Brown
Robert W. Brown, President

EXHIBIT A

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

FIRST CITY BANCORPORATION OF TEXAS, INC.

1. The name of the Corporation is FIRST CITY BANCORPORATION OF TEXAS, INC.

2. The original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on January 6, 1988, under the name First City Acquisition Corporation, and was restated on April 22, 1988, under the name First City Bancorporation of Texas, Inc.

3. Article FIRST of the Restated Certificate of Incorporation of First City Bancorporation of Texas, Inc. ("Old Corporation") is hereby amended as follows:

FIRST: The name of the Corporation is FirstCity Financial Corporation (hereinafter the "Corporation").

4. This Amended and Restated Certificate of Incorporation is adopted pursuant to the authority granted to Old Corporation under Section 303 of the General Corporation Law of the State of Delaware to put into effect and carry out the Joint Plan of Reorganization by First City Bancorporation of Texas, Inc., Official Committee of Equity Security Holders, and J-Hawk Corporation, with the Participation of Cargill Financial Services Corporation Under Chapter 11 of the United States Bankruptcy Code, as confirmed on May 31, 1995 (as so confirmed, the "Plan"); by order ("Confirmation Order") of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division.

5. Old Corporation's Restated Certificate of Incorporation, as previously and hereby amended, is hereby restated to read in its entirety as follows:

FIRST: The name of the corporation is FIRSTCITY FINANCIAL CORPORATION ("Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 32 Loockerman Square, Suite L-100, City of Dover, County of Kent, State of Delaware 19901. The name of the registered agent of the Corporation in the State of Delaware at such address is The Prentice-Hall Corporation System, Inc.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be

organized under the General Corporation Law of the State of Delaware, as from time to time amended.

FOURTH: The total number of shares of capital stock ("Capital Stock") which the Corporation shall have authority to issue is 202,500,000 shares divided into three classes as follows: (i) 2,500,000 shares of New Special Preferred Stock, par value \$.01 per share ("Special Preferred Stock"), with a nominal stated value ("Nominal Stated Value") of \$21.00 per share; (ii) 100,000,000 shares of Optional Preferred Stock, par value \$.01 per share ("Optional Preferred Stock"); and (iii) 100,000,000 shares of New Common Stock, par value \$.01 per share ("Common Stock"). To the extent required by 11 U.S.C. § 1123(a)(6), the Corporation shall be prohibited from issuing any shares of nonvoting capital stock other than warrants.

The designations, preferences and relative participating, optional or other special rights, and qualifications, limitations or restrictions of the shares of Capital Stock of the Corporation are as follows:

A. THE SPECIAL PREFERRED STOCK

1. Dividends. Prior to the third anniversary of the Effective Date (as defined in the Plan) (such third anniversary, the "Determination Date"), the holders of shares of Special Preferred Stock shall be entitled to receive, when, as and if declared by the board of directors, out of funds legally available for the payment of dividends, cumulative quarterly cash dividends at the annual rate of \$3.15 per share on each Dividend Payment Date (as hereinafter defined); provided, however, that if the Corporation is required to disburse any funds to the FDIC (as defined in the Plan) pursuant to the FDIC Note (as defined in the Plan), no such dividends shall be declared by the board of directors until the Determination Date; provided, further, however, that if at any time, in the judgment of the board of directors, there would be after the payment of a dividend on the Special Preferred Stock insufficient Determination Value (as defined in the Plan) estimated to be available on the Determination Date attributable to the Liquidating Trust (as defined in the Plan) to satisfy the then outstanding or estimated claims to be payable from the Liquidating Trust (other than in respect of the Special Preferred Stock), the board of directors shall suspend the declaration of any further dividends on the Special Preferred Stock until there is sufficient cash available to pay such outstanding or estimated claims; and provided, further, that if the New

Senior Secured Notes (as defined in the Plan) remain outstanding on such Dividend Payment Date, the dividend payment due on such Dividend Payment Date shall not be paid on such date but will be paid on the first Dividend Payment Date after the maturity date of the New Senior Secured Notes. Subject to the legal availability of funds and the provisos in the foregoing sentence, dividends in respect of Special Preferred Stock shall be payable in arrears in equal quarterly payments commencing on the earliest of the last day of March, June, September, and December ("Dividend Payment Date") following the Effective Date. Such dividends shall be paid to the holders of record at the close of business on the date specified by the board of directors of the Corporation at the time such dividend is declared; provided, however, that such date shall not be more than sixty (60) days nor less than ten (10) days prior to the respective Dividend Payment Date. Each of such quarterly dividends shall be fully cumulative and shall accrue (whether or not declared), without interest, from the first day of the quarter in which such dividend may be payable as herein provided, except that with respect to the first Dividend Payment Date, dividends shall accrue from the Effective Date.

2. Liquidation. The holders of shares of Special Preferred Stock shall be entitled to receive the Nominal Stated Value of the Special Preferred Stock plus accrued and unpaid dividends upon any voluntary or involuntary liquidation, dissolution, or winding up of the affairs of the Corporation; provided, however, that the holders of shares of Special Preferred Stock shall not receive, upon any such liquidation, dissolution or winding up, an amount per share of Special Preferred Stock in excess of (1) the aggregate amounts, if any, distributed to and received by or distributable to the Corporation for the payment of dividends or other amounts on the Special Preferred Stock pursuant to Section 7.2 of the Trust Agreement (as defined in the Plan), divided by (2) the aggregate number of shares of Special Preferred Stock.

3. Redemption. Neither the Corporation nor the holders of the shares of Special Preferred Stock shall have the option to redeem such shares (but the Corporation shall redeem each outstanding share of Special Preferred Stock as set forth in the immediately succeeding sentence). The Corporation shall redeem each outstanding share of Special Preferred Stock for the Determination Value (as defined in the Plan) on the Determination Date, and the Special Preferred Stock shall not be exchangeable prior to such date into any other Capital Stock that is senior to Common Stock

as to payment of dividends, liquidation preferences, voting rights, or terms of redemption.

4. Voting Rights.

(a) The holders of record of shares of Special Preferred Stock shall not be entitled to any voting rights except as hereinafter provided in this paragraph A.4 or as otherwise provided by law.

(b) (i) If at any time or times dividends, which have been declared by the board of directors and which are payable on the Special Preferred Stock, shall be in arrears and unpaid in an amount equal to six (6) consecutive full quarterly dividend periods, then the number of directors constituting the board of directors, without further action, shall be increased by two (2) and the holders of shares of Special Preferred Stock shall have the exclusive right, voting separately as a class, to elect the directors of the Corporation to fill such newly-created directorships, the remaining directors to be elected by the other class or classes of stock entitled to vote therefor, at a meeting of stockholders held for the purpose of electing directors.

(ii) Whenever such voting right shall have vested, such right may be exercised initially either at a special meeting of the holders of Special Preferred Stock, called as hereinafter provided, or at any annual meeting of stockholders held for the purpose of electing directors, and thereafter at such annual meetings or by the written consent of the holders of Special Preferred Stock. Such voting right shall continue until such time as all accrued dividends accumulated on the Special Preferred Stock shall have been paid in full or declared and set apart for payment, at which time such voting right of the holders of Special Preferred Stock shall terminate, subject to reversion in the event of each and every subsequent failure of the Corporation of the character described above.

(iii) At any time when such voting right shall have vested in the holders of Special Preferred Stock and if such right shall not already have been initially exercised, a proper officer of the Corporation shall, upon the written request of any holder of record of Special Preferred Stock then outstanding, addressed to the Secretary of the Corporation, call a special meeting of holders of Special Preferred Stock. Such meeting shall be held at the earliest practicable date upon the notice required for annual meetings of stockholders at the place for holding annual

meetings of stockholders of the Corporation. If such meeting shall not be called by the proper officer of the Corporation within thirty (30) days after the personal service of such written request upon the Secretary of the Corporation, or within thirty (30) days after mailing the same within the United States, by registered mail, addressed to the Secretary of the Corporation at its principal office (such mailing to be evidenced by the registry receipt issued by the postal authorities), then the holders of record of ten-percent (10%) of the shares of Special Preferred Stock then outstanding may designate in writing a holder of Special Preferred Stock to call such meeting at the expense of the Corporation, and such meeting may be called by such person so designated upon the notice required for annual meetings of stockholders and shall be held at the same place as for holding annual meetings of stockholders of the Corporation. Any holder of Special Preferred Stock which would be entitled to vote at such meeting shall have access to the stock books of the Corporation for the purpose of causing a meeting of holders of Special Preferred Stock to be called pursuant to the provisions of this paragraph A.4. Notwithstanding the provisions of this paragraph A.4, however, no such special meeting shall be called during a period within ninety (90) days immediately preceding the date fixed for the next annual meeting of stockholders.

(iv) At any meeting held for the purpose of electing directors at which the holders of Special Preferred Stock shall have the right to elect directors as provided herein, the presence in person or by proxy of the holders of at least a majority of the then outstanding shares of Special Preferred Stock shall be required and be sufficient to constitute a quorum of such class for the election of directors by such class. At any such meeting or adjournment thereof (a) the absence of a quorum of the holders of Special Preferred Stock shall not prevent the election of directors other than those to be elected by the holders of stock of such class and the absence of a quorum or quorums of the holders of capital stock entitled to elect such other directors shall not prevent the election of directors to be elected by the holders of Special Preferred Stock, and (b) in the absence of a quorum of the holders of any class of stock entitled to vote for the election of directors, a majority of the holders present in person or by proxy of such class shall have the power to adjourn the meeting for the election of directors which the holders of such class are entitled to elect, from time to time, without notice (except as required by law) other than announcement at the meeting, until a quorum shall be present.

(v) The term of office of all directors elected by the holders of Special Preferred Stock pursuant to this paragraph A.4 in office at any time when the aforesaid voting rights are vested in the holders of Special Preferred Stock shall terminate upon the election of their successors at any meeting of holders of Special Preferred Stock for the purpose of electing directors. Upon any termination of the aforesaid voting rights in accordance with this paragraph A.4, the term of office of all directors elected by the holders of Special Preferred Stock pursuant to this paragraph A.4 then in office shall thereupon terminate and upon such termination the number of directors constituting the board of directors shall, without further action, be reduced by two (2), subject always to the increase of the number of directors pursuant to this paragraph A.4 in case of the future right of the holders of Special Preferred Stock to elect directors as provided herein.

(vi) In case of any vacancy occurring among the directors so elected, the remaining director who shall have been so elected may appoint a successor to hold office for the unexpired term of the director whose place shall be vacant. If both directors so elected by the holders of Special Preferred Stock shall cease to serve as directors before their terms shall expire, the holders of Special Preferred Stock then outstanding may, at a special meeting of the holders thereof called as provided above, elect successors to hold office for the unexpired terms of such directors whose places shall be vacant.

(c) If at any time or times the holder of the Class A Certificate (as defined in the Trust Agreement) representing the Class A Interest (as defined in the Trust Agreement), in its capacity as such, proposes to remove the Trustee under the Trust Agreement, then the holders of shares of Special Preferred Stock shall have the exclusive right, voting separately as a class, to approve or disapprove such removal and to select a replacement Trustee following such removal (and no such removal or appointment of a replacement Trustee may occur without such approval). Whenever such voting right shall exist, such right shall be exercised at a special meeting of the holders of Special Preferred Stock or by the written consent of the holders of Special Preferred Stock. At any meeting held for the purpose of voting upon such removal, the presence in person or by proxy of the holders of at least two-thirds of the then outstanding shares of Special Preferred Stock shall be required and be sufficient to constitute a quorum of such class for such vote. At any such meeting or adjournment thereof, in the

absence of a quorum of the holders of shares of Special Preferred Stock, a majority of the holders present in person or by proxy shall have the power to adjourn the meeting, from time to time, without notice (except as required by law) other than announcement at the meeting, until a quorum shall be present. The affirmative vote (or written consent) of at least two-thirds of the then outstanding shares of Special Preferred Stock shall constitute the act of the holders of the Special Preferred Stock with respect to any such proposed removal or appointment of a replacement Trustee.

(d) In exercising the voting rights set forth in this paragraph A.4, each share of Special Preferred Stock shall have one vote per share.

B. THE OPTIONAL PREFERRED STOCK

1. Issuance. The Optional Preferred Stock may be issued from time to time in one or more classes or series, the shares of each class or series to have such designations and powers, preferences, and rights, and qualifications, limitations, and restrictions thereof, as are stated and expressed herein and in the resolution or resolutions providing for the issue of such class or series adopted by the board of directors of the Corporation as hereafter prescribed.

2. Designations. Authority is hereby expressly granted to and vested in the board of directors of the Corporation to authorize the issuance of the Optional Preferred Stock from time to time in one or more classes or series, and with respect to each class or series of the Optional Preferred Stock, to fix and state by the resolution or resolutions from time to time adopted providing for the issuance thereof the following:

(i) whether or not the class or series is to have voting rights, full, special, or limited, and whether or not such class or series is to be entitled to vote as a separate class either alone or together with the holders of one or more other classes or series of stock;

(ii) the number of shares to constitute the class or series and the designations thereof;

(iii) the preferences, and relative, participating, optional, or other special rights, if any, and the qualifications, limitations, or restrictions thereof, if any, with respect to any class or series;

(iv) whether or not the shares of any class or series shall be redeemable at the option of the Corporation or the holders thereof or upon the happening of any specified event, and, if redeemable, the redemption price or prices (which may be payable in the form of cash, notes, securities, or other property), and the time or times at which, and the terms and conditions upon which, such shares shall be redeemable and the manner of redemption;

(v) whether or not the shares of a class or series shall be subject to the operation of retirement or sinking funds to be applied to the purchase or redemption of such shares for retirement, and, if such retirement or sinking fund or funds are to be established, the annual amount thereof, and the terms and provisions relative to the operation thereof;

(vi) the dividend rate, whether dividends are payable in cash, stock of the Corporation, or other property, the conditions upon which and the times when such dividends are payable, the preference to or the relation to the payment of dividends payable on any other class or classes or series of stock, whether or not such dividends shall be cumulative or noncumulative, and if cumulative, the date or dates from which such dividends shall accumulate;

(vii) the preferences, if any, and the amounts thereof which the holders of any class or series thereof shall be entitled to receive upon the voluntary or involuntary dissolution of, or upon any distribution of the assets of, the Corporation;

(viii) whether or not the shares of any class or series, at the option of the Corporation or the holder thereof or upon the happening of any specified event, shall be convertible into or exchangeable for, the shares of any other class or classes or of any other series of the same or any other class or classes of stock, securities, or other property of the Corporation and the conversion price or prices or ratio or ratios or the rate or rates at which such exchange may be made, with such adjustments, if any, as shall be stated and expressed or provided for in such resolution or resolutions; and

(ix) such other special rights and protective provisions with respect to any class or series as may to the board of directors of the Corporation seem advisable.

3. Board Authority. The shares of each class or series of the Optional Preferred Stock may vary from the shares of any other class or series thereof in any or all of the foregoing respects. The board of directors of the Corporation may increase the number of shares of the Optional Preferred Stock designated for any existing class or series by a resolution adding to such class or series authorized and unissued shares of the Optional Preferred Stock not designated for any other class or series. The board of directors of the Corporation may decrease the number of shares of the Optional Preferred Stock designated for any existing class or series by a resolution subtracting from such class or series authorized and unissued shares of the Optional Preferred Stock designated for such existing class or series, and the shares so subtracted shall become authorized, unissued, and undesignated shares of the Optional Preferred Stock.

C. THE COMMON STOCK

1. Dividends. Shares of Common Stock shall be junior with respect to any declaration or payment of any dividend on any Preferred Stock of the Corporation. The holders of shares of Common Stock shall be entitled to receive dividends when, as and if declared by the board of directors, out of funds legally available for the payment of dividends. No dividend shall be paid or declared on any share of Common Stock unless an equal dividend is simultaneously paid or declared on each share of Common Stock.

2. Liquidation. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation and after payment of the Determination Value to holders of all outstanding shares of Special Preferred Stock and any liquidation preference afforded by the board of directors to the holders of any outstanding shares of Optional Preferred Stock, the holders of shares of Common Stock shall be entitled to share ratably, share and share alike, in the remaining net assets of the Corporation.

3. Voting. Subject to the provisions of applicable law or of the by-laws with respect to the closing of the transfer books or the fixing of a record date for the determination of stockholders entitled to vote, and except as otherwise provided by law or by this Amended and Restated Certificate of Incorporation, the holders of outstanding

shares of Common Stock shall exclusively possess the voting power for the election of directors and for all other purposes, each holder of record of shares of Common Stock being entitled to one (1) vote for each share of Common Stock standing in his name on the books of the Corporation.

D. TRANSFER RESTRICTIONS APPLICABLE
TO SHARES OF COMMON STOCK

1. At any time during the period (the "Restricted Transfer Period") beginning on the first Business Day on which the Confirmation Order is a Final Order (as defined in the Plan) and all conditions precedent to the occurrence of the Effective Date contained in Section 12.2 of the Plan have been satisfied or waived as provided for in Section 12.3 of the Plan ("Effective Date") and ending on the earlier of (a) the expiration of fifteen (15) years after the Effective Date, or (b) the date which is the first day of the beginning of the taxable year of the Corporation (or any successor thereto) to which no Tax Benefits (as defined in the Plan) may be carried forward, any attempted sale, purchase, transfer, assignment, conveyance, pledge or other disposition ("Transfer") of any share of Common Stock, any warrants, rights or options to purchase Common Stock, or any other interests that would be treated as "stock" of the Corporation under Section 382 of the Internal Revenue Code of 1986, as amended ("Tax Code") (collectively, "Corporate Securities") to any person or entity or group of persons or entities acting in concert ("Transferee") who directly or indirectly owns or is treated as owning (within the meaning of the attribution rules applicable under Section 382 of the Tax Code) ("Own") 4.75% of the outstanding shares of any class of Corporate Securities or, after giving effect to the Transfer, would directly or indirectly Own more than 4.75% of the outstanding shares of any class of Corporate Securities shall be void *ab initio* and shall not be effective to Transfer any of such shares of Corporate Securities to the extent the Transfer increases the Transferee's direct or indirect Ownership of the Corporate Securities above 4.75% of the total outstanding shares of such class of Corporate Securities. Similarly, during the Restricted Transfer Period, any Transfer by a transferor who directly or indirectly Owns five percent (5%) or more of the outstanding shares of any class of Corporate Securities shall be void *ab initio* and shall not be effective to Transfer any of such shares to the purported Transferee.

2. The foregoing restriction on transfer of Corporate Securities shall not apply to (a) the transfer of

Common Stock in accordance with Section 9.4 of the Plan, and (b) any attempted Transfer if the transferor or the Transferee obtains the approval of the board of directors of the Corporation, or a designated committee thereof. As a condition to granting such approval, the board of directors may, in its discretion, require that the transferor or the Transferee, as the case may be, deliver an opinion of counsel selected by the board to the effect that the Transfer shall not result in the application of any limitation on the use of Tax Benefits under Sections 382 and 269 of the Tax Code. If the board requires and receives such an opinion of counsel, the decision to approve a Transfer (whether or not that decision is contrary to the opinion so delivered) shall still remain in the sole discretion of the board of directors.

3. If the board of directors determines that a Transfer of Corporate Securities constitutes a Transfer prohibited by paragraph D.1 ("Prohibited Transfer"), then, upon written demand by the Corporation, the purported Transferee shall transfer or cause to be transferred any certificate or other evidence of ownership of Corporate Securities that are the subject of the Prohibited Transfer ("Prohibited Securities"), together with any dividends or other distributions that were received by the Transferee from the Corporation with respect to such Prohibited Securities ("Prohibited Distributions"), to an agent designated by the board of directors ("Agent"). The Agent shall thereupon sell to a buyer or buyers the Prohibited Securities transferred to it. If the purported Transferee has resold the Prohibited Securities before receiving the Corporation's demand to surrender the Prohibited Securities to the Agent, the purported Transferee shall be deemed to have sold the Prohibited Securities for the Agent and shall be required to transfer to the Agent any Prohibited Distributions and the proceeds of such sale. If the purported Transferee fails to surrender the Prohibited Securities, or the proceeds of a sale thereof, and any Prohibited Distributions to the Agent within thirty (30) Business Days from the date on which the Corporation makes a demand for such surrender, then the Corporation shall institute legal proceedings to compel surrender.

4. No employee or agent of the Corporation shall record any Prohibited Transfer, and the purported Transferee shall not be recognized as a stockholder of the Corporation for any purpose whatsoever in respect of the Prohibited Securities. Until the Prohibited Securities are acquired by another person in a Transfer that is not a Prohibited Transfer, the purported Transferee shall not be entitled with

respect to such Prohibited Securities to any rights of stockholders of the Corporation, including, without limitation, the right to vote such Prohibited Securities and to receive dividend distributions, whether liquidating or otherwise, in respect thereof, if any. Once the Prohibited Securities have been acquired in a Transfer that is not a Prohibited Transfer, the Corporate Securities shall cease to be Prohibited Securities.

5. The Agent shall apply any proceeds of a sale by it of Prohibited Securities and, if the purported Transferee has previously resold the Prohibited Securities, any amounts received by it from a purported Transferee, as follows: (a) first, such amount shall be paid to the Agent to the extent necessary to cover its costs and expenses incurred in connection with its duties hereunder; (b) second, any remaining amounts shall be paid to the purported Transferee, up to the amount paid by the purported Transferee for the Prohibited Securities, which amount shall be determined in the discretion of the board of directors; and (c) third, any remaining amounts shall be paid to one or more organizations selected by the board of directors qualifying under Section 501(c)(3) of the Tax Code.

6. All certificates reflecting Corporate Securities issued by the Corporation on or after the Effective Date shall bear a conspicuous legend in substantially the following form:

THE TRANSFER OF THE SECURITIES REPRESENTED HEREBY IS SUBJECT TO RESTRICTION PURSUANT TO THOSE PROVISIONS OF THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF THE CORPORATION REPRINTED IN THEIR ENTIRETY ON THE BACK OF THIS CERTIFICATE.

7. If any portion of this Article 4.D shall be determined judicially to be invalid or unenforceable, such invalidity or unenforceability shall not affect the rest of this or any other Article, which shall thereafter be interpreted as if the invalid or unenforceable part were not contained therein.

FIFTH: No stockholder of the Corporation shall have any preemptive or preferential right of subscription to any shares of any stock of the Corporation, or to any securities or obligations convertible into stock of the Corporation, issued or sold, nor any right of subscription to any thereof other than such, if any, as the board of directors of the Corporation in its discretion from time to

time may determine, and at such price as the board of directors from time to time may fix, pursuant to the authority hereby conferred by this Amended and Restated Certificate of Incorporation of the Corporation, and the board of directors may issue stock of the Corporation, or securities or obligations convertible into stock, without offering such issue of stock, either in whole or in part, to the stockholders of the Corporation. The acceptance of stock in the Corporation shall be a waiver of any such preemptive or preferential right which in the absence of this provision might otherwise be asserted by stockholders of the Corporation or any of them.

SIXTH: Upon filing this Amended and Restated Certificate of Incorporation, the initial board of directors of the Corporation shall consist of the following ten persons, and the names and mailing addresses of such persons shall be as follows:

<u>Name</u>	<u>Address</u>
James R. Hawkins	6400 Imperial Dr. Waco, TX 76712
James T. Sartain	6400 Imperial Dr. Waco, TX 76712
Rick R. Hagelstein	6400 Imperial Dr. Waco, TX 76712
Matt A. Landry, Jr.	6400 Imperial Dr. Waco, TX 76712
C. Ivan Wilson	1021 Main St. Houston, TX 77002
David Palmer	2817 Sancho Panza Punta Gorda, FL 33950
Donald J. Douglass	300 Convent, Suite 2700 San Antonio, TX 78205
Richard E. Bean	5643 Lynbrook Houston, TX 77056
David W. MacLennan	6000 Clearwater Dr. Minnetonka, MN 55343

Bart A. Brown, Jr.

2198 East Camelback Rd.
Suite 355
Phoenix, AZ 85016

SEVENTH: In furtherance and not in limitation of the powers conferred by law, subject to any limitations contained elsewhere in this Amended and Restated Certificate of incorporation, by-laws of the Corporation may be adopted, amended or repealed by a majority of the board of directors of the Corporation, but any by-laws adopted by the board of directors may be amended or repealed by the stockholders entitled to vote thereon. Election of directors need not be by written ballot.

EIGHTH: (a) A director of the Corporation shall not be personally liable either to the Corporation or to any stockholder for monetary damages for breach of fiduciary duty as a director, except (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders; (ii) for acts or omissions which are not in good faith or which involve intentional misconduct or knowing violation of the law; (iii) for any matter in respect of which such director shall be liable under Section 174 of Title 8 of the General Corporation Law of the State of Delaware or any amendment thereto or successor provision thereto; or (iv) for any transaction from which the director shall have derived an improper personal benefit. Neither amendment nor repeal of this paragraph (a) nor the adoption of any provision of this Amended and Restated Certificate of Incorporation inconsistent with this paragraph (a) shall eliminate or reduce the effect of this paragraph (a) in respect of any matter occurring, or any cause of action, suit or claim that, but for this paragraph (a) of this Article, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

(b) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to, or testifies in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative in nature, by reason of the fact that such person is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, employee benefit plan, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such

person in connection with such action, suit or proceeding to the full extent permitted by law, and the Corporation may adopt by-laws or enter into agreements with any such person for the purpose of providing for such indemnification.

(c) To the extent that a director, officer, employee, or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraph (b) of this Article, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

(d) Expenses incurred by an officer, director, employee, or agent in defending or testifying in a civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director, officer, employee, or agent to repay such amount if it shall ultimately be determined that such director, officer, employee, or agent is not entitled to be indemnified by the Corporation against such expenses as authorized by this Article, and the Corporation may adopt by-laws or enter into agreements with such persons for the purpose of providing for such advances.

(e) The indemnification permitted by this Article shall not be deemed exclusive of any other rights to which any person may be entitled under Section 8.5 of the Plan, or any agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding an office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

(f) Notwithstanding any provision in this Article to the contrary, the Corporation shall not indemnify or advance expenses to any person who was or is a party or is threatened to be made a party to, or testifies in, any threatened, pending or completed action, suit or proceeding if such action, suit or proceeding is based upon or arises out of or is in connection with an event, act or omission occurring prior to October 31, 1992.

(g) The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, employee benefit plan trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Article or otherwise.

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DIVISION OF CORPORATIONS
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**CERTIFICATE OF DESIGNATIONS
OF THE
NEW PREFERRED STOCK
(\$0.01 Par Value)
OF
FIRSTCITY FINANCIAL CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

The undersigned DOES HEREBY CERTIFY that the following resolution was duly adopted on May 30, 1997, by the Board of Directors (the "Board") of FirstCity Financial Corporation, a Delaware corporation (the "Corporation"), at a duly convened meeting of the Board at which a quorum was present and active throughout;

RESOLVED, that pursuant to authority expressly granted to and vested in the Board by the provisions of the Amended and Restated Certificate of Incorporation of the Corporation (the "Certificate of Incorporation"), the issuance of a series of preferred stock (the "New Preferred Stock"), which shall consist of up to 2,000,000 of the 100,000,000 shares of the Optional Preferred Stock, par value \$0.01 per share (the "Optional Preferred Stock"), which the Corporation now has authority to issue, be, and the same hereby is, authorized, and the Board hereby fixes the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof, of the shares of such series (in addition to the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, set forth in the Certificate of Incorporation which may be applicable to the Optional Preferred Stock) as follows:

For the purposes of this resolution: (a) "Common Stock" means the shares of Common Stock, \$0.01 par value per share, of the Corporation; and (b) "Special Preferred Stock" means the shares of Special Preferred Stock, \$0.01 par value per share, of the Corporation.

I. Designation and Amount. The series of Optional Preferred Stock authorized by this resolution shall be designated the "New Preferred Stock". The maximum number of shares of New Preferred Stock shall be 2,000,000.

Certificate of Designation
of the New Preferred Stock

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II. Dividends and Distributions. Holders of shares of New Preferred Stock shall be entitled to receive, when, as and if declared by the Board out of funds of the Corporation legally available therefor, dividends at an annual rate of \$3.15 per share until and including September 30, 1998, and thereafter at an annual rate of \$2.10 per share, payable in quarterly installments on the last business day of March, June, September and December of each year, commencing September 30, 1997 (each a "Dividend Payment Date"). Dividends on the New Preferred Stock shall accrue and be cumulative from July 1, 1997. Dividends shall be payable to holders of record as they appear on the stock books of the Corporation on such record dates, not more than sixty (60) days nor less than ten (10) days preceding the payment dates thereof, as shall be fixed by the Board (each a "Dividend Payment Record Date"). No Dividend Payment Record Date shall precede the date upon which the resolution fixing the Dividend Payment Record Date is adopted. Unless full cumulative dividends on the New Preferred Stock shall have been paid, dividends (other than in Common Stock (as defined in Paragraph III below), other stock ranking junior to the New Preferred Stock and rights to acquire the foregoing) may not be paid or declared and set aside for payment and other distributions may not be made upon the Common Stock or on any other stock of the Corporation, except for dividends on the Special Preferred Stock (as defined in Paragraph III below), nor may any Common Stock or any other stock of the Corporation be redeemed, purchased or otherwise acquired for any consideration by the Corporation (except for redemption of the Special Preferred Stock and except by conversion into or exchange for stock of the Corporation ranking junior to the New Preferred Stock as to dividends). Dividends payable for any partial dividend period shall be calculated on the basis of a 360-day year of twelve 30-day months. Accrued but unpaid dividends shall not bear interest.

III. Rank. The shares of New Preferred Stock shall rank prior to the shares of the Corporation's Common Stock, par value \$0.01 per share (the "Common Stock") and any other class of stock of the Corporation except the Special Preferred Stock ("Junior Liquidation Stock"), so that in the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the New Preferred Stock shall be entitled to receive out of the assets of the Corporation available for distribution to its stockholders, whether from capital, surplus or earnings, before any distribution is made to holders of shares of Common Stock or any Junior Liquidation Stock, an amount equal to \$21.00 per share (the "Liquidation Preference") plus an amount equal to all dividends (whether or not earned or declared) accumulated and unpaid on the shares of New Preferred Stock to the date of final distribution. After payment of the full amount of the Liquidation Preference and accumulated dividends to which holders of shares of New Preferred Stock are entitled, the holders of shares of New Preferred Stock shall not be entitled to any further participation in any distribution of assets by the Corporation. For the purposes hereof, neither a consolidation or merger of the Corporation with or into any other corporation, nor a sale or transfer of all or any part of the Corporation's assets for cash or securities, shall be considered a liquidation, dissolution or winding up of the Corporation.

IV. Status. Upon any conversion, exchange or redemption of shares of New Preferred Stock, the shares of New Preferred Stock so converted, exchanged or redeemed shall have the status of authorized and unissued shares of New Preferred Stock, and the number of shares of New Preferred Stock which the Corporation shall have authority to issue shall not be decreased by the conversion, exchange or redemption of shares of New Preferred Stock.

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V. Voting Rights. The holders of shares of New Preferred Stock shall have no voting rights whatsoever, except for any voting rights to which they may be entitled under the laws of the State of Delaware, and except as follows:

(a) (i) If and whenever at any time or times dividends payable on the New Preferred Stock shall have been in arrears and unpaid in an aggregate amount equal to or exceeding of any the amount of dividends payable thereon for six quarterly periods, then the holders of the New Preferred Stock and of any class or series of Optional Preferred Stock having similar voting rights then exercisable ("Voting Parity Preferred Stock") shall have the exclusive right, voting as a single class without regard to series, to elect two directors of the Corporation, such directors to be in addition to the number of directors constituting the Board immediately prior to the accrual of that right. The remaining directors shall be elected in accordance with the provisions of the Corporation's Certificate of Incorporation and Bylaws by the other class or classes of stock entitled to vote thereof at each meeting of stockholders held for the purpose of electing directors. Such voting right of the New Preferred Stock shall continue until such time as all cumulative dividends accumulated on the New Preferred Stock shall have been paid in full at which time the voting right of the holders of the New Preferred Stock shall terminate, subject to revesting in accordance with the provisions of the first sentence of this Subparagraph V(a)(i) in the event of each and every subsequent event of default of the character indicated above.

(ii) Whenever the voting right described in Subparagraph V(a)(i) above shall have vested in the holders of the New Preferred Stock, the right may be exercised initially either at a special meeting of the holders of the New Preferred Stock and Voting Parity Preferred Stock (if any), called as hereinafter provided, or at any annual meeting of stockholders held for the purpose of electing directors, and thereafter at each successive annual meeting.

(iii) At any time when the voting rights described in Subparagraph V(a)(i) above shall have vested in the holders of the New Preferred Stock, and if the right shall not already have been initially exercised, a proper officer of the Corporation shall, upon the written request of the holders of record of 10% in number of the shares of the New Preferred Stock then outstanding, addressed to the Secretary of the Corporation, call a special meeting of the holders of the New Preferred Stock and Voting Parity Preferred Stock for the purpose of electing directors. Such meeting shall be held at the earliest practicable date upon the notice required for annual meetings of stockholders at the place for holding of annual meetings of stockholders of the Corporation, or, if none, at a place designated by the Secretary of the Corporation. If the meeting shall not be called by the proper officers of the Corporation within thirty (30) days after the personal service of such written request upon the Secretary of the Corporation, or within thirty (30) days after mailing it within the United States of America, by registered mail, addressed to the Secretary of the Corporation at its principal office (such mailing to be evidenced by the registry receipt issued by the postal authorities), then the holders of record of 10% in number of shares of the New Preferred Stock then outstanding may designate in writing one of their number to call such meeting

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at the expense of the Corporation, and such meeting may be called by such person so designated upon the notice required for annual meetings of stockholders and shall be held at the same place as is elsewhere provided for in this Subparagraph V(a). Any holder of the New Preferred Stock shall have access to the stock books of the Corporation for the purpose of causing a meeting of the stockholders to be called pursuant to the provisions of this Subparagraph V(a)(iii). Notwithstanding the provision of this Subparagraph, however, no such special meeting shall be held during a period within ninety (90) days immediately preceding the date fixed for the next annual meeting of stockholders.

(iv) At any meeting held for the purpose of electing directors at which the holders of the New Preferred Stock shall have the right to elect directors as provided herein, the presence in person or by proxy of the holders of a majority of the then outstanding shares of the New Preferred Stock and Voting Parity Preferred Stock shall be required and be sufficient to constitute a quorum of the holders of such preferred stock for the election of directors by the holders of such preferred stock. At any such meeting or adjournment thereof (A) the absence of a quorum of the holders of the New Preferred Stock and Voting Parity Preferred Stock shall not prevent the election of directors other than those to be elected by the holders of such preferred stock, and the absence of a quorum or quorums of the holders of other classes or series of capital stock entitled to elect such other directors shall not prevent the election of directors to be elected by the holders of the New Preferred Stock and Voting Parity Preferred Stock, and (B) in the absence of a quorum of the holders of New Preferred Stock and Voting Parity Preferred Stock, a majority of the holders present in person or by proxy of such preferred stock shall have the power to adjourn the meeting, or appropriate portion thereof, for the election of directors which the holders of such preferred stock are entitled to elect, from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(v) The directors elected pursuant to this Subparagraph V(a) shall serve until the next annual meeting or until their respective successors shall be elected and shall qualify; *provided, however*, that when the right of the holders of the New Preferred Stock to elect directors as herein provided shall terminate, the terms of office of all persons so elected by the holders of the New Preferred Stock shall terminate, and the number of directors of the Corporation shall thereupon be such number as may be provided in accordance with the Certificate of Incorporation and Bylaws of the Corporation irrespective of any increase made pursuant to this Subparagraph V(a).

(vi) So long as any shares of New Preferred Stock are outstanding, the Certificate of Incorporation and Bylaws of the Corporation shall contain provisions ensuring that the number of Directors of the Corporation shall at all times be such that the exercise by the holders of shares of New Preferred Stock of the right to elect directors under the circumstances provided in this Subparagraph V(a) shall not contravene any provisions of the Corporation's Certificate of Incorporation or Bylaws.

(b) So long as any shares of the New Preferred Stock remain outstanding, the Corporation shall not, (i) create or issue or increase the authorized number of shares of any class

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or classes or series of stock ranking prior to the New Preferred Stock either as to dividends or upon liquidation, (ii) amend, alter or repeal any of the provisions of the Certificate of Incorporation (including this resolution) so as to affect adversely the preferences, special rights or powers of the New Preferred Stock or (iii) authorize any reclassification of the New Preferred Stock.

VI. Redemption by the Corporation.

(a) The shares of New Preferred Stock may be redeemed for cash at the option of the Corporation, in whole or from time to time in part, at any time on or after September 30, 2003, on at least fifteen (15) but not more than sixty (60) days' prior notice mailed to the holders of the shares to be redeemed, at \$21.00 per share, together with an amount equal to all dividends (whether or not earned or declared) accumulated and unpaid to the date fixed for redemption. The shares of New Preferred Stock shall be redeemed for cash on September 30, 2005, at \$21.00 per share together with an amount equal to all dividends (whether or not earned or declared) accumulated and unpaid as of September 30, 2005.

(b) If full cumulative dividends on the New Preferred Stock have not been paid through the most recent Dividend Payment Date, the New Preferred Stock may not be redeemed in part and the Corporation may not purchase or acquire any shares of the New Preferred Stock otherwise than pursuant to a purchase or exchange offer made on the same terms to all holders of the New Preferred Stock. If less than all the outstanding shares of New Preferred Stock are to be redeemed, redemption may be either a pro rata proportion of the shares of the New Preferred Stock to be redeemed or the Corporation may select the shares of the New Preferred Stock to be redeemed by lot or a substantially equivalent method.

(c) (1) If a notice of redemption has been given pursuant to this Paragraph VI and if, on or before the date fixed for the redemption, the funds necessary for the redemption shall have been set aside by the Corporation, separate and apart from its other funds, in trust for the pro rata benefit of the holders of the shares so called for redemption, then, notwithstanding that any certificates for those shares have not been surrendered for cancellation, on the date fixed for redemption dividends shall cease to accrue on the shares of New Preferred Stock to be redeemed, and at the close of business on the date fixed for redemption the holders of those shares shall cease to be stockholders with respect to those shares and shall have no interest in or claims against the Corporation by virtue thereof and shall have no voting or other rights with respect to the shares, except the right to receive the monies payable upon such redemption and the right to accumulated and unpaid dividends, without interest thereon, upon surrender (the endorsement, if required by the Corporation) of their certificates, and, unless the Corporation subsequently shall default in mailing payment of these amounts, the shares shall default in mailing payment of these amounts, the shares evidenced thereby shall no longer be deemed outstanding for any purpose.

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(ii) If on or before the date fixed for redemption (but not less than fifteen (15) days after the date the notice of redemption is mailed to the holders of the New Preferred Stock) the Corporation shall deposit, in a trust fund, with any bank or trust company organized under the laws of the United States of America or any state thereof having a combined capital and surplus of at least \$5,000,000 (the "Redemption Agent") monies sufficient to redeem on the date fixed for redemption the shares of New Preferred Stock to be redeemed, with irrevocable instructions and authority to the Redemption Agent on behalf and at the expense of the Corporation, to pay, on the date fixed for redemption or prior to that date, the full amount of the consideration (consisting of the redemption price plus accrued and unpaid dividends, if any, to the date fixed for redemption, without interest) payable to the holders of the New Preferred Stock upon the redemption, upon surrender (and endorsement, if required by the Corporation) of their certificates, then, from and after the close of business on the date of such deposit (although prior to the date fixed for redemption) the "Deposit Date", the deposit shall be deemed to constitute full and final payment for the shares of New Preferred Stock to be redeemed to the holders thereof and, notwithstanding that any certificates for those shares have not been surrendered for cancellation, on the date fixed for redemption dividends shall cease to accrue on the shares of New Preferred Stock to be redeemed, and at the close of business on the Deposit Date the holders of those shares shall cease to be stockholders with respect to those shares and shall have no interest in or claims against the Corporation by virtue thereof and shall have no voting or other rights with respect to the shares, except the right to receive the monies payable upon redemption and the right to accumulated and unpaid dividends to the date fixed for redemption without interest thereof, upon surrender (and endorsement, if required by the Corporation) of their certificates, and the shares evidenced thereby shall no longer be deemed outstanding for any purposes.

(iii) Subject to applicable escheat laws, any monies necessary for redemption set aside or deposited by the Corporation and unclaimed at the end of two years from the date fixed for redemption shall revert to the general funds of the Corporation, after which reversion the holders of such shares so called for redemption but not surrendered shall look only to the general funds of the Corporation for the payment of the amounts payable upon such redemption. Any interest accrued on funds so set aside or deposited shall belong to the Corporation and shall be paid to it from time to time.

VII. Consent. No consent of the holders of the New Preferred Stock shall be required for (a) the creation of any indebtedness of any kind of the Corporation, (b) the creation or issuance, or increase or decrease in the amount, of any class or series of stock of the Corporation not ranking prior as to dividends or upon liquidation to the New Preferred Stock, (c) any increase or decrease in the amount of authorized Common Stock or any increase, decrease or change in the par value thereof or in any other terms thereof or (d) of any increase or decrease in the authorized amount of preferred stock issuable by the Board of Directors in series.

VIII. Number of Shares of New Preferred Stock. The Board reserves the right by subsequent amendment of this resolution from time to time to amend this resolution within the limitations provided by law, this resolution and the Certificate of Incorporation.

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of the New Preferred Stock

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LX. Miscellaneous.

(a) Except as otherwise expressly provided, whenever in this resolution notices or other communications are required to be made, delivered or otherwise given to holders of shares of New Preferred Stock, the notice or other communication shall be deemed properly given if deposited in the United States mail, postage prepaid, addressed to the persons shown on the books of the Corporation as such holders at the addresses as they appear in the books of the Corporation, as of a record date or dates determined in accordance with the Corporations' Certificate of Incorporation and Bylaws and applicable law, as in effect from time to time.

(b) The holders of the New Preferred Stock shall not have any preemptive right to subscribe for or purchase any shares or any other securities which may be issued by the Corporation.

(c) Except as may otherwise be required by law, the shares of New Preferred Stock shall not have any designations, preferences, limitations or relative rights, other than those specifically set forth in this resolution (as such resolution may be amended from time to time) and in the Certificate of Incorporation.


(d) The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

(e) If any right, preference or limitation of the New Preferred Stock set forth in this resolution (as such resolution may be amended from time to time) is invalid, unlawful or incapable of being enforced by reason of any rule or law or public policy, all other rights, preferences and limitations set forth in this resolution (as so amended) which can be given effect without the invalid, unlawful or unenforceable right, preference or limitation shall, nevertheless, remain in full force and effect, and no right, preference or limitation herein set forth shall be deemed dependent upon any other such right, preference or limitation unless so expressed herein.

IN WITNESS WHEREOF, FirstCity Financial Corporation has caused this certificate to be made under the seal of the Corporation and signed by James T. Sartain, its President, and attested by Joe S. Greak, its Secretary, this 31st day of July, 1997.

FirstCity Financial Corporation

By: _____


James T. Sartain, President

ATTEST:


Joe S. Greak, SecretaryCertificate of Designation
of the New Preferred StockW025-019wrechange\designatc.cer
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