

32 the Improvement Area #1 Assessed Parcels (each term as defined in the 2019
33 Amended and Restated Service and Assessment Plan, defined below); and

34 (E) On February 7, 2019, the City Council ratified and confirmed the levy of the
35 Improvement Area #1 Assessments against the Improvement Area #1
36 Assessed Parcels pursuant to Ordinance No. 20190207-002; and

37 (F) An amended and restated service and assessment plan (the “2019 Amended
38 and Restated Service and Assessment Plan”) consolidates and incorporates
39 the Original Service and Assessment Plan and the 2018 Addendum into a
40 single plan as part of the annual update to the Original Service and Assessment
41 Plan and the 2018 Addendum and for the purposes of issuing the Bonds
42 (defined below); and

43 (G) The 2019 Amended and Restated Service and Assessment Plan and the
44 Improvement Area #1 Assessment Rolls attached thereto reflect a reduction
45 in the Improvement Area #1 Assessments against the Improvement Area #1
46 Assessed Parcels; and

47 (H) The City is authorized by the Act to issue revenue bonds payable from the
48 Improvement Area #1 Bond Assessments (as defined in the 2019 Amended
49 and Restated Service and Assessment Plan), and other revenue received, for
50 the purposes of (i) paying the costs of the Improvement Area #1
51 Improvements identified in the 2019 Amended and Restated Service and
52 Assessment Plan, (ii) establishing the other funds and accounts described in
53 the Indenture (as defined below) or as required in connection with the issuance
54 of the bonds, and (iii) paying the costs of issuing the bonds; and

55 (I) The City Council finds and determines that it is in the best interest of the City
56 to issue bonds to be designated City of Austin, Texas Special Assessment
57 Revenue Bonds, Series 2019 (Whisper Valley Public Improvement District
58 Improvement Area #1) (the “Bonds”), such series to be payable from and
59 secured by the Pledged Revenues, as defined in the Indenture; and

60 (J) The City Council finds that it should approve (i) the issuance of the Bonds to
61 finance the Improvement Area #1 Improvements (as defined in the 2019
62 Amended and Restated Service and Assessment Plan), (ii) the Indenture (as

63 defined below) securing the City's bonds authorized by this Ordinance, (iii)
64 the Bond Purchase Agreement (as defined below) between the City and
65 purchasers of the Bonds, (iv) the Reimbursement Agreement (as defined
66 below), (v) the First Amendment to the Financing Agreement (as defined
67 below), (vi) the Limited Offering Memorandum (as defined below), and (vii)
68 the Continuing Disclosure Agreement (as defined below) between the City
69 and U.S. Bank National Association (the "Trustee") relating to the Bonds and
70 the Improvement Area #1 Assessments; and

- 71 (K) The meeting at which this Ordinance was considered was open to the public
72 as required by law, and public notice of the time, place and purpose of the
73 meeting was provided as required by the Open Meetings Act, Chapter 551 of
74 the Texas Government Code.

75 **PART 2. APPROVAL OF ISSUANCE OF BONDS AND INDENTURE OF**
76 **TRUST.**

- 77 (A) The issuance of the Bonds in the principal amount \$_____ for the
78 purpose of providing funds for (i) paying the costs of the Improvement Area
79 #1 Improvements, (ii) establishing the funds and accounts described in the
80 Indenture or as required in connection with the issuance of the Bonds, and (iii)
81 paying the costs of issuing the Bonds, is authorized and approved.
- 82 (B) The Bonds shall be issued and secured under the Indenture of Trust (the
83 "Indenture") dated as of April 1, 2019 between the City and the Trustee. The
84 Indenture, in substantially the form attached as Exhibit A and incorporated for
85 all purposes, is authorized and approved with such changes as are necessary.
86 The Mayor or Mayor Pro Tem is authorized and directed to execute the
87 Indenture.
- 88 (C) The Bonds shall be dated, mature on the date or dates and in the principal or
89 maturity amounts, bear interest, be subject to redemption and have the other
90 terms and provisions set forth in the Indenture. The Bonds shall be in
91 substantially the form set forth in the Indenture, with such changes as are
92 necessary to conform the form of bond to the actual terms of the Bonds. The
93 Bonds shall be payable from and secured by the Pledged Revenues (as defined

94 in the Indenture) and other assets of the Trust Estate (as defined in the
95 Indenture) pledged to such series, and shall never be payable from ad valorem
96 taxes.

97 **PART 3. SALE OF BONDS; APPROVAL AND BOND PURCHASE**
98 **AGREEMENT.**

99 The Bonds shall be sold to FMSbonds, Inc. (the “Underwriter”) pursuant to
100 the terms of sale in the Bond Purchase Agreement, dated this date, between the City
101 and the Underwriter, in substantially the form attached hereto as Exhibit B and
102 incorporated for all purposes, which terms of sale are declared to be in the best
103 interest of the City. The Bond Purchase Agreement is authorized and approved with
104 such changes as are necessary, and the Mayor, Mayor Pro Tem, City Manager, or
105 Deputy City Manager is authorized and directed to execute the Bond Purchase
106 Agreement.

107 **PART 4. LIMITED OFFERING MEMORANDUM.**

108 The Preliminary Limited Offering Memorandum for the Bonds and any
109 supplement or amendment (the “Preliminary Limited Offering Memorandum”) and
110 the final Limited Offering Memorandum (the “Limited Offering Memorandum”) presented to and considered at the meeting at which this Ordinance was considered
111 are approved and adopted with such changes as are necessary. The Mayor or Mayor
112 Pro Tem is authorized and directed to execute the Limited Offering Memorandum.
113 The Limited Offering Memorandum may be used by the Underwriter in the offering
114 and sale of the Bonds. The City Clerk is authorized and directed to maintain copies
115 of the Preliminary Limited Offering Memorandum, the Limited Offering
116 Memorandum, and any supplement or amendment. Notwithstanding the prior
117 approval and delivery of the Preliminary Limited Offering Memorandum in the
118 offering of the Bonds, the Preliminary Limited Offering Memorandum is hereby
119 ratified, approved and confirmed. Notwithstanding the approval and execution of the
120 Preliminary Limited Offering Memorandum and the Limited Offering
121 Memorandum by the Mayor or Mayor Pro Tem, the Mayor, the Mayor Pro Tem, and
122 the City Council are not responsible for, and have no specific knowledge of, the
123 information contained in the Preliminary Limited Offering Memorandum or the
124 Limited Offering Memorandum pertaining to the Project (as defined in the Bond
125

126 Purchase Agreement), the Landowner or its financial ability, any builders, any
127 landowners, or the appraisal of the property in the District.

128 **PART 5. 2019 AMENDED AND RESTATED SERVICE AND**
129 **ASSESSMENT PLAN.**

130 The Original Service and Assessment Plan and the 2018 Addendum are
131 amended and restated by consolidating and incorporating both documents into the
132 2019 Amended and Restated Service and Assessment Plan, attached as Exhibit C,
133 which is hereby accepted and approved pursuant to Section 372.013 of the Act.

134 **PART 6. CONTINUING DISCLOSURE AGREEMENT.**

135 The Continuing Disclosure Agreement between the City and U.S. Bank
136 National Association, as Dissemination Agent, in substantially the form attached
137 hereto as Exhibit D and incorporated for all purposes, is authorized and approved
138 with such changes as are necessary. The City Manager, the Deputy City Manager,
139 an Assistant City Manager, or the Treasurer of the City is authorized and directed to
140 execute the Continuing Disclosure Agreement.

141 **PART 7. REIMBURSEMENT AGREEMENT.**

142 The Whisper Valley Public Improvement District Improvement Area #1
143 Reimbursement Agreement (the “Reimbursement Agreement”) between the City
144 and Club Deal 120 Whisper Valley, Limited Partnership, in substantially the form
145 attached as Exhibit E and incorporated for all purposes, is authorized and approved
146 with such changes as are necessary. The City Manager, the Deputy City Manager,
147 an Assistant City Manager, or the Treasurer of the City is authorized and directed to
148 execute the Reimbursement Agreement.

149 **PART 8. FIRST AMENDMENT TO THE FINANCING AGREEMENT.**

150 The First Amendment to the Whisper Valley Public Improvement District
151 Financing Agreement (the “First Amendment to the Financing Agreement”) between the City and Club Deal 120 Whisper Valley, Limited Partnership, in
152 substantially the form attached as Exhibit F and incorporated for all purposes, is
153 authorized and approved with such changes as are necessary. The City Manager, the
154

155 Deputy City Manager, an Assistant City Manager, or the Treasurer of the City is
156 authorized and directed to execute the First Amendment to the Financing
157 Agreement.

158 **PART 9. ADDITIONAL ACTIONS.**

159 The Mayor, the Mayor Pro Tem, the City Manager, the Deputy City
160 Manager, an Assistant City Manager, or the City Treasurer, and City Clerk are
161 authorized and directed to execute all certificates, agreements, notices, instruction
162 letters, requisitions, and other documents as are necessary in connection with the
163 sale and issuance of the Bonds.

164 **PART 10. GOVERNING LAW.**

165 This Ordinance shall be construed and enforced in accordance with the laws
166 of the State of Texas and the United States of America.

167 **PART 11. SEVERABILITY.**

168 If any provision of this Ordinance or its application to any person or
169 circumstance is held to be invalid, the remainder of this Ordinance and the
170 application of the provision to other persons or circumstances shall be valid, and the
171 City Council declares that this Ordinance would have been enacted without the
172 invalid provision.

173 **PART 12. INCORPORATION OF FINDINGS AND DETERMINATIONS.**

174 The findings and determinations of the City Council in Part 1 of this
175 Ordinance are incorporated for all purposes.

177 **PART 13. EFFECTIVE DATE.**

178 This Ordinance is passed on one reading as authorized by Texas
179 Government Code Section 1201.028, and shall be effective immediately upon its
180 passage and adoption.

181 **PASSED AND APPROVED**

182 §
183 §
184 _____, 2019 § _____

185 Steve Adler
186 Mayor

187 **APPROVED:** _____
188 Anne L. Morgan
189 City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk