

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING EXECUTION AND DELIVERY OF A REIMBURSEMENT AGREEMENT AND FEE LETTER RELATING TO THE SUBSTITUTION OF THE LETTER OF CREDIT SUPPORTING THE CITY'S HOTEL OCCUPANCY TAX SUBORDINATE LIEN VARIABLE RATE REVENUE REFUNDING BONDS, SERIES 2008, SUBSERIES A; AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED AGREEMENTS AND A SECONDARY MARKET INFORMATION CIRCULAR.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. FINDINGS**

(A) Pursuant to Ordinance No. 20080724-101 (Original Ordinance) and the Pricing Certificate dated August 7, 2008, executed pursuant to the Original Ordinance (Pricing Certificate), the City of Austin (City) previously issued and has outstanding its Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008, issued in two subseries designated as "Subseries 2008A" and "Subseries 2008B" (Bonds), in accordance with the provisions of Texas Government Code, Chapters 1207 and 1371.

(B) The Original Ordinance has been amended by Ordinance No. 20110623-084, Ordinance No. 20131121-043 and Ordinance No. 20200827-070 (Amending Ordinances, and together with the Original Ordinance and the Pricing Certificate, the Authorizing Ordinance). The Authorizing Ordinance contains some capitalized terms that are used in this ordinance. Those terms have the same meaning in this ordinance as they do in the Authorizing Ordinance.

(C) The City previously entered into an Amended and Restated Reimbursement Agreement, dated December 1, 2012 (Original Reimbursement Agreement), with JPMorgan Chase Bank, National Association (JPMorgan), pursuant to which JPMorgan issued a letter of credit supporting the Subseries 2008A Bonds (Original LOC).

(D) Council (1) by Ordinance No. 20170831-013 replaced the Original LOC with a new letter of credit issued by Citibank, N.A. (Citibank) for the Subseries 2008A Bonds (2017 LOC) and (2) by Ordinance No. 20200827-070 extended the stated expiration date of the Existing LOC and accepted an Amended and Restated Irrevocable Letter of Credit from Citibank amending and restating the 2017 LOC (Existing LOC).

34 (E) The Existing LOC expires on October 7, 2021, and in order for the City to  
35 maintain the Subseries 2008A Bonds in a weekly mode bearing interest at a weekly rate,  
36 the City is required by the Authorizing Ordinance to provide a substitute liquidity facility  
37 to support the Subseries 2008A Bonds on or before the expiration of the Existing LOC.

38 (F) Council finds that the Existing LOC should be replaced and in that  
39 connection to accept in substitution of the Existing LOC an Irrevocable Letter of Credit  
40 (New LOC) from UBS AG, acting through its Stamford Branch (UBS), to be issued  
41 pursuant to the terms of a Reimbursement Agreement to be dated as of September 1,  
42 2021 (Reimbursement Agreement), between the City and UBS.

43 (G) The interest rate on the Bonds (Subseries 2008A and Subseries 2008B) is  
44 hedged pursuant to the terms of an ISDA Master Agreement, together with the Schedule  
45 and Credit Support Annex attached thereto and related confirmation, each dated August  
46 7, 2008, between the City and Raymond James Financial Products, Inc. (RJFP), and a  
47 Replacement Transaction Agreement, including a Credit Support Annex thereto, each  
48 dated as of August 7, 2008, among the City, RJFP and Deutsche Bank AG, New York  
49 Branch (collectively, the Swap Agreement).

50 (H) Under the terms of the Swap Agreement, the City is obligated to make  
51 payments to RJFP calculated on a notional amount equal to the outstanding principal  
52 amount of the Bonds at a fixed interest rate of 3.2505% per annum, and RJFP is obligated  
53 to make reciprocal payments to the City calculated on the notional amount equal to the  
54 outstanding principal amount of the Bonds at a variable rate equal to 67% of the one-  
55 month London Interbank Borrowing Rate (LIBOR) on U.S. deposits.

56 (I) Council finds that in connection with the substitution of the New LOC in  
57 place of the Existing LOC it is necessary to adopt certain ISDA protocols (Protocols)  
58 relating to the forthcoming phase-out of LIBOR, which may no longer be required to be  
59 computed and published at some point in the next two years, such that a fallback  
60 benchmark rate be designated for purposes of the Swap Agreement.

61 (J) In connection with the substitution of the New LOC in place of the  
62 Existing LOC, Council finds it necessary to authorize the execution and delivery of: (1)  
63 the Reimbursement Agreement, (2) a Fee Agreement between the City and UBS (Fee  
64 Agreement), (3) the Protocols and (4) any and all certificates and other instruments  
65 described in or by the conditions described in these documents.

66 (K) In connection with the substitution of the New LOC in place of the  
67 Existing LOC, the Authorizing Ordinance requires the mandatory tender for purchase of  
68 the Subseries 2008A Bonds and remarketing of such Subseries 2008A Bonds, and

Council finds it necessary to approve and authorize the use of a Secondary Market Information Circular in connection with such mandatory tender and remarketing.

(L) Council finds that it is necessary to authorize the substitution of the New LOC in place of the Existing LOC as determined by an Authorized Officer to be necessary in order to provide for the replacement of the Existing LOC as authorized by this ordinance (such determination to be evidenced by an Authorized Officer's execution of the Reimbursement Agreement).

(M) The City is authorized to cause the delivery of the New LOC, and to execute and deliver the Reimbursement Agreement, the Fee Agreement and the Protocols, all pursuant to Chapter 1371, Texas Government Code.

## **PART 2. AUTHORIZATION**

(A) Council authorizes, ratifies, and approves the substitution of the New LOC in place of the Existing LOC and the adoption of the Protocols. The mayor, any designee of the mayor, the city manager, any designee of the city manager, the chief financial officer of the City, the city clerk, and the city treasurer (each, an Authorized Officer, and collectively, Authorized Officers), or any of them, are authorized and directed to take all actions necessary or desirable to effect the substitution of the New LOC in place of the Existing LOC and the adoption of the Protocols in accordance with the provisions of the Authorizing Ordinance and this ordinance at the times and in the manner as they decide are appropriate.

(B) Council authorizes the negotiation, execution, and delivery of the (1) the Reimbursement Agreement in substantially the form attached as Exhibit A, (2) the Fee Agreement in substantially the form attached as Exhibit B, and (3) the Protocols in substantially the form attached as Exhibit C. Each Authorized Officer is authorized to execute and deliver the Reimbursement Agreement, the Fee Agreement and the Protocols, with any changes as may be approved by an Authorized Officer. The execution of the Reimbursement Agreement, the Fee Agreement and the Protocols will be conclusive evidence the City approved each of these agreements and all changes to the forms attached hereto. Any actions by officials of the City with respect to the substitution of the New LOC in place of the Existing LOC, the adoption of the Protocols and the transactions contemplated thereby that may have occurred prior to the date of this ordinance are ratified.

(C) Council authorizes, ratifies, and approves the preparation, distribution, and use of the Secondary Market Information Circular in substantially the form attached as Exhibit D. To the extent required, the Secondary Market Information Circular is

“final” as of its date for purposes of compliance with Rule 15c2-12 of the Securities and Exchange Commission.

(D) The Paying Agent/Registrar, the Tender Agent and the Remarketing Agent are authorized and directed to take all actions and give all notices as may be necessary or desirable to effect the substitution of the New LOC in place of the Existing LOC and all other actions authorized by this ordinance.

### **PART 3. FURTHER PROCEDURES**

Each Authorized Officer is authorized and directed to do any and all things necessary or convenient to carry out the terms of this ordinance.

### **PART 4. SEVERABILITY**

The provisions of this ordinance are severable. If any provision of this ordinance or its applications to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance.

### **PART 5. OPEN MEETING**

The City posted sufficient written notice of the date, hour, place, and subject of the meeting of the city council at which this ordinance was adopted at a place convenient and readily accessible at all times to the general public at the Austin City Hall for the time required by the Texas Open Meetings Act, Chapter 551, Texas Government Code. This meeting has been open to the public as required by law at all times during which this ordinance and its subject matter were discussed, considered, and formally acted upon. The city council ratifies, approves, and confirms such written notice, its contents and its posting.

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**PART 6. REPEALER**

All orders, resolutions, and ordinances (other than the Authorizing Ordinance), or their parts that are inconsistent with this ordinance are repealed only to the extent needed to eliminate the inconsistency.

**PART 7. EFFECTIVE IMMEDIATELY**

This ordinance takes effect immediately on its passage pursuant to Section 1201.028, Texas Government Code.

**PART 8.** This ordinance takes effect on \_\_\_\_\_, 2021.

**PASSED AND APPROVED**

\_\_\_\_\_, 2021      §  
   §  
   §      \_\_\_\_\_  
   Steve Adler  
   Mayor

**APPROVED:** \_\_\_\_\_ **ATTEST:** \_\_\_\_\_  
Anne L. Morgan      Jannette S. Goodall  
City Attorney      City Clerk

**EXHIBIT A**

[Reimbursement Agreement]

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**EXHIBIT B**

[Fee Letter]

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**EXHIBIT C**

[Protocols]

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## **EXHIBIT D**

[Secondary Market Information Circular]

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