

ORDINANCE NO. 2024____-____

AN ORDINANCE AUTHORIZING EXECUTION AND DELIVERY OF CREDIT AGREEMENTS, REIMBURSEMENT AGREEMENTS, AND FEE LETTERS RELATING TO THE CITY'S HOTEL OCCUPANCY TAX SUBORDINATE LIEN VARIABLE RATE REVENUE REFUNDING BONDS, SERIES 2008, INCLUDING THE SUBSTITUTION OF THE LETTER OF CREDIT SUPPORTING SUBSERIES 2008A; 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 (Bonds), issued in two subseries designated as "Subseries 2008A" and "Subseries 2008B", 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 and Ordinance No. 20131121-043 (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 (Subseries 2008A Original Reimbursement Agreement), with JPMorgan Chase Bank, National Association (JPMorgan), pursuant to which JPMorgan issued a letter of credit supporting the Subseries 2008A Bonds (Subseries 2008A JPMorgan LOC).

(D) Council (1) by Ordinance No. 20170831-013 replaced the Subseries 2008A JPMorgan LOC with a new letter of credit issued by Citibank, N.A. (Citibank) for the Subseries 2008A Bonds (Subseries 2008A Citibank LOC), (2)

by Ordinance No. 20200827-070 extended the stated expiration date of the Subseries 2008A Citibank LOC and accepted an Amended and Restated Irrevocable Letter of Credit from Citibank amending and restating the Subseries 2008A Citibank LOC, and (3) by Ordinance No. 20210826-054 replaced the Subseries 2008A Citibank LOC with a new letter of credit issued by UBS AG, acting through its Stamford Branch (UBS) for the Subseries 2008A Bonds (Subseries 2008A UBS LOC).

(E) The Subseries 2008A UBS LOC expires on October 2, 2024, and in order for the City to maintain the Subseries 2008A Bonds in a weekly mode bearing interest at a weekly rate, the City is required by the Authorizing Ordinance to provide a substitute liquidity facility to support the Subseries 2008A Bonds on or before the expiration of the Subseries 2008A UBS LOC.

(F) Council finds that the Subseries 2008A UBS LOC should be replaced and in that connection to accept in substitution of the Subseries 2008A UBS LOC an Irrevocable Letter of Credit (New LOC) from Sumitomo Mitsui Banking Corporation, acting through its New York Branch (SMBC), to be issued pursuant to the terms of a Reimbursement Agreement to be dated as of June 1, 2024 (Subseries 2008A Reimbursement Agreement), between the City and SMBC.

(G) The City previously entered into an Amended and Restated Reimbursement Agreement, dated December 1, 2012 (Subseries 2008B Original Reimbursement Agreement), with Bank of America, N.A. (BofA), pursuant to which BofA issued a letter of credit supporting the Subseries 2008B Bonds (Subseries 2008B BofA LOC).

(H) Council (1) by Ordinance No. 20170831-013 replaced the Subseries 2008B BofA LOC with a new letter of credit issued by SMBC for the Subseries 2008B Bonds (Subseries 2008B SMBC LOC), (2) by Ordinance No. 20200827-070 extended the stated expiration date of the Subseries 2008B SMBC LOC and accepted an Amended and Restated Irrevocable Letter of Credit from SMBC amending and restating the Subseries 2008B SMBC LOC, and (3) by Ordinance No. 20210826-054 extended the stated expiration date of the Subseries 2008B SMBC LOC and accepted an Amended and Restated Irrevocable Letter of Credit from SMBC amending and restating the Subseries 2008B SMBC LOC.

(I) Council finds that the Stated Expiration Dates of the Subseries 2008B SMBC LOC should be extended and in that connection to accept (1) an Amended and Restated Irrevocable Letter of Credit from SMBC amending and restating the Subseries 2008B SMBC LOC.

(J) In connection with the substitution of the Subseries 2008A SMBC LOC in place of the Subseries 2008A UBS LOC and the extension of the Stated Expiration Date for the Subseries 2008B SMBC LOC, Council finds it necessary to authorize the execution and delivery of: (1) a Reimbursement Agreement between the City and SMBC for Subseries 2008A, (2) a Fee Agreement between the City and SMBC for Subseries 2008A, (3) an amendment to the Reimbursement Agreement between the City and SMBC for Subseries 2008B, (4) an amendment to the Fee Agreement between the City and SMBC for Subseries 2008B, and (5) any and all certificates and other instruments described in or by the conditions described in these documents.

(K) In connection with the substitution of the Subseries 2008A SMBC LOC in place of the Subseries 2008A UBS LOC and the extension of the Stated Expiration Date for the Subseries 2008B SMBC LOC, the Authorizing Ordinance requires the mandatory tender for purchase of 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 Subseries 2008A SMBC LOC in place of the Subseries 2008A UBS LOC as determined by an Authorized Officer to be necessary in order to provide for the replacement of the Subseries 2008A UBS LOC as authorized by this ordinance (such determination to be evidenced by an Authorized Officer's execution of the Reimbursement Agreement between the City and SMBC for Subseries 2008A).

(M) The City is authorized to cause the delivery of the Subseries 2008A SMBC LOC, and to execute and deliver the Reimbursement Agreement between the City and SMBC for Subseries 2008A, the Fee Agreement between the City and SMBC for Subseries 2008A, an amendment to the Reimbursement Agreement between the City and SMBC for Subseries 2008B, and an amendment to the Fee Agreement between the City and SMBC for Subseries 2008B, all pursuant to Chapter 1371, Texas Government Code.

PART 2. AUTHORIZATION.

(A) Council authorizes, ratifies, and approves the substitution of the Subseries 2008A SMBC LOC in place of the Subseries 2008A UBS LOC and the extension of the Stated Expiration Date of the Subseries 2008B SMBC LOC. 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 Subseries 2008A SMBC LOC in place of the Subseries 2008A UBS LOC and the extension of the Stated Expiration Date of the Subseries 2008B SMBC LOC 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 between the City and SMBC for Subseries 2008A in substantially the form attached as Exhibit A, (2) the Fee Agreement between the City and SMBC for Subseries 2008A in substantially the form attached as Exhibit B, (3) an amendment to the Reimbursement Agreement between the City and SMBC for Subseries 2008B in substantially the form attached as Exhibit C, and (4) an amendment to the Fee Agreement between the City and SMBC for Subseries 2008B in substantially the form attached as Exhibit D. Each Authorized Officer is authorized to execute and deliver the Reimbursement Agreement between the City and SMBC for Subseries 2008A, the Fee Agreement between the City and SMBC for Subseries 2008A, an amendment to the Reimbursement Agreement between the City and SMBC for Subseries 2008B, and an amendment to the Fee Agreement between the City and SMBC for Subseries 2008B, with any changes as may be approved by an Authorized Officer. The execution of the Reimbursement Agreement between the City and SMBC for Subseries 2008A, the Fee Agreement between the City and SMBC for Subseries 2008A, an amendment to the Reimbursement Agreement between the City and SMBC for Subseries 2008B, and an amendment to the Fee Agreement between the City and SMBC for Subseries 2008B 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 Subseries 2008A SMBC LOC in place of the Subseries 2008A UBS LOC, the extension of the Stated Expiration Date of the Subseries 2008B SMBC LOC, 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 E. 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 Subseries 2008A SMBC LOC in place of the Subseries 2008A UBS 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.

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.

PASSED AND APPROVED

_____, 2024

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Kirk Watson
Mayor

APPROVED: _____
Anne Morgan
City Attorney

ATTEST: _____
Myrna Rios
City Clerk

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