

ORDINANCE NO. 20190808-017

AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD IN THE CITY OF AUSTIN ON NOVEMBER 5, 2019 FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A PROPOSED CITIZEN-INITIATED ORDINANCE REGARDING THE USE OF AUSTIN'S HOTEL OCCUPANCY TAX REVENUE.; PROVIDING FOR THE CONDUCT OF THE SPECIAL ELECTION; AUTHORIZING THE CITY CLERK TO ENTER INTO JOINT ELECTION AGREEMENTS WITH OTHER LOCAL POLITICAL SUBDIVISIONS AS MAY BE NECESSARY FOR THE ORDERLY CONDUCT OF THE ELECTION; AND DECLARING AN EMERGENCY.

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

PART 1. The City received a petition, certified sufficient by the City Clerk on July 26, 2019, for a citizen-initiated ordinance that included a findings and purpose section, proposed amendments to the City Code regarding the use of Austin's Hotel Occupancy Tax revenue, and effectiveness and severability clauses.

PART 2. A special election shall be held in the City of Austin on November 5, 2019, to submit to the voters of the City the proposed citizen-initiated ordinance regarding the use of Austin's Hotel Occupancy Tax revenue. The ballot shall be prepared to permit voting "Yes" or "No" on the proposition:

Proposition B: Shall an ordinance be adopted that limits, beyond existing limits in state statute and city ordinance, the use of Austin's Hotel Occupancy Tax revenue, including the amount of Hotel Occupancy Tax revenue that may be used to construct, operate, maintain, or promote the Austin Convention Center; requires any private third-party entity managing such funds to comply with open meeting and public information laws applicable to the City; and requires voter approval for Convention Center improvements or expansions of more than \$20,000,000 at an election for which the City must pay.

PART 3: If the proposition provided in Part 1 is approved by a majority of voters voting at the election, the City Code is amended as indicated below with the findings and purpose appearing before Section 11-2-7 of the City Code, and the effectiveness and severability appearing after Section 11-2-9 of the City Code:

PART 1. Findings and Purpose:

(A) The City of Austin benefits significantly from cultural, heritage and

environmental tourism, which collectively generate the bulk of the revenue the City receives from the assessment of the Hotel Occupancy Tax; however, with too little support from the City of Austin, many of our local artists, musicians, performers and local business owners upon which Austin's cultural fabric is based are struggling to survive with Austin's growing costs of living and doing business.

- (B) In contrast, the Austin Convention Center's corporate meetings, conventions and events account for less than four percent (4%) of Austin's overnight visitors, yet Convention Center-related operations, management, construction and reserves consume over seventy percent (70%) of Austin's annual Hotel Occupancy Tax revenue.
- (C) The purpose of this ordinance is to re-prioritize Austin's investment of Hotel Occupancy Tax revenue to promote and support tourism that emphasizes and enhances Austin's diverse culture, heritage, environment and locally owned businesses.

PART 2. Section 11-2-7 of the Austin City Code is hereby repealed and replaced with the following provisions:

§11-2-7 ALLOCATION AND USE OF HOTEL OCCUPANCY TAX REVENUE

- (A) This section applies to all revenue, including interest and appreciation, derived from the Hotel Occupancy Tax and collected by the City of Austin, as authorized under state law.
- (B) The revenue derived from the Hotel Occupancy Tax shall be prioritized for activities and expenditures that will directly promote, support and enhance tourism that is focused on Austin's unique and diverse culture, arts and music, historic preservation, parks, environmental resources, and locally owned businesses (collectively the "Cultural Tourism Industry"). In furtherance of such objective, for each fiscal year, allocations of Hotel Occupancy Tax revenue shall be subject to the following constraints:
 - (1) Support for Cultural Arts. Not less than fifteen percent (15%) of the total annual Hotel Occupancy Tax revenue collected for each fiscal year shall be prioritized and allocated to the Cultural Arts Fund (or a similar fund established by the City Council), which may be used for purposes described under Section 351.101(a)(4) of the Texas Tax Code.
 - (2) Support for Historic Preservation. Not less than fifteen percent (15%) of the total annual Hotel Occupancy Tax revenue collected for each fiscal

year shall be prioritized and allocated to the Historic Preservation Fund (or a similar fund established by the City Council), which may be used for purposes described under Section 351.101(a)(5) of the Texas Tax Code.

(3) Convention Center Expenditure Cap. The total annual allocation of Hotel Occupancy Tax revenue used for Convention Center Expenditures shall be limited to the greater of (i) an amount equal to five (5) times the Convention Center's Earned HOT Revenue or (ii) thirty-four percent (34%) of the total annual Hotel Occupancy Tax revenue collected for each fiscal year. For purposes of this ordinance, (a) the "Convention Center's Earned HOT Revenue" shall be deemed to be the total local Hotel Occupancy Tax revenue generated solely from documented hotel room rentals by convention delegates and registrants of events held at the Convention Center during the prior fiscal year; and (b) "Convention Center Expenditures" shall include but are not limited to the following: (1) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of Convention Center facilities within the Central Business District; (2) the city's provision of facilities, personnel, and materials for the registration of convention delegates or registrants; and (3) the marketing, selling, and servicing of convention services. Funds related to Convention Center Expenditures shall be allocated to the Convention Center Capital Improvement Project Fund (or a similar fund established by the City Council).

(4) Prioritization of Remaining Funds. The remainder of the total annual Hotel Occupancy Tax revenue collected for each fiscal year shall be allocated to support and enhance Austin's Cultural Tourism Industry through methods consistent with state law, including but not limited to, (a) advertising and conducting solicitations and promotional programs to attract cultural tourists to diverse, geographically dispersed parts of the City; (b) constructing, operating and maintaining a transportation system that could help connect cultural tourists from hotels in and near the City to downtown and other commercial centers with high concentrations of locally owned businesses and tourist attractions, as authorized under Section 351.110 of the Texas Tax Code; and (c) constructing, maintaining and operating cultural tourist venues, such as multipurpose, performing arts, and live music venues, as authorized under Chapter 334 of the Texas Local Government Code or other applicable law.

(C) Without limitation to the above, a tax authorized under Chapter 334 (*Sports and Community Venues*), Subchapter H (*Hotel Occupancy Taxes*) of the

Texas Local Government Code shall be subject to the limitations of subsection (B)(3) above.

- (D) Notwithstanding anything in this section, any remaining amounts from past collections of Hotel Occupancy Revenue that have accumulated in the Convention Center Capital Improvement Project Fund and/or its reserves prior to May 1, 2019, may be spent retiring previously issued, voter-approved debt for the convention center as it existed on May 1, 2019. In the event that such funds are used to pay down previously issued convention center debt earlier than otherwise required, the payments of such debt may exceed the limits prescribed under Section 11-2-7(B)(3) above.

PART 3. Title 11 of the Austin City Code is amended to add a new Section 11-2-8 to read as follows:

§11-2-8 CONVENTION CENTER IMPROVEMENT AND EXPANSION

- (A) For purposes of this ordinance, the term “Convention Center” shall refer to any facility built, operated or managed using Hotel Occupancy Tax revenue that is used primarily to host conventions or other corporate events or meetings, and such term expressly excludes facilities used primarily for purposes related to cultural arts, education, and historic preservation.
- (B) Except as provided in this section, any construction, expansion, redesign, reconfiguration or remodel of a Convention Center which costs in excess of twenty million dollars (\$20,000,000), whether via direct expenditure or an obligation incurred through debt financing, shall require voter approval by ballot measure at the next required uniform election date. The aforementioned twenty-million dollar cap shall include all total aggregate costs of improvements made to a Convention Center over any given forty-eight (48) month period of time. Such amount shall be modified each year with the adoption of the budget with an appropriate index to adjust for inflation.
- (C) No Convention Center may, without voter approval, be constructed, expanded, redesigned, reconfigured or remodeled in any manner that would remove real property from the tax rolls of the City of Austin or another taxing jurisdiction, such as the Austin Independent School District or other applicable school district.
- (D) Not less than ninety (90) days prior to an election required under subsections (B) or (C) above, the City shall publish and distribute to the public an objective analysis of the total estimated 30-year costs of such expansion, redesign, reconfiguration or remodel, which analysis shall

include, among other appropriate information, (a) the potential lost property tax revenue over such period to all relevant taxing jurisdictions resulting from the property's removal from the tax rolls, (b) all historic expenditures of City revenues for the construction, operation, maintenance and debt service for the convention center over the prior twenty (20) year period; and (c) the total projections for construction, operation, maintenance and debt service for the convention center facility to be improved for the full period of any contemplated bonded indebtedness that would be authorized by such election.

PART 4. Title 11 of the Austin City Code is amended to add a new Section 11-2-9 to read as follows:

§11-2-9 ADDITIONAL REQUIREMENTS FOR USE OF HOTEL OCCUPANCY TAX REVENUE

- (A) The City shall be prohibited from contracting with an entity to manage or supervise programs and activities funded by Hotel Occupancy Tax revenue, as authorized under Section 351.101(c) of the Texas Tax Code, unless such entity agrees to be bound to the provisions of this ordinance. For purposes of this ordinance, such contracted entity shall be referred to as a "Convention and Visitors Bureau".
- (B) Any Convention and Visitors Bureau that uses Hotel Occupancy Tax revenue shall comply with all open government and public information laws that are applicable to a City of Austin department, as if they are operating as a City of Austin department. All public information requests submitted to a Convention and Visitors Bureau shall be processed and administered through the City's Public Information Office.
- (C) Under no circumstance shall Hotel Occupancy Tax revenue be used to lobby directly or indirectly any governmental entity or official, whether state or local, nor be used to support or oppose a candidate or ballot measure.
- (D) Prior to each year's allocation of Hotel Occupancy Tax revenue, any Convention and Visitors Bureau that uses Hotel Occupancy Tax revenue shall be required to prepare a report using the City's Equity Assessment Tool to ensure that budget and planning decisions are being made in ways that are reducing racial and geographic disparities, promoting service level equity, and increasing accessibility.
- (E) Any construction project using Hotel Occupancy Tax revenue shall (i)

comply with all then-current environmental regulations of the Austin City Code, without variance or waiver; (ii) achieve sustainable-building best practices superior to those required for LEED™ Gold certification, and (iii) incorporate elements of green infrastructure (such as green roofs and vertical gardens), on-site (building-scale) alternative water use features (such as methods that harvest rainwater, stormwater, blackwater and air conditioning (AC) condensate), recycled construction materials, facilities for diversion of recyclables and organics in building operations, and amenities that support active transportation (such as showers, tree shading and bike cages).

PART 5. Effectiveness and Severability:

- (A) The effective date of this ordinance shall be the earlier of (i) ten (10) days after the date of its final passage by the Austin City Council, as prescribed under Article IV, Section 4(a) of the Austin City Charter or (ii) the date upon which the results of an election required under Article IV, Section 4(b) are canvassed. This ordinance shall apply to all uses of the Hotel Occupancy Tax, regardless of the effective date of any City contract or action.
- (B) If any section, paragraph, clause, or provision of this ordinance is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause, or provision shall not affect any of the remaining provisions of this ordinance, and to this end, the provisions of this ordinance are declared to be severable. This ordinance shall supersede the Austin City Code to the extent there are any conflicts.

PART 4. The election shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. The address of the main early voting locations and the mailing address of each of the early voting clerks are detailed in Exhibit A, attached and incorporated as a part of this ordinance.

PART 5. A direct electronic recording voting system, as the term is defined in Title 8 of the Texas Election Code, shall be used for early voting and for voting conducted on election day. The central counting station is established at the Travis County Elections Division, 5501 Airport Boulevard, Austin, Texas.

PART 6. Notice of this election shall be given by posting and publishing a copy of this ordinance in both English and Spanish. The notice and a copy of this ordinance shall be posted, in both English and Spanish, in the office of the City Clerk and at the City Hall notice kiosk not later than the 21st day before election day. Notice of

this election shall be published one time, not earlier than the 30th day before the date of the election or later than the 10th day before the date of the election, in a newspaper of general circulation in the City of Austin.

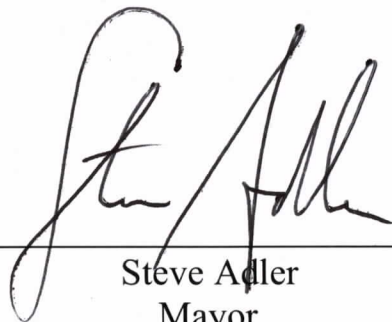
PART 7. In accordance with Chapter 271 of the Texas Election Code, the November 5, 2019 municipal special election may be held jointly with the various political subdivisions that share territory with the City of Austin and that are holding elections on that day. The City Clerk may enter and sign joint election agreements with other political subdivisions for this purpose, and their terms as stated in the agreements are hereby adopted.

PART 8. The Council finds that the need to immediately begin required preparations for this election constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED


_____, 2019

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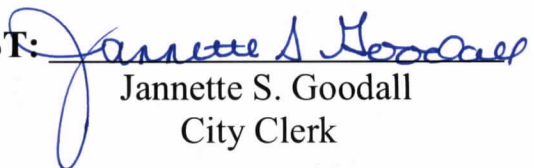
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk

Exhibit A

Main Early Voting Location Information and Early Voting Clerk Mailing Addresses

November 5, 2019 Special Municipal Election

Main Early Voting Polling Locations:

Travis County: ACC Highland, 6101 Airport Boulevard, Austin, TX

Bastrop County: Bastrop County Courthouse Annex Building, 804 Pecan St., Bastrop, TX

Williamson County: Williamson County Inner Loop Annex, 301 SE Inner Loop, Suite 104, Georgetown, TX

Hays County: Government Center Conference Room, 712 S. Stagecoach Trail, San Marcos, TX

Early Voting: Monday, October 21, 2019 – Friday, November 1, 2019

Mailing Address for Ballots by Mail:

Ballots by Mail – Travis County

By Mail voters: P.O. 149325, Austin, Texas 78714-9325

By Contract Carriers/ Fedex: 5501 Airport Blvd., Austin, Texas 78751

Ballots by Mail – Bastrop County

By Mail voters: Bastrop County Courthouse Annex Building, 804 Pecan St., Bastrop, TX 78602

Ballots by Mail - Hays County

By Mail Voters: P.O. Box 907, San Marcos, TX 78666

Ballots by Mail – Williamson County

By Mail voters: P.O Box 209, Georgetown, TX 78627