

FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT

This First Amendment to Reimbursement Agreement (this "*Amendment*") dated September __, 2020 (the "*Amendment Date*"), is between the CITY OF AUSTIN, TEXAS, a body corporate duly organized and existing under the provisions of the Constitution and laws of the State of Texas, together with its permitted successors and assigns (the "*City*"), and CITIBANK, N.A. (together with its permitted successors and assigns, the "*Bank*"). All capitalized terms used herein and not defined herein shall have the meanings set forth in the hereinafter defined Agreement.

WITNESSETH

WHEREAS, the City and the Bank have previously entered into that certain Reimbursement Agreement dated as of October 1, 2017 (as amended, restated, supplemented or otherwise modified to date, the "*Agreement*"), pursuant to which the Bank issued that certain Irrevocable Letter of Credit No. 69611286 dated October 12, 2017 (the "*Letter of Credit*"), supporting the City of Austin, Texas Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008 Subseries 2008A Bonds (the "*Bonds*");

WHEREAS, pursuant to Section 8.1 of the Agreement, the Agreement may be amended by a written amendment thereto, executed by the City and the Bank; and

WHEREAS, the City has requested that certain amendments be made to the Agreement and the Letter of Credit, and the Bank has agreed to make such amendments to the Agreement and to amend and restate the Letter of Credit subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the premises, the parties hereto hereby agree as follows:

SECTION 1. AMENDMENTS.

Upon satisfaction of the conditions precedent set forth in Section 3 hereof, the Agreement shall be amended as follows:

1.01. The first recital of the Agreement is hereby amended in its entirety and as so amended shall be restated to read as follows:

WHEREAS, the City desires to secure a source of funds to be devoted exclusively to the payment by the Paying Agent/Registrar, when and as due, of the principal of and interest on the City of Austin, Texas, Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008 Subseries 2008A Bonds (the "*Bonds*"), and has applied to the Bank for the issuance by the Bank of the Letter of Credit (as hereinafter defined) in the original stated amount of \$35,845,272;

1.02. The definitions of the defined terms “*Fee Agreement*,” “*Letter of Credit*,” and “*Term Loan Maturity Date*” set forth in Section 1.1 of the Agreement are hereby amended in their entireties and as so amended shall be restated to read as follows:

“*Fee Agreement*” means that certain Amended and Restated Fee Agreement dated as of September __, 2020, between the Bank and the City, as the same may be amended, supplemented, modified or restated from time to time in accordance with its terms.

“*Letter of Credit*” means the amended and restated irrevocable transferable letter of credit issued by the Bank for the account of the City in favor of the Paying Agent/Registrar supporting the Bonds, in the form of Appendix I to the First Amendment to Reimbursement Agreement dated September __, 2020, between the City and the Bank, with appropriate insertions, as from time to time amended, supplemented, modified or restated pursuant to its terms.

“*Term Loan Maturity Date*” means, with respect to any Term Loan, the earliest to occur of: (i) the date which is thirteen-months following the date on which the related Liquidity Advance was made, (ii) the date which is thirteen-months following the Stated Expiration Date as in effect on the date on which the related Term Loan was made, (iii) the date on which an Alternate Credit Facility becomes effective with respect to the Bonds, and (iv) the date on which the Stated Amount is permanently reduced to zero or the Letter of Credit is otherwise terminated prior to the Stated Expiration Date, including as a result of the occurrence of an Event of Default.

SECTION 2. REQUEST FOR EXTENSION OF STATED EXPIRATION DATE.

The City has requested that the Bank extend the Stated Expiration Date to October 7, 2021, and the Bank agrees to such request and will deliver to the Tender Agent an Amended and Restated Letter of Credit in the form of Appendix I hereto to effectuate such extension. The Bank hereby confirms that the Bank has received sufficient notice of the City’s request to extend the Stated Expiration Date as required by Section 2.13 of the Agreement.

SECTION 3. CONDITIONS PRECEDENT.

This Amendment shall become effective on the Amendment Date subject to the satisfaction of or waiver by the Bank of all of the following conditions precedent:

3.01. Delivery by the City and the Bank of an executed counterpart of (i) this Amendment and (ii) the Amended and Restated Fee Agreement dated as of the Amendment Date (the “*Fee Agreement*”), by and between the City and the Bank.

3.02. Delivery to the Bank of an opinion of counsel to the City, addressed to the Bank and in form and substance satisfactory to the Bank and the Bank’s counsel.

3.03. Receipt by the Bank of (a) a certified copy of the authorizing ordinance of the City approving the execution and delivery and performance of its obligations under the Agreement, as amended hereby, and the Fee Agreement and (b) receipt by the Bank of a customary certificate executed by appropriate officers of the City including the incumbency and signature of the officer of the City executing this Amendment and the Fee Agreement.

3.04. Evidence satisfactory to the Bank that the outstanding Bonds have been assigned long term ratings of at least "AA-" by S&P and "Aa3" by Moody's, respectively.

3.05. Payment to the Bank on the date hereof of a non-refundable amendment fee with respect to this Amendment equal to \$3,500 as set forth in Section 1.3 of the Fee Agreement.

3.06. All other legal matters pertaining to the execution and delivery of this Amendment shall be satisfactory to the Bank and the Bank's counsel.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF THE CITY.

4.01. The City hereby represents and warrants that the following statements shall be true and correct as of the date hereof:

(a) the representations and warranties of the City contained in Article Five of the Agreement and in each of the Related Documents are true and correct on and as of the date hereof as though made on and as of such date (except to the extent the same expressly relate to an earlier date and except that the representations contained in Section 5.5 of the Agreement shall be deemed to refer to the most recent financial statements of the City delivered to the Bank pursuant to Section 6.1(a) of the Agreement); and

(b) no Potential Default or Event of Default has occurred and is continuing or would result from the execution of this Amendment.

4.02. In addition to the representations given in Article Five of the Agreement, the City hereby represents and warrants as follows:

(a) The execution, delivery and performance by the City of the Fee Agreement, this Amendment and the performance by the City of the Agreement, as amended hereby, are within its powers, have been duly authorized by all necessary action and do not contravene any law, rule or regulation, any judgment, order or decree or any contractual restriction binding on or affecting the City.

(b) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution,

delivery and performance by the City of the Fee Agreement, this Amendment or the performance by the City of the Agreement, as amended hereby.

(c) The Fee Agreement and this Amendment have been duly executed and delivered and the Fee Agreement, this Amendment and the Agreement, as amended hereby, constitute legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms, except that (i) the enforcement thereof may be limited by bankruptcy, reorganization, insolvency, liquidation, moratorium and other laws relating to or affecting the enforcement of creditors' rights and remedies generally, as the same may be applied in the event of the bankruptcy, reorganization, insolvency, liquidation or similar situation of the City, and (ii) no representation or warranty is expressed as to the availability of equitable remedies.

SECTION 5. MISCELLANEOUS.

Except as specifically amended herein, the Agreement shall continue in full force and effect in accordance with its original terms. Reference to this specific Amendment need not be made in any note, document, agreement, letter, certificate, the Agreement or any communication issued or made subsequent to or with respect to the Agreement, it being hereby agreed that any reference to the Agreement shall be sufficient to refer to the Agreement, as hereby amended. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby. THIS AMENDMENT SHALL BE SUBJECT TO SECTION 8.13 OF THE AGREEMENT AND SHALL GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS, *PROVIDED, HOWEVER*, THE RIGHTS, DUTIES AND OBLIGATIONS OF THE BANK UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICT OF LAW PRINCIPLES.

This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Amendment may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers hereunto duly authorized as of the Amendment Date.

CITIBANK, N.A.

By: _____
Name: Rebekah Hawley McGuire
Title: Authorized Signatory

CITY OF AUSTIN, TEXAS

By _____
Name: _____
Title: _____

APPENDIX I
FORM OF AMENDED AND RESTATED LETTER OF CREDIT

DRAFT