

**ORDINANCE NO. 2024 \_\_\_\_\_**

**AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF AUSTIN, TEXAS SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2024 (WHISPER VALLEY PUBLIC IMPROVEMENT DISTRICT IMPROVEMENT AREA #3) AND AUTHORIZING ALL RELATED DOCUMENTS AND FEES.**

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

**PART 1. FINDINGS AND DETERMINATIONS**

The City Council finds and determines that:

- (A) Pursuant to Chapter 372 of the Texas Local Government Code (the “Act”), the City previously established the Whisper Valley Public Improvement District (the “District”) pursuant to Resolution No. 20100826-026, adopted by the City Council on August 26, 2010; and
- (B) On November 3, 2011, the City Council approved and accepted a Service and Assessment Plan (the “Original Service and Assessment Plan”) in conformity with the Act and levied assessments within the District; and
- (C) Pursuant to the Act, the City published notice of and held a public hearing on August 31, 2023 regarding the 2023 Amended and Restated Service and Assessment Plan (the “2023 Amended and Restated Service and Assessment Plan”), the Improvement Area #3 Assessment Roll (the “Improvement Area #3 Assessment Roll”), and the levy of special assessments against benefitted property located in Improvement Area #3 of the District, and after hearing testimony at the public hearing, the City Council closed the public hearing and adopted Ordinance No. 20230831-100 (the “Assessment Ordinance”); and
- (D) In the Assessment Ordinance, the City Council approved and accepted the 2023 Amended and Restated Service and Assessment Plan relating to the District (including the Improvement Area #3 Assessment Roll), which 2023

Amended and Restated Service and Assessment Plan amended and restated the Original Service and Assessment Plan and levied the Improvement Area #3 Assessments against the Improvement Area #3 Assessed Parcels (each term, as defined in the 2024 Amended and Restated Service and Assessment Plan (as defined below)); and

- (E) An amended and restated service and assessment plan (the “2024 Amended and Restated Service and Assessment Plan”) amends and restates the 2023 Amended and Restated Service and Assessment Plan for the purposes of issuing the Bonds (defined below) and updating the Improvement Area #3 Assessment Roll; and
- (F) The City is authorized by the Act to issue revenue bonds payable from the Improvement Area #3 Assessments (as defined in the 2024 Amended and Restated Service and Assessment Plan), and other revenue received, for the purposes of (i) paying the Actual Costs of the Improvement Area #3 Improvements identified in the 2024 Amended and Restated Service and Assessment Plan, (ii) funding a reserve fund for the Bonds, and (iii) paying the costs of issuance of the Bonds; and
- (G) The City Council finds and determines that it is in the best interest of the City to issue bonds to be designated City of Austin, Texas Special Assessment Revenue Bonds, Series 2024 (Whisper Valley Public Improvement District Improvement Area #3) (the “Bonds”), such series to be payable from and secured by the Pledged Revenues, as defined in the Indenture; and
- (H) The City Council finds that it should approve (i) the issuance of the Bonds to finance the Actual Costs of the Improvement Area #3 Improvements (as defined and identified in the 2024 Amended and Restated Service and Assessment Plan), (ii) the Indenture (as defined below) securing the City’s bonds authorized by this Ordinance, (iii) the Bond Purchase Agreement (as defined below) between the City and purchasers of the Bonds, (iv) the Limited Offering Memorandum (as defined below), (v) the 2024 Amended

and Restated Service and Assessment Plan, and (vi) the Continuing Disclosure Agreement (as defined below) between the City and U.S. Bank National Association (the “Trustee”) relating to the Bonds and the Improvement Area #3 Assessments; and

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

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

- (A) The issuance of the Bonds in the principal amount \$11,990,000 for the purpose of providing funds for (i) paying the Actual Costs of the Improvement Area #3 Improvements, (ii) funding a reserve fund for the Bonds, and (iii) paying the costs of issuance of the Bonds, is authorized and approved.
- (B) The Bonds shall be issued and secured under the Indenture of Trust (the “Indenture”) dated as of December 1, 2024, between the City and the Trustee. The Indenture, in substantially the form attached as Exhibit A and incorporated for all purposes, is authorized and approved with such changes as are necessary. The Mayor or Mayor Pro Tem is authorized and directed to execute the Indenture.
- (C) The Bonds shall be dated, mature on the date or dates and in the principal or maturity amounts, bear interest, be subject to redemption and have the other terms and provisions set forth in the Indenture. The Bonds shall be in substantially the form set forth in the Indenture, with such changes as are necessary to conform the form of bond to the actual terms of the Bonds. The Bonds shall be payable from and secured by the Pledged Revenues (as defined in the Indenture) and other assets of the Trust Estate (as defined in the Indenture) pledged to such series and shall never be payable from ad valorem taxes.

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

The Bonds shall be sold to Stifel Nicolaus & Company, Inc. (the “Underwriter”) pursuant to the terms of sale in the Bond Purchase Agreement, dated this date, between the City and the Underwriter, in substantially the form attached hereto as Exhibit B and incorporated for all purposes, which terms of sale are declared to be in the best interest of the City. The Bond Purchase Agreement is authorized and approved with such changes as are necessary, and the Mayor, Mayor Pro Tem, City Manager, or Chief Financial Officer is authorized and directed to execute the Bond Purchase Agreement.

**PART 4. LIMITED OFFERING MEMORANDUM**

The Preliminary Limited Offering Memorandum for the Bonds and any supplement or amendment (the “Preliminary Limited Offering Memorandum”) and the final Limited Offering Memorandum (the “Limited Offering Memorandum”) presented to and considered at the meeting at which this Ordinance was considered are approved and adopted with such changes as are necessary. The Mayor or Mayor Pro Tem is authorized and directed to execute the Limited Offering Memorandum. The Limited Offering Memorandum may be used by the Underwriter in the offering and sale of the Bonds. The City Clerk is authorized and directed to maintain copies of the Preliminary Limited Offering Memorandum, the Limited Offering Memorandum, and any supplement or amendment. Notwithstanding the prior approval and delivery of the Preliminary Limited Offering Memorandum in the offering of the Bonds, the Preliminary Limited Offering Memorandum is hereby ratified, approved and confirmed. Notwithstanding the approval and execution of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum by the Mayor or Mayor Pro Tem, the Mayor, the Mayor Pro Tem, and the City Council are not responsible for, and have no specific knowledge of, the information contained in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum pertaining to the Project (as defined in the Bond Purchase Agreement), the Landowner or its financial ability, any builders, any landowners, or the appraisal of the property in the District.

**PART 5. 2024 AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN**

The 2023 Amended and Restated Service and Assessment Plan is amended and restated by the 2024 Amended and Restated Service and Assessment Plan, attached as Exhibit C, which is hereby accepted and approved pursuant to Section 372.013 of the Act.

**PART 6. CONTINUING DISCLOSURE AGREEMENT.**

That certain “City of Austin, Texas Special Assessment Revenue Bonds, Series 2024 (Whisper Valley Public Improvement District Improvement Area #3) Continuing Disclosure Agreement of Issuer” (the “Continuing Disclosure Agreement”) between the City, U.S. Bank National Association, as Dissemination Agent, and P3Works, LLC as the Administrator, in substantially the form attached hereto as Exhibit D and incorporated for all purposes, is authorized and approved with such changes as are necessary. The City Manager, an Assistant City Manager, the Chief Financial Officer or the Treasurer of the City is authorized and directed to execute the Continuing Disclosure Agreement.

**PART 7. ADDITIONAL ACTIONS.**

The Mayor, the Mayor Pro Tem, the City Manager, an Assistant City Manager, the Chief Financial Officer, the City Treasurer and City Clerk are authorized and directed to execute all certificates, agreements, notices, instruction letters, requisitions, and other documents as are necessary in connection with the sale and issuance of the Bonds.

**PART 8. GOVERNING LAW.**

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

**PART 9. SEVERABILITY.**

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

**PART 9. INCORPORATION OF FINDINGS AND DETERMINATIONS.**

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



**Exhibit A**

Indenture of Trust

See Tab No. \_\_

**Exhibit B**

Bond Purchase Agreement

See Tab No. \_\_



**Exhibit C**

2024 Amended and Restated Service and Assessment Plan

See Tab No. \_\_

**Exhibit D**

Continuing Disclosure Agreement of Issuer

See Tab No. \_\_