

ORDINANCE NO. 730

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUSTIN AUTHORIZING THE EXECUTION OF AN AMENDMENT TO ITS LONG-TERM GAS SUPPLY CONTRACT WITH THE PUBLIC ENERGY AUTHORITY OF KENTUCKY (“PEAK”); AUTHORIZING THE ACCEPTANCE OF A DISCOUNT BELOW THE MINIMUM DISCOUNT SPECIFIED IN THE GAS SUPPLY CONTRACT IN CONNECTION WITH THE RESET OF THE AVAILABLE DISCOUNT IN PEAK’S GAS PREPAYMENT PROJECT; AUTHORIZING THE EXECUTION OF A NEW SHORT-TERM GAS SUPPLY CONTRACT WITH PEAK; AND ADDRESSING RELATED MATTERS

WHEREAS, the City of Austin (the "City") is a municipal corporation of the State of Minnesota; and

WHEREAS, the City owns and operates a municipal gas distribution or electric utility, by and through its Board of Water, Electric, Gas and Power Commissioners (the “Board”) and is authorized by the provisions of the City of Austin Charter to acquire, purchase, transport, store and manage supplies of gas necessary to meet the requirements of the residential, commercial and industrial customers served by such utility; and

WHEREAS, pursuant to the Charter of the City, the Board, known as the Austin Utilities, has the authority to execute and deliver contracts on behalf of the City of Austin; and

WHEREAS, the Public Energy Authority of Kentucky (“PEAK”), which was formed pursuant to the Natural Gas Acquisition Authority Act, KRS 353.400 to 353.410, has acquired long-term natural gas supplies from BP Energy Company ("BPEC"), for resale to the City and certain other public gas distribution systems that elected to contract with PEAK for a portion of the gas purchased from BPEC (the "Prepaid Project"); and

WHEREAS, in order to fund the prepayment of gas supplies in connection with the Prepaid Project, PEAK has issued its Gas Supply Revenue Bonds, Series 2018 B (the “Series 2018 B Bonds”); and

WHEREAS, the City and PEAK are parties to (i) that certain Gas Supply Contract dated as of September 1, 2018 (the “Long Term Supply Contract”); and (ii) that certain Short-Term Gas Supply Contract dated as of September 1, 2018 (the “Short-Term Gas Supply Contract”), each providing for the sale and purchase of gas supplies from the Prepaid Project; and

WHEREAS, the Long-Term Supply Contract provides for the periodic recalculation of the Available Discount for Reset Periods subsequent to the Initial Reset Period pursuant to procedures and parameters set forth in a Repricing Agreement between PEAK and BPEC (with such capitalized terms having the meaning ascribed to them in the Long-Term Supply Contract); and

WHEREAS, the Initial Reset Period expires on November 30, 2024 and pursuant to the Repricing Agreement the amount of the Available Discount and the length of the Reset Period during which the Available Discount will be in effect will be determined; and

WHEREAS, the Short-Term Gas Supply Contract expires by its terms as of December 31, 2024; and

WHEREAS, PEAK is in discussions with BPEC in connection with the optimal approach to structuring the refunding of the Series 2018 B Bonds and is considering different options which affect the Available Discount for the Reset Period, including different options for the term and discount to be available during the Reset Period; and

WHEREAS, certain of those options may require an Amendment to the Long-Term Supply Contract, while others may not;

NOW, THEREFORE, be it hereby resolved by the City Council of the City of Austin that:

1. The General Manager, of Austin Utilities, is hereby authorized to (a) respond to all notices provided by PEAK with respect to the estimated Available Discount, the final Available Discount and the Reset Period, including the Remarketing Notice, pursuant to the Supply Contract, and (b) enter into an amendment to the Long-Term Supply Contract between the City and PEAK, if necessary and appropriate, to reflect such changes to the Long-Term Supply Contract as shall be necessary or desirable in structuring the best resolution of the Reset Period options that may be available to PEAK under the Repricing Agreement, as described in the following section of this resolution.
2. The Authorized Officer is hereby delegated full authority to effectuate a continuation of the transaction for the Reset Period from among the options that may be available, including but not limited to: (i) accepting an Available Discount for the next Reset Period (as determined under the Repricing Agreement) that is less than the Minimum Discount specified in the Long-Term Supply Contract, but in no case less than \$0.00 cents per MMBtu to the City; (ii) extending the Delivery Period in the Long-Term Supply Contract for up to an additional seventy-two (72) months with purchases at least equal to the daily contract quantity in effect in Year 30 of the Long-Term Supply Contract during such extended Delivery Period.
3. The execution and delivery of a new Short-Term Supply Contract, in substantially the form previously submitted to the Board and attached hereto as Exhibit A, is hereby approved pursuant to which the City will agree to purchase specified quantities of natural gas from PEAK, such deliveries to be made on the dates, at volumes and for the prices set forth in such contract.

4. The General Manager is hereby authorized to execute any such other closing documents or certificates which may be required or contemplated in connection with (i) the execution and delivery of the Amendment to the Long-Term Supply Contract and the establishment of a new Reset Period for the Prepaid Project; and (ii) the execution and delivery of a new Short-Term Supply Contract.

This Ordinance shall take effect immediately upon its adoption and shall be effective for all decisions that may be made in order to effectuate the refunding of PEAK's Series 2018 B Bonds and the City's continued participation in the Prepaid Project.

All ordinances or portions thereof inconsistent with this Ordinance are hereby repealed and superseded.

Passed by a vote of Yeas and Nays this 17th day of June, 2024.

Yeas 6

Nays 0

APPROVED: _____

Title: Mayor

Attest: _____

Title: City Recorder

[SEAL]

This ordinance was introduced on June 17, 2024; approved on June 17, 2024; was published in the Austin Daily Herald on June 22, 2024; and becomes effective June 29, 2024.