

- 36 (D) On April 24, 2013, the City published notice of its authorization of the
37 District in the Austin American-Statesman, a newspaper of general
38 circulation in the City.
- 39 (F) Written protests of the District from any owners of record of property within
40 the District were filed with the City Clerk within 20 days after April; 24,
41 2013.
- 42 (G) City Council, pursuant to Section 372.016(b) of the PID Act, published
43 notice on June 10, 2013 in the Austin American-Statesman of a public
44 hearing in a newspaper of general circulation in the City and the
45 extraterritorial jurisdiction of the City to consider the proposed “Assessment
46 Roll” and the “Service and Assessment Plan” and the levy of the
47 “Assessments” on property in the District.
- 48 (H) The City Council, pursuant to Section 372.016(c) of the PID Act, caused the
49 mailing of the notice of the public hearing to consider the proposed
50 Assessment Roll and the Service and Assessment Plan and the levy of
51 Assessments on property in the District to the last known address of the
52 owners of the property liable for the Assessments.
- 53 (I) The City Council convened the hearing at 2:00 p.m. on June 20, 2013, at
54 which all persons who appeared, or requested to appear, in person or by their
55 attorney, were given the opportunity to contend for or contest the Plan, the
56 Assessment Roll, and each proposed assessment, and to offer testimony
57 pertinent to any issue presented on the amount of the Assessment, the
58 allocation of Costs, the purposes of the Assessment, the special benefits of
59 the Assessment, and the penalties and interest on annual installments and on
60 delinquent annual installments of the Assessment.
- 61 (J) The City Council finds and determines that the Assessment Roll and the
62 Service and Assessment Plan should be approved and that the Assessments
63 (as defined in the Service and Assessment Plan) should be levied as
64 provided in this Ordinance and the Service and Assessment Plan and
65 Assessment Roll.
- 66 (K) The City Council further finds that there were no written objections or
67 evidence submitted to the City Clerk in opposition to the Service and
68 Assessment Plan, the allocation of Costs, the Assessment Roll, and the levy
69 of Assessments.
- 70 (L) Prior to the issuance of bonds secured by the Assessments, the owners (the
71 “Landowners” or the “Assessed Parties”) of 100% of the privately-owned

72 and taxable property located within the District, and who are the persons to
73 be assessed pursuant to this Ordinance, will have executed and presented to
74 the City Council for approval and acceptance a Landowner Agreement
75 (Landowner Agreement) in the form and substance acceptable to the City, in
76 which the Assessed Parties approve and accept the Service and Assessment
77 Plan, approve the Assessment Roll, approve this Ordinance and approve the
78 levy of the Assessments against their property located within the District,
79 and agree to pay the Assessments when due and payable subject to the
80 credits provided for herein and in the Service and Assessment Plan.

81 (M) The City Council closed the hearing, and, after considering all written and
82 documentary evidence presented at the hearing, including all written
83 comments and statements filed with the City, determined to proceed with the
84 adoption of this Ordinance in conformity with the requirements of the PID
85 Act.

86 (N) The apportionment of the Improvement Area #1 Public Improvements and
87 the Annual Installment pursuant to the Service and Assessment Plan is fair
88 and reasonable, reflects an accurate presentation of the special benefit each
89 property will receive from the construction of the public improvements
90 identified in the Service and Assessment Plan, and is hereby approved.

91 (O) The Service and Assessment Plan covers a period of at least five years and
92 defines the annual indebtedness and projected costs for the Authorized
93 Improvements.

94 (P) The Service and Assessment Plan apportions the cost of a public
95 improvement to be assessed against property in the District and such
96 apportionment is made on the basis of special benefits accruing to the
97 property because of the improvement.

98 (Q) All of the real property in the District which is being assessed in the amounts
99 shown in the Assessment Roll will be benefited by the services and
100 improvements proposed to be provided through the District in the Service
101 and Assessment Plan, and each parcel of real property will receive special
102 benefits in each year equal to or greater than each annual Assessment and
103 will receive special benefits during the term of the Assessments equal to or
104 greater than the total amount assessed.

105 (R) The method of apportionment of the Improvement Area #1 Public
106 Improvements and Annual Installment associated with the Initial
107 Improvement Area #1 PID Bonds set forth in the Service and Assessment

108 Plan results in imposing equal shares of the Improvement Area #1 Public
109 Improvements and Annual Installment associated with the Initial
110 Improvement Area #1 PID Bonds on property similarly benefited, and
111 results in a reasonable classification and formula for the apportionment of
112 the costs of the improvements.

113 (S) The Service and Assessment Plan should be approved as the service plan
114 and assessment plan for the District as described in Sections 372.013 and
115 372.014 of the PID Act.

116 (T) The Improvement Area #1 Assessment Roll in the form attached as
117 Appendix A to the Service and Assessment Plan (Assessment Roll) should
118 be approved as the assessment roll for the District.

119 (U) The provisions of the Service and Assessment Plan relating to due and
120 delinquency dates for the Assessments, interest on Annual Installments,
121 interest and penalties on delinquent Assessments and delinquent Annual
122 Installments, and procedures in connection with the imposition and
123 collection of Assessments should be approved and will expedite collection
124 of the Assessments in a timely manner in order to provide the services and
125 improvements needed and required for the area within the District.

126 (V) A written notice of the date, hour, place and subject of this meeting of the
127 City Council was posted at a place convenient to the public for the time
128 required by law preceding this meeting, as required by the Open Meetings
129 Act, Chapter 551, Texas Government Code, and that this meeting has been
130 open to the public as required by law at all times during which this
131 Ordinance and the subject matter hereof has been discussed, considered, and
132 formally acted upon.

133 **PART 2. TERMS.**

134 Terms not otherwise defined herein are defined in the Service and Assessment Plan
135 substantially in the form attached hereto as Exhibit A (Service and Assessment Plan).

136 **PART 3. ASSESSMENT PLAN.**

137 The Service and Assessment Plan substantially in the form attached to this
138 Ordinance is hereby accepted and approved pursuant to the PID Act Sections 372.013
139 and 372.014 as the service plan and the assessment plan for the District.

140 **PART 4. ASSESSMENT ROLL.**

141 The Improvement Area #1 Assessment Roll is hereby accepted and approved
142 pursuant to the PID Act Section 372.016 as the assessment roll of Improvement Area #1
143 of the District.

144 **PART 5. LEVY AND PAYMENT OF SPECIAL ASSESSMENTS FOR COSTS**
145 **OF IMPROVEMENT PROJECT.**

146 (a) The City Council hereby levies an assessment on each tract of
147 property located within Improvement Area #1 of the District, as shown and
148 described on the Service and Assessment Plan and the Assessment Roll, in the
149 respective amounts shown on the Improvement Area #1 Assessment Roll as a
150 special assessment on the properties set forth in the Improvement Area #1
151 Assessment Roll.

152 (b) The levy of the Special Assessments related to Improvement Area #1
153 of the District shall be effective on the date of execution of this Ordinance levying
154 assessments and strictly in accordance with the terms of the Service and
155 Assessment Plan.

156 (c) The collection of the Special Assessments shall be as described in the
157 Service and Assessment Plan.

158 (d) Each Special Assessment may be paid in a lump sum or may be paid
159 in Annual Installments pursuant to the terms of the Service and Assessment Plan.

160 (e) Each Special Assessment shall bear interest at the rate or rates
161 specified in the Service and Assessment Plan.

162 (f) Each Annual Installment shall be collected each year in the manner
163 set forth in the Service and Assessment Plan.

164 (g) The Annual Installments for Assessed Properties shall be calculated
165 pursuant to the terms of the Service and Assessment Plan.

166 **PART 6. METHOD OF ASSESSMENT.**

167 The method of apportioning the Actual Costs is as set forth in the Service and
168 Assessment Plan.

169 **PART 7. PENALTIES AND INTEREST ON DELINQUENT SPECIAL**
170 **ASSESSMENTS.**

171 Delinquent Special Assessments shall be subject to the penalties, interest,
172 procedures, and foreclosure sales set forth in the Service and Assessment Plan. The

173 Special Assessments shall have lien priority as specified in the PID Act and the Service
174 and Assessment Plan.

175 **PART 8. PREPAYMENTS OF SPECIAL ASSESSMENTS.**

176 As provided in subsection 372.018(f) of the PID Act and in Section VI G. of the
177 Service and Assessment Plan, the owner (Owner) of any Assessed Property may prepay
178 the Special Assessments levied by this Ordinance.

179 **PART 9. LIEN PRIORITY.**

180 As provided in the Landowner Agreement, the City Council and the Landowners
181 intend for the obligations, covenants and burdens on the Landowners of Assessed
182 Property, including without limitation such Landowners' obligations related to payment
183 of the Special Assessments and the Annual Installments, to constitute a covenant running
184 with the land. The Special Assessments and the Annual Installments levied hereby shall
185 be binding upon the Owners, and their respective transferees, legal representatives, heirs,
186 devisees, successors and assigns in the same manner and for the same period as such
187 parties would be personally liable for the payment of ad valorem taxes under applicable
188 law. Special Assessments shall have lien priority as specified in the Service and
189 Assessment Plan and the PID Act.

190 **PART 10. APPOINTMENT OF ADMINISTRATOR AND COLLECTOR OF**
191 **ASSESSMENTS.**

192 (a) Appointment of Administrator.

193 The City Treasurer of the City or his designee is hereby appointed and
194 designated as the initial Administrator of the Service and Assessment Plan and of
195 the assessments levied by this Ordinance. The Administrator shall perform the
196 duties of the Administrator described in the Service and Assessment Plan and in
197 this Ordinance. The Administrator's fees, charges and expenses for providing such
198 service shall constitute an Annual Installment.

199 (b) Appointment of Temporary Collector.

200 The City Treasurer of the City or his designee is hereby appointed as the
201 temporary collector of the Special Assessments (the "Collector"). The Collector
202 shall serve in such capacity until such time as the City shall arrange for the
203 Collector's duties to be performed by any other qualified collection agent selected
204 by the City.

205 **PART 11. APPLICABILITY OF TAX CODE.**

238

EXHIBIT A

239

SERVICE AND ASSESSMENT PLAN

240

241

242

DRAFT