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### ORDINANCE NO.

AN ORDINANCE APPROVING THE 2023 AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN FOR THE WHISPER VALLEY PUBLIC IMPROVEMENT DISTRICT (DISTRICT), MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN IMPROVEMENT AREA #3 OF THE DISTRICT, ADOPTING THE IMPROVEMENT AREA #3 ASSESSMENT ROLL, LEVYING ASSESSMENTS FOR PROPERTY IN IMPROVEMENT AREA #3 OF THE DISTRICT, AND DECLARING AN EMERGENCY.

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

- PART 1. The City Council finds that:
  - Chapter 372 of the Texas Local Government Code, as amended (Act) (A) authorized the creation of the Whisper Valley Public Improvement District (District).
  - On August 26, 2010, the City Council passed a resolution which approved (B) the creation of the District in accordance with its findings.
  - (C) On July 20, 2023, the City Council approved a resolution adopting a preliminary amended and restated service and assessment plan for the District (2023 Amended and Restated Service and Assessment Plan) and proposed assessment roll (Improvement Area #3 Assessment Roll) for the third phase of the District (Improvement Area #3), attached as Exhibit A.
  - (D) Pursuant to Section 372.016(b) of the Act, the City Council published notice on August 15, 2023, in the Austin American-Statesman, a newspaper of general circulation in the City and the extraterritorial jurisdiction of the City, of a public hearing to consider the 2023 Amended and Restated Service and Assessment Plan, the Improvement Area #3 Assessment Roll, and the levy of assessments on benefitted property in Improvement Area #3 (Improvement Area #3 Assessments).
  - Pursuant to Section 372.016(c) of the Act, the City Council caused the (E) mailing of notice of the public hearing to consider the 2023 Amended and Restated Service and Assessment Plan, the Improvement Area #3 Assessment Roll, and the levy of Improvement Area #3 Assessments on property in Improvement Area #3 to the last known addresses of the owners of the property liable for the Improvement Area #3 Assessments.

- (F) On August 31, 2023, the City Council held a public hearing, properly noticed under the Act, to consider the levy of the proposed assessments on property within Improvement Area #3 of the District.
- (G) At the August 31, 2023, public hearing, the City Council heard each objection to a proposed assessment, found in each case that the assessments levied against each parcel are reasonable and consistent with the special benefits conferred by the District, and passed on each objection before it closed the public hearing.
- (H) The assessments set out in the Improvement Area #3 Assessment Roll, attached as Exhibit B:
  - should be made and levied against the property and property owners within Improvement Area #3 of the District as a special assessment on the Improvement Area #3 Assessed Parcels;
  - (2) are in proportion to the benefits to the property for the services and public improvements in Improvement Area #3 of the District; and
  - (3) establish substantial justice, equality, and uniformity in the amount assessed against each property owner for the benefits received and burdens imposed.
- **PART 2. 2023** Amended and Restated Service and Assessment Plan. The 2023 Amended and Restated Service and Assessment Plan, attached as Exhibit A, is hereby approved.
  - (A) In each case, the property assessed is benefited by the services and improvements provided in Improvement Area #3 of the District.
  - (B) The exclusion of certain property from assessment is reasonable because the excluded property will not receive a benefit from Improvement Area #3 of the District that is sufficient to justify an assessment and the exclusions promote efficient management of the District.
  - (C) The procedures followed and apportionment of the cost of the services and improvements in the District comply with applicable law and the purpose for which the District was formed.
- **PART 3.** Exemptions and Exclusions. The City Council exempts the following from payment of the assessment and excludes from the roll:

- (A) property of the City used for public purpose;
- (B) property owned by the County and property owned by political subdivisions of the State of Texas and used for public purpose; and
- (C) other property that is excluded by law or by agreement of the City and the petitioners.
- **PART 4.** Assessment and Levy. The respective assessments shown on Exhibit B are levied and assessed against the property in Improvement Area #3 of the District and against the record owners of the property identified by the Travis Central Appraisal District records.
  - (A) The levy of the Improvement Area #3 Assessments shall be effective on effective date of this Ordinance levying Improvement Area #3 Assessments and strictly in accordance with the terms of the 2023 Amended and Restated Service and Assessment Plan and the Act.
  - (B) The collection of the Improvement Area #3 Assessments shall be as described in the 2023 Amended and Restated Service and Assessment Plan and the Act.
  - (C) Each Improvement Area #3 Assessment may be paid in a lump sum at any time or may be paid in annual installments (Annual Installments) pursuant to the terms of the 2023 Amended and Restated Service and Assessment Plan.
  - (D) Each Improvement Area #3 Assessment shall bear interest at the rate or rates specified in the 2023 Amended and Restated Service and Assessment Plan.
  - (E) Each Annual Installment shall be collected each year in the manner set forth in the 2023 Amended and Restated Service and Assessment Plan.
  - (F) The Annual Collection Costs for Improvement Area #3 Assessed Parcels shall be calculated and collected pursuant to the terms of the 2023 Amended and Restated Service and Assessment Plan.
- **PART 5. Due Date and Collection.** The first annual installment of the assessment is due and payable in full on or before January 31, 2024. If a property owner defaults on payment of an assessment against the owner's property, the City Manager's designee may file suit on behalf of the City to collect the assessment and may initiate a lien foreclosure, including interest, penalties, costs and attorney's fees, as set forth in the 2023 Amended and Restated Service and Assessment Plan and as allowed by law.

99 100	<b>PART 6. Statutory Authority.</b> The assessments levied by this ordinance are made under the authority of the Act.
101 102 103	<b>PART 7.</b> Severability. The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this ordinance.
104 105 106 107 108 109	<b>PART 8.</b> Declaring an Emergency. Section 372.018 of the Act provides that an assessment creates a lien against the property assessed that is effective from the date of the ordinance levying the assessment, which is prior to the standard effective date of an ordinance, and the City Council finds this constitutes an emergency. Because of this emergency, this ordinance takes effect immediately upon its passage for the immediate preservation of the public peace, health, and safety.
110 111 112	<b>PART 9.</b> Capitalized Terms. All capitalized terms not otherwise defined herein shall have the meanings set forth in the 2023 Amended and Restated Service and Assessment Plan.
113	<b>PART 10.</b> This ordinance takes effect on August 31, 2023.
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115	PASSED AND APPROVED
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117	, 2023 §
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119	Kirk Watson
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123	APPROVED: ATTEST:
124	Anne L. Morgan Myrna Rios
125	City Attorney City Clerk
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