

ORDINANCE NO. 739

AN ORDINANCE OF THE CITY OF MANOR, TEXAS MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN IMPROVEMENT AREA #4 OF THE MANOR HEIGHTS PUBLIC IMPROVEMENT DISTRICT; PROVIDING FOR THE METHOD OF ASSESSMENT OF SPECIAL ASSESSMENTS AGAINST PROPERTY IN IMPROVEMENT AREA #4 OF THE DISTRICT; APPROVING AN ASSESSMENT ROLL FOR IMPROVEMENT AREA #4 OF THE DISTRICT; LEVYING ASSESSMENTS AGAINST PROPERTY WITHIN IMPROVEMENT AREA #4 OF THE DISTRICT; PROVIDING FOR PAYMENT OF THE ASSESSMENTS; PROVIDING FOR PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; ESTABLISHING A LIEN ON PROPERTY WITHIN IMPROVEMENT AREA #4 OF THE DISTRICT; APPROVING AN AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN; PROVIDING FOR RELATED MATTERS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY

WHEREAS, Sky Village Kimbro Estates, LLC and RHOF, LLC, in accordance with Chapter 372 of the Texas Local Government Code (the “PID Act”), filed a petition (the “Petition”) with the City Secretary on September 10, 2018, requesting that the City authorize the Manor Heights Public Improvement District (the “District”) to be created within the City limits; and

WHEREAS, the Petition contained the signatures of the owners of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then-current ad valorem tax rolls of the Travis Central Appraisal District and the signatures of property owners who own taxable real property that constitutes more than fifty percent of the area of all taxable property that is liable for assessment by the District; and

WHEREAS, after providing the notices required by the PID Act and by Chapter 551 of the Texas Government Code, (the “Open Meetings Act”), the City Council conducted a public hearing on November 7, 2018, to hear evidence and make findings as to the advisability of the improvements to be constructed for the benefit of the District (the “Authorized Improvements”); the nature of the Authorized Improvements; the estimated cost of the Authorized Improvements, including the administrative costs of establishing and operating the District (the “Actual Costs”); the boundaries of the District; the apportionment of the Actual Costs to be assessed against property in the District, and between the District and the municipality; and the method of assessment; and

WHEREAS, on November 7, 2018, after the closing of the public hearing, the City Council adopted Resolution No. 2018-10 which authorizes the District, and which includes the City Council’s findings as to the advisability of the Authorized Improvements; and

WHEREAS, on November 9, 2018, the City published notice of its authorization of the District in the *Manor Community News*, a newspaper of general circulation in the City and no written protests of the District were filed by any owners of record of property within the District within 20 days after November 9, 2018; and

WHEREAS, the City Council authorized additional land to be added to the boundaries of the District pursuant to Resolution No. 2020-11 adopted by the City Council on October 7, 2020; and

WHEREAS, Forestar (USA) Real Estate Group, Inc., a Delaware corporation, RHOF, LLC, a Texas limited liability company, and Continental Homes of Texas, L.P., a Texas limited partnership, are the owners of all of the real property that comprises the District (collectively, the “Landowner”), and Forestar (USA) Real Estate Group, Inc. is the developer of the property within the District; and

WHEREAS, on May 5, 2021, by Ordinance No. 609, the City Council approved a Service and Assessment Plan (the “Original Service and Assessment Plan”) for the District and levied assessments within the District for the costs of certain public improvements as authorized by the Act; and

WHEREAS, the City Council desires to levy an additional assessment in Improvement Area #4 of the District to finance the costs of the Authorized Improvements constructed for the benefit of Improvement Area #4 of the District; and

WHEREAS, the City Council, on April 17, 2024, adopted Resolution No. 2024-09, which included as an exhibit a preliminary amended and restated service and assessment plan of the type described in Sections 372.013 and 372.014 of the Texas Local Government Code, directing the filing of the Improvement Area #4 Assessment Roll (the “Assessment Roll”), a copy of which is included as an exhibit to the attached *Exhibit A* and are incorporated herein, making the Assessment Roll available for public inspection, and approving the notice published on April 19, 2024 in *The Manor Journal* of a public hearing to be conducted on May 1, 2024, to consider the proposed assessments to be levied against property located in Improvement Area #4 of the District (the “Assessments”), and also mailed notice of the same hearing to the property owners; and

WHEREAS, the public hearing for May 1, 2024 was postponed, and the notice was re-published on May 3, 2024 in *The Manor Journal* for the public hearing to be conducted on May 15, 2024, to consider the Assessments, and also mailed notice of the same hearing to the property owners on May 1, 2024; and

WHEREAS, the City Council conducted said hearing at the City Council meeting on May 15, 2024, at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or to contest the Assessment Roll, and each proposed assessment, and to offer testimony pertinent to any issue presented on the amount of the Assessments, the apportionment of the costs of the Authorized Improvements, the purpose of the Assessments, the special benefits accruing to the property within Improvement Area #4 of

the District due to the Authorized Improvements, and the penalties and interest of annual installments and on delinquent annual installments of the Assessments; and

WHEREAS, there were no written objections or evidence submitted to the City Secretary either before or at the hearing in opposition to the Amended and Restated Service and Assessment Plan (as defined below), the apportionment of the costs of the Authorized Improvements, the Assessment Roll, or the levy of the Assessments; and

WHEREAS, the apportionment of the Actual Costs to be assessed against the property in the District, as reflected in the Assessment Roll and in the service and assessment plan, a copy of which is attached hereto as *Exhibit A* and is incorporated herein (the attached amended and restated service and assessment plan, the “Amended and Restated Service and Assessment Plan” and as updated, amended and supplemented from time to time, the “Service and Assessment Plan”), is fair and reasonable and is made on the basis of special benefits accruing to each parcel because of the Authorized Improvements, and results in the imposing of equal shares of the Actual Costs on property that is similarly benefitted, and the apportionment of the Actual Costs between the City and the area to be assessed is based on reasonable classifications and formulas; and

WHEREAS, the Service and Assessment Plan, which has been amended from the Original Service and Assessment Plan, and as updated on August 17, 2022 and June 21, 2023, covers a period of at least five years, defines the District’s annual indebtedness and projected Actual Costs, and states provisions relating to due and delinquency dates for the Assessments, interest on Annual Installments, and procedures in connection with the imposition and collection of the Assessments; and

WHEREAS, the owners of 100% of the privately-owned and taxable property located within Improvement Area #4 of the District, and who are persons to be assessed pursuant to this Ordinance, executed and presented to the City Council on May 5, 2021, a Landowner Agreement (the “Landowner Agreement”) in which said owners acknowledged, accepted, and approved of, without reservation, the Service and Assessment Plan, the Assessment Roll, this Ordinance, and the levy of the Assessments against their property located within Improvement Area #4 of the District, and agree to pay the Assessments when due and payable; and

WHEREAS, the City Council finds and determines that the Assessment Roll, and the Service and Assessment Plan in a form substantially similar to the attached *Exhibit A*, should be approved, and that the Assessments should be levied as provided in this Ordinance and the Service and Assessment Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS THAT:

Section 1. Findings. The findings and recitations set out in this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 2. Public Hearing. The action of the City Council holding and closing the public hearing in these proceedings is hereby ratified and confirmed.

Section 3. Terms. Terms not otherwise defined herein are defined in the Service and Assessment Plan substantially in the form attached hereto as *Exhibit A* (Amended and Restated Service and Assessment Plan).

Section 4. Service and Assessment Plan. The Service and Assessment Plan is hereby approved as the amended and restated service and assessment plan for the District in substantially the form attached to this Ordinance and the Mayor, the Mayor Pro Tem, the Finance Director, and the City Manager are hereby authorized to make such non-substantive changes to the Service and Assessment Plan as may be required to give full effect to this Ordinance and to the Service and Assessment Plan attached hereto.

Section 5. Assessment Roll. The Assessment Roll, attached as Exhibit I-1 to the Service and Assessment Plan, is hereby approved as the Assessment Roll for Improvement Area #4 of the District.

Section 6. Levy and Payment of Assessments for Actual Costs of Improvement Project. (a) The City Council hereby levies an assessment on each tract of property located within Improvement Area #4 of the District, except for the Non-Benefited Property, as shown and described on the Service and Assessment Plan and the Assessment Roll. There is further levied and assessed against each tract of property located within Improvement Area #4 of the District, except for the Non-Benefited Property, additional annual assessments for the Annual Collection Costs and the Additional Interest, as described in the Service and Assessment Plan, which shall be part of the Assessment and the Annual Installment. The amount of the Annual Installment shall be reviewed and determined annually by the City Council following the City Council's annual review of the Service and Assessment Plan for the District. Pursuant to Section 372.015(d), the amount of assessment for each property owner may be adjusted following the annual review of the Service and Assessment Plan.

(b) The levy of the Assessments related to Improvement Area #4 of the District shall be effective on the date of execution of this Ordinance levying assessments and strictly in accordance with the terms of the Service and Assessment Plan.

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

(d) Each Assessment may be paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.

(e) Each Assessment may be paid in advance in any amount as provided in subsection 372.018(f) of the PID Act and Section VI.E of the Service and Assessment Plan.

(f) Each Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan.

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

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

Section 7. Method of Assessment. The method of apportioning the Actual Costs is set forth in the Service and Assessment Plan.

Section 8. Penalties and Interest on Delinquent Assessments. Delinquent Assessments shall be subject to the penalties, interest, procedures, and foreclosure sales set forth in the Service and Assessment Plan. The Assessments shall have lien priority as specified in the PID Act and the Service and Assessment Plan.

Section 9. Lien Property. (a) As provided in that certain Landowner Agreement between the City and the Landowner, dated May 5, 2021, the City Council and the Landowner intend for the obligations, covenants and burdens on the Landowner of the Assessed Property, including without limitation such Landowner's obligations related to payment of the Assessments and the Annual Installments, to constitute a covenant running with the land. The Assessments and the Annual Installments levied hereby shall be binding upon the Landowner, and their respective transferees, legal representatives, heirs, devisees, successors and assigns in the same manner and for the same period as such parties would be personally liable for the payment of ad valorem taxes under applicable law. Assessments shall have lien priority as specified in the PID Act and the Service and Assessment Plan.

(b) The Assessments and Annual Installments levied and assessed against the property within Improvement Area #4 of the District as provided in this Ordinance and the Service and Assessment Plan, together with reasonable attorney's fees and costs of collection, if incurred, are hereby declared to be and are made a lien upon each tract of property within Improvement Area #4 of the District against which the same are levied and assessed, and a personal liability and charge against the real and true owners of each such tract, including the successors and assigns, whether such owners be named herein or not, and said liens shall be and constitute the first enforceable lien and claim against the lot on which such assessments are levied, and shall be a first and paramount lien thereon, superior to all other liens and claims except state, county, school district and City ad valorem taxes.

Section 10. Appointment of Administrator and Collector of Assessments. (a) P3Works, LLC is hereby appointed and designated as the initial Administrator of the Service and Assessment Plan and of Assessments levied by this Ordinance. The Administrator shall perform the duties of the Administrator described in the Service and Assessment Plan and in this Ordinance. The Administrator's fees, charges and expenses for providing such service shall constitute an Annual Collection Cost.

(b) The Finance Director of the City or his or her designee is hereby appointed as the temporary collector of the Assessments. The Finance Director or his or her designee shall serve

in such capacity until such time as the City shall arrange for the collection duties to be performed by the Travis County Tax Office or any other qualified collection agent selected by the City.

Section 11. Applicability of Tax Code. To the extent not inconsistent with this Ordinance, and not inconsistent with the PID Act or the other laws governing public improvement districts, the provisions of the Texas Tax Code governing enforcement of ad valorem tax liens shall be applicable to the imposition and collection of Assessments by the City, and the Texas Tax Code shall otherwise be applicable to the extent provided by the PID Act.

Section 12. Severability. If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 13. Filing in Land Records. The City Secretary is directed to cause a copy of this Ordinance, including the Service and Assessment Plan and the Assessment Roll, to be recorded in the real property records of Travis County by no later than the seventh day after the City Council passes and approves this Ordinance. The City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council by no later than the seventh day after the City Council adopts each Annual Service Plan Update.

Section 14. Effective Date. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the PID Act, and it is accordingly so ordained.

Section 15. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

[The remainder of this page intentionally left blank.]

PASSED AND APPROVED on this 15th day of May 2024.

THE CITY OF MANOR, TEXAS

Dr. Christopher Harvey, Mayor

ATTEST:

Lluvia T. Almaraz, City Secretary

EXHIBIT A

**2024 AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN FOR THE
MANOR HEIGHTS PUBLIC IMPROVEMENT DISTRICT**