

ORDINANCE NO. 3625

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND IMPROVEMENT ZONE A ASSESSMENT ROLL FOR THE CITY POINT PUBLIC IMPROVEMENT DISTRICT; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY DESIGNATED AS IMPROVEMENT ZONE A OF THE DISTRICT; LEVYING SPECIAL ASSESSMENTS AGAINST PROPERTY WITHIN IMPROVEMENT ZONE A OF THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE IMPROVEMENT ZONE A ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED, PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a petition was submitted and filed with the City Secretary (the "City Secretary") of the City of North Richland Hills, Texas (the "City") pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act"), requesting the creation of a public improvement district within the City; and

WHEREAS, the petition contained the signatures of the record owners of taxable real property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District (as defined herein), as determined by the most recent ad valorem tax rolls of the Tarrant Appraisal District and the signatures of the record owners of taxable real property that constitute more than fifty percent of all the area of all taxable real property that is liable for assessment in the District; and

WHEREAS, on September 9, 2019, after due notice, the City Council of the City (the "City Council") held a public hearing in the manner required by law on the advisability of the public improvements and services described in the petition as required by Section 372.009 of the PID Act and made the findings required by Section 372.009(b) of the PID Act and, by Resolution No. 2019-035 (the "Authorization Resolution") adopted by the members of the City Council, authorized and created the City Point Public Improvement District (the "District") in accordance with its finding as to the advisability of the improvement projects and services; and

WHEREAS, on September 16, 2019, the City published the Authorization Resolution as required by law; and

WHEREAS, no written protests regarding the creation of the District from any owners of record of property within the District were filed with the City Secretary; and

WHEREAS, on October 14, 2019, the Council adopted a resolution approving the preliminary service and assessment plan, including the proposed assessment roll; calling for a public hearing to consider an ordinance levying assessments on property within Improvement Zone A of the District (the "Improvement Zone A Assessments"); authorizing and directing the City Secretary of the City to file the proposed assessment roll and make such roll available for public inspection; authorizing and directing the publication of notice of a public hearing to consider the levying of the Improvement Zone A Assessments against the property within Improvement Zone A of the District (the "Assessment Hearing"); authorizing and directing the mailing of notice of the Assessment Hearing to owners of property liable for assessment; and directing related action; and

WHEREAS, the City Secretary filed the Improvement Zone A Assessment Roll (defined below) and made the same available for public inspection; and

WHEREAS, the City Secretary, pursuant to Section 372.016(b) of the PID Act, published notice of the Assessment Hearing on October 25, 2019 in the *Fort Worth Star-Telegram*, a newspaper of general circulation in the City; and

WHEREAS, the City Secretary, pursuant to Section 372.016(c) of the PID Act, mailed the notice of the Assessment Hearing to the last known address of the owners of the property liable for the Improvement Zone A Assessments; and

WHEREAS, the City Council convened the Assessment Hearing on November 12, 2019, and recessed that public hearing until December 9, 2019, at which time the City Council continued the public hearing and at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Improvement Zone A Assessment Roll, and the proposed Improvement Zone A Assessments, and to offer testimony pertinent to any issue presented on the amount of the Improvement Zone A Assessments, the allocation of the costs of the public improvements to be undertaken for the benefit of Improvement Zone A (the "Public Improvements"), the purposes of the Improvement Zone A Assessments, the special benefits of the Public Improvements, and the penalties and interest on annual installments and on delinquent annual installments of the Improvement Zone A Assessments; and

WHEREAS, the City Council finds and determines that the City Point Public Improvement District Service and Assessment Plan, dated December 9, 2019 in a form substantially similar to the attached **Exhibit A**, which final form shall be approved by the City Manager (the "Service and Assessment Plan"), and which is incorporated herein for all purposes, should be approved and that the Improvement Zone A Assessments should be levied

as provided in this Ordinance and the Service and Assessment Plan and the Improvement Zone A Assessment Roll attached thereto as Appendix F-1 (the "Improvement Zone A Assessment Roll"); and

WHEREAS, the City Council further finds that there were no objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of the Actual Costs (as defined in the Service and Assessment Plan) of the Public Improvements as described in the Service and Assessment Plan, the Improvement Zone A Assessment Roll, or the levy of the Improvement Zone A Assessments; and

WHEREAS, prior to the issuance of bonds secured by the Improvement Zone A Assessments, the owners (the "Assessed Parties"), or their representatives, of the majority of the taxable real property located within the District, and who are the persons to be assessed pursuant to this Ordinance, have indicated their approval and acceptance of the Service and Assessment Plan, the Improvement Zone A Assessment Roll, this Ordinance and the levy of the Improvement Zone A Assessments against their property located within Improvement Zone A of the District, and agreed to pay the Improvement Zone A Assessments when due and payable and requested that the City file the Service and Assessment Plan and/or the assessment roll with the real property records of Tarrant County; and

WHEREAS, the City Council closed the hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the PID Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, THAT:

SECTION 1: Terms not otherwise defined herein are defined in the Service and Assessment Plan.

SECTION 2: The findings and determinations set forth in the preambles hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section. The City Council hereby finds, determines, and ordains, as follows:

- (i) The apportionment of the Actual Costs of the Public Improvements (as reflected in the Service and Assessment Plan, and the Annual Collection Costs pursuant to the Service and Assessment Plan) is fair and reasonable, reflects an accurate presentation of the special benefit each parcel of

Improvement Zone A Assessed Property will receive from the construction of the Public Improvements identified in the Service and Assessment Plan, and is hereby approved;

- (ii) The Service and Assessment Plan covers a period of at least five years and defines the annual indebtedness and projected costs for the Public Improvements;
- (iii) The Service and Assessment Plan apportions the Actual Costs of the Public Improvements to be assessed against the property in Improvement Zone A of the District and such apportionment is made on the basis of special benefits accruing to such property because of the Public Improvements;
- (iv) All of the real property designated as Improvement Zone A of the District which is being assessed in the amounts shown in the Improvement Zone A Assessment Roll will be benefited by the Public Improvements proposed to be constructed as described in the Service and Assessment Plan, and each parcel of Improvement Zone A Assessed Property will receive special benefits in each year equal to or greater than each annual Improvement Zone A Assessment levied against the parcel of Improvement Zone A Assessed Property and will receive special benefits during the term of the Improvement Zone A Assessments equal to or greater than the total amount assessed;
- (v) The method of apportionment of the Actual Costs of the Public Improvements and Annual Collection Costs set forth in the Service and Assessment Plan results in imposing equal shares of the Actual Costs of the Public Improvements and Annual Collection Costs on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the Actual Costs;
- (vi) The Service and Assessment Plan should be approved as the service plan and assessment plan for the District as described in Sections 372.013 and 372.014 of the PID Act;
- (vii) The Improvement Zone A Assessment Roll should be approved as the assessment roll for Improvement Zone A of the District;
- (viii) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Improvement Zone A Assessments, interest on Annual Installments, interest and

penalties on delinquent Improvement Zone A Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Improvement Zone A Assessments should be approved and will expedite collection of the Improvement Zone A Assessments in a timely manner in order to provide the services and improvements needed and required for the area within the District; and

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

SECTION 3: The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the PID Act as the service plan and the assessment plan for the District.

SECTION 4: The Improvement Zone A Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the PID Act as the assessment roll for Improvement Zone A of the District.

SECTION 5: (a) The City Council hereby levies an assessment on each parcel of Improvement Zone A Assessed Property (excluding Non-Benefitted Property within Improvement Zone A) located within Improvement Zone A of the District, as shown and described in the Service and Assessment Plan and the Improvement Zone A Assessment Roll, in the respective amounts shown on the Improvement Zone A Assessment Roll as a special assessment on the properties as set forth in the Improvement Zone A Assessment Roll.

(b) The levy of the Improvement Zone A Assessments shall be effective on the date of adoption of this Ordinance levying the Improvement Zone A Assessments and strictly in accordance with the terms of the Service and Assessment Plan and the PID Act.

(c) The collection of the Improvement Zone A Assessments shall be as described in the Service and Assessment Plan and the PID Act.

(d) Each Improvement Zone A Assessment may be paid in a lump sum at any time or may be paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.

(e) Each Improvement Zone A Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan.

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

(g) The Annual Collection Costs for Improvement Zone A Assessed Property shall be calculated pursuant to the terms of the Service and Assessment Plan.

SECTION 6: The method of apportioning the Actual Costs of the Public Improvements and Annual Collection Costs are set forth in the Service and Assessment Plan.

SECTION 7: Delinquent Improvement Zone A Assessments shall be subject to the penalties, interest, procedures, and foreclosure sales set forth in the Service and Assessment Plan and as allowed by law.

SECTION 8: As provided in Section VI of the Service and Assessment Plan, the owner of any Improvement Zone A Assessed Property may prepay the Improvement Zone A Assessments levied by this Ordinance.

SECTION 9: The City Council and the Assessed Parties intend for the obligations, covenants and burdens on the Assessed Parties of each parcel of Improvement Zone A Assessed Property, including without limitation such Assessed Party's obligations related to payment of the Improvement Zone A Assessments and/or the Annual Installments thereof, to constitute covenants that shall run with the land. The Improvement Zone A Assessments and the Annual Installments thereof which are levied hereby shall be binding upon the Assessed Parties, as the owners of each parcel of Improvement Zone A Assessed Property, 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. Improvement Zone A Assessments shall have lien priority as specified in the Service and Assessment Plan and the PID Act.

SECTION 10: (a) P3Works, LLC, is hereby appointed and designated as the initial Administrator of the Service and Assessment Plan and of Improvement Zone A 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 City's Finance Director is hereby appointed and designated as the temporary collector of the Improvement Zone A Assessments (the "Collector"). The Collector shall serve in such capacity until such time as the City shall arrange for the Collector's duties to be performed by the Tarrant County Tax Assessor and Collector, or another qualified collection agent selected by the City.

SECTION 11: 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 shall be applicable to the imposition and collection of Improvement Zone A Assessments by the City.

SECTION 12: The City Secretary is directed to cause a copy of this Ordinance, including the Service and Assessment Plan and the Improvement Zone A Assessment Roll, to be recorded in the real property records of Tarrant County. The City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council.

SECTION 13: If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity or any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

SECTION 14: This Ordinance shall take effect, and the levy of the Improvement Zone A Assessments, and the provisions and terms of the Service and Assessment Plan shall be and become effective upon passage and execution hereof.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on this 9th day of December, 2019.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

Alicia Richardson, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Maleshia B. McGinnis, City Attorney

APPROVED AS TO CONTENT:

Craig Hulse, Director of Economic Development

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the _____ day of December, 2019 by Oscar Trevino, Alicia Richardson, Maleshia B. McGinnis and Craig Hulse, Mayor, City Secretary, City Attorney and Economic Development Director, respectively, of the City of North Richland Hills, Texas on behalf of said City.

Notary Public, State of Texas
(SEAL)

EXHIBIT A
Service and Assessment Plan