

ORDINANCE #23-00464

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MUSTANG RIDGE, TEXAS ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR DURANGO PUBLIC IMPROVEMENT DISTRICT; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN IMPROVEMENT AREA #1 OF THE DISTRICT; LEVYING ASSESSMENTS AGAINST PROPERTY WITHIN IMPROVEMENT AREA #1 OF THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE 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, on May 5, 2021, a petition was submitted and filed with the City Secretary (the "City Secretary") of the City of Mustang Ridge, Texas (the "City") pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "Act"), requesting the creation of a public improvement district within the City; and

WHEREAS, the petition contained the signatures of the owners of taxable property representing more than fifty percent (50%) 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 Travis County Appraisal District and the signatures of the property owners who own taxable real property that constitutes more than fifty percent (50%) of the area of all taxable property within the District that is liable for assessment; and

WHEREAS, on June 14, 2021, 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 authorized improvements and services described in the petition as required by Section 372.009 of the Act, made the findings required by Section 372.009(b) of the Act and, by a resolution (the "Authorization Resolution") adopted by a majority of the members of the City Council, authorized and created The Trails Public Improvement District (the "District") in accordance with its finding as to the advisability of the authorized improvements; and

WHEREAS, 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 June 12, 2023, pursuant to the request of Laws126 LP, a Texas limited partnership (the "Developer"), the sole owner of property within the District, the City Council approved a resolution renaming the District to the "Durango Public Improvement District"; and

WHEREAS, on October 23, 2023, the City Council adopted a resolution approving a preliminary service and assessment plan, including a proposed assessment roll; calling for a public hearing to consider an ordinance levying assessments on property within Improvement Area #1 of the District (the “Assessments”); authorizing and directing the City Secretary 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 Assessments against the property within Improvement Area #1 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 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 Act, caused the notice of the Assessment Hearing to be published on November 3, 2023 in the *Austin Chronicle*, a newspaper of general circulation in the City; and

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

WHEREAS, the City Council convened the Assessment Hearing on November 20, 2023, at which any and all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Assessment Roll, and the proposed Assessments, and to offer testimony pertinent to any issue presented on the amount of the Assessments, the allocation of the Actual Costs of the authorized improvements to be undertaken for the benefit of all property to be assessed within the District (the “Improvement Area #1 Projects”), the purposes of the Assessments, the special benefits of the Improvement Area #1 Projects, and the penalties and interest on annual installments and on delinquent annual installments of the Assessments; and

WHEREAS, the City Council finds and determines that the Assessment Roll and the Durango Public Improvement District Service and Assessment Plan, in a form substantially similar to the attached Exhibit A, which final form shall be approved by the City Administrator and the City Attorney (the “Service and Assessment Plan”), and which is incorporated herein for all purposes, should be approved and that the Assessments should be levied as provided in this Ordinance, the Service and Assessment Plan and the Assessment Roll attached thereto as Exhibit F-1 (the “Assessment Roll”); and

WHEREAS, the City Council further finds that there were no written objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the Actual Costs of the Improvement Area #1 Projects as described in the Service and Assessment Plan, the Assessment Roll, and the levy of the Assessments; and

WHEREAS, concurrently herewith, in connection with the levy of the Assessments, the Developer and any other landowner within Improvement Area #1 (collectively, the “Landowner”) will each execute a landowner certificate, wherein such landowner, among other

things, approves and accepts this Ordinance and the Service and Assessment Plan, including the Assessment Roll, consents to and accepts the levy of the Assessments against their respective property located within Improvement Area #1 of the District and agrees to pay the Assessments; 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 Act; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSTANG RIDGE, TEXAS AS FOLLOWS:

SECTION 1. Terms. All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Service and Assessment Plan.

SECTION 2. Findings. 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:

(a) The apportionment of the Actual Costs of the Improvement Area #1 Projects, the Annual Collection Costs and the Bond Issuance Costs (collectively, the "Authorized Improvements") pursuant to the Service and Assessment Plan is fair and reasonable, reflects an accurate presentation of the special benefit each Assessed Property will receive from the Authorized Improvements identified in the Service and Assessment Plan, and is hereby approved;

(b) The Service and Assessment Plan (i) covers a period of at least five (5) years, (ii) defines the annual indebtedness and projected costs for the Authorized Improvements, and (iii) includes a copy of the notice form required by Section 5.014 of the Texas Property Code, as amended;

(c) The Service and Assessment Plan apportions the Actual Costs of an Authorized Improvement to be assessed against the property in the District and such apportionment is made on the basis of special benefits accruing to the property because of the Authorized Improvement;

(d) All of the real property in the District which is being assessed in the amounts shown in the Assessment Roll will be benefited by the Authorized Improvements proposed to be constructed as described in the Service and Assessment Plan, and each Assessed Property will receive special benefits in each year equal to or

greater than each annual Assessment and will receive special benefits during the term of the Assessments equal to or greater than the total amount assessed;

(e) The method of apportionment of the Actual Costs of the Authorized Improvements set forth in the Service and Assessment Plan results in imposing equal shares of the Actual Costs of the Authorized Improvements on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the Actual Costs;

(f) 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 Act;

(g) The Assessment Roll should be approved as the assessment roll for Improvement Area #1 of the District as described in Section 372.016 of the Act;

(h) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Assessments, interest on Annual Installments, interest and penalties on delinquent Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Assessments should be approved and will expedite collection of the Assessments in a timely manner in order to provide the services and improvements needed and required for the District; and

(i) 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. Service and Assessment Plan. The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the Act as the service plan and the assessment plan for the District.

SECTION 4. Assessment Roll. The Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the Act as the Assessment Roll of Improvement Area #1 of the District.

SECTION 5. Levy and Payment of Assessments for Actual Costs of the Authorized Improvements.

(a) The City Council hereby levies an assessment on each Parcel of property (excluding Non-Benefitted Property) located within Improvement Area #1 of the District, as shown and described in the Service and Assessment Plan and the Assessment Roll, in the respective amounts shown on the Assessment Roll as a special assessment on the properties set forth in the Assessment Roll.

(b) The levy of the Assessments 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 and the Act.

(c) The collection of the Assessments, interest on such Assessments, and the Annual Collection Costs shall be as described in the Service and Assessment Plan and the Act.

(d) Each 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 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 the Assessed Property shall be calculated pursuant to the terms of the Service and Assessment Plan.

SECTION 6. Method of Assessment. The method of apportioning the Actual Costs of the Improvement Area #1 Projects and the allocation of such costs to the District and the Annual Collection Costs are set forth in the Service and Assessment Plan.

SECTION 7. 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 and as allowed by law.

SECTION 8. Prepayments of Assessments. As provided in the Service and Assessment Plan, the owner of any Assessed Property may prepay the Assessments levied by this Ordinance.

SECTION 9. Lien Priority. The City Council and the Landowner intend for the obligations, covenants, and burdens on the landowner of Assessed Property, including without limitation such Landowner's obligations related to payment of the Assessments and the Annual Installments thereof, to constitute covenants that shall run with the land. The Assessments and the Annual Installments thereof which are levied hereby shall be binding upon the Assessed party, as the owner of Assessed Property, and its 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 Service and Assessment Plan and the Act.

SECTION 10. Appointment of Administrator and Collector of Assessments.

(a) Appointment of Administrator. 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) Appointment of Collector. The Travis County Tax Assessor-Collector is hereby appointed and designated as the collector of the Assessments (the "Collector"). The Collector shall serve in such capacity unless and until replaced by subsequent action of the City Council.

SECTION 11. Applicability of Tax Code. To the extent not inconsistent with this Ordinance, and not inconsistent with the 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 Assessments by the City.

SECTION 12. 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 filed with the Travis County Clerk, not later than the seventh day after the date the City Council adopts this ordinance approving the Service and Assessment Plan. The City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council not later than the seventh day after the date that the City Council approves each Annual Service Plan Update (or as otherwise required by the Act).

SECTION 13. Severability. If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of 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.

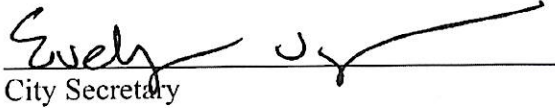
SECTION 14. Effective Date. This Ordinance shall take effect, and the levy of the Assessments, and the provisions and terms of the Service and Assessment Plan shall be and become effective upon passage and execution hereof.

[Execution page follows.]

PASSED AND APPROVED by the City Council of the City of Mustang Ridge, Texas
this 20th day of November 2023.



Mayor



City Secretary



(CITY SEAL)

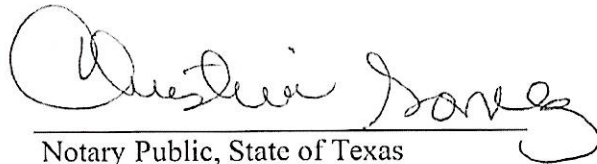
STATE OF TEXAS

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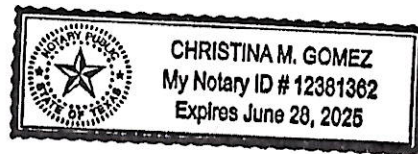
COUNTY OF TRAVIS

Before me, on this day personally appeared the foregoing individuals, known to me to be
the persons whose names were subscribed in my presence to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL of office this 20th day of
November, 2023.



Notary Public, State of Texas



Signature Page to Assessment Ordinance

EXHIBIT A
SERVICE AND ASSESSMENT PLAN