

ORDINANCE NO 2019-__

AN ORDINANCE OF THE CITY COUNCIL OF LEAGUE CITY, TEXAS, APPROVING A SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR RESIDENTIAL SECTION 5 (PHASE TWO) AND THE REMAINING COMMERCIAL TRACTS WITHIN THE LEAGUE CITY PUBLIC IMPROVEMENT DISTRICT NO. ONE (MAGNOLIA CREEK MASTER PLANNED COMMUNITY); MAKING A FINDING OF SPECIAL BENEFIT TO SUCH PROPERTY; LEVYING AN ASSESSMENT AGAINST SUCH PROPERTY 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; MAKING ANY NECESSARY AMENDMENTS TO THE DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of League City (the “City”) is authorized pursuant to TEX. LOCAL GOV’T CODE, Chapter 372, as amended (the “PID Act”) to create public improvement districts for the purposes described therein, and to levy and collect an assessment in furtherance of the purposes thereof; and

WHEREAS, the City Council of the City of League City, Texas (the “Council”) passed and approved Resolution No. 97-66 dated November 18, 1997, authorizing the establishment of the League City Public Improvement District Number One (Magnolia Creek Maser Planned Community) (the “PID”); and

WHEREAS, by action on December 14, 1999, the Council approved a service and assessment plan (the “Plan”) for the PID; and

WHEREAS, the total costs of improvement projects for the property shown on that certain "Magnolia Creek Section Five, Phase Two" final plat recorded in the real property records of Galveston County, Texas at Document No. 2018044335 (the “Section 5B Residential Property”) and the remaining commercial properties of the PID (referred to as the “Commercial – General Property” located at 1333 ½ Bay Area Boulevard (Property ID 512377/Geographic ID 4896-0001-0001-000) and the “Commercial – Lighthouse Property” located at 4496 W. League City Parkway (Property ID 501768/Geographic ID 4704-0001-0001-000)) and together with the Section 5B Residential Property, collectively referred to as the “Section 5B and Commercial Parcels”) have now been determined and reviewed by the City; and

WHEREAS, a proposed assessment roll incorporating the costs of the public improvement projects for the Section 5B and Commercial Parcels has been prepared by the City, and after review, has been approved by the Board of Directors of Reinvestment Zone Number One, City of League City; and

WHEREAS, the proposed assessment roll has been on file with the City Secretary and available for public inspection as required by the PID Act; and

WHEREAS, the City scheduled a public hearing on February 12, 2019 before the Council to consider the proposed assessments and written notice of the public hearing was mailed to the last known address of the property owners of the Section 5B and Commercial Parcels liable for the proposed assessments at least 10 days before the hearing as required by the PID Act; and

WHEREAS, the City published notice of the public hearing in *The Galveston County Daily News* a newspaper of general circulation on January 30, 2019, which date is at least 10 days before the hearing as required by the PID Act; and

WHEREAS, a public hearing to consider the proposed assessments and improvements was held at or after 6:00 p.m. on February 12, 2019 in Council Chambers at 200 West Walker Street, League City, Texas; and

WHEREAS, at such public hearing all interested persons including the persons owning the Section 5B and Commercial Parcels were given a reasonable opportunity to be heard and Council, having fully considered any comments, is of the opinion that such assessments be made and levied as set out herein; and

WHEREAS, the owners of the Section 5B and Commercial Parcels to be assessed, or their representatives, have indicated their approval and acceptance of the proposed assessment shown on the Assessment Roll and their intent to pay such assessments when due; and

WHEREAS, the City Council after closing the public hearing, hereby finds and determines that the *League City Public Improvement District Number One (Magnolia Creek Master Planned Community), City of League City, Texas, Section 5B and Commercial Parcels Service and Assessment Plan*, including the assessment roll (the "Assessment Roll") attached thereto as Appendix C (collectively, the "2019 Service and Assessment Plan"), dated January 24, 2019 and attached as **Exhibit A** and incorporated as a part of this ordinance for all purposes, should be approved and that the assessments (the "Assessments") should be levied as provided in this Ordinance, the 2019 Service and Assessment Plan, and the Assessment Roll.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEAGUE CITY, TEXAS, that:

Section 1. Terms. Capitalized terms not otherwise defined in this Ordinance, including in the preambles above, shall have the meaning given to such term in the 2019 Service and Assessment Plan.

Section 2. Findings. The facts recited in the preamble hereto are found to be true and correct and 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 Authorized Improvement Costs of the Master PID Costs and the Section 5B PID Costs (as reflected in the 2019 Service and Assessment Plan) and the Annual Collection Costs pursuant to the 2019 Service and Assessment Plan is fair and reasonable, reflects an accurate resentation of the special benefit each parcel of Section 5B Residential Property, the Commercial – General Property and the Commercial – Lighthouse Property receives or will receive from the Authorized Improvements as described in the 2019 Service and Assessment Plan, and is hereby approved;
- (b) The 2019 Service and Assessment Plan covers a period of at least five years and defines the annual indebtedness and projected costs for the Authorized Improvements benefitting the Section 5B and Commercial Parcels;
- (c) The 2019 Service and Assessment Plan apportions the Master PID Costs and the Section 5B PID Costs to be assessed against the Section 5B and Commercial Parcels within the PID and such apportionment is made on the basis of special benefits accruing to such property because of the Authorized Improvements;
- (d) All of the real property in the PID which is being assessed in the amounts shown in the Assessment Roll will be benefited by the Authorized Improvements as described in the 2019 Service and Assessment Plan, and each parcel of Assessed Property will receive special benefits in equal to or greater than the Assessments levied against such property;
- (e) The method of apportionment of the Master PID Costs, the Section 5B PID Costs and Annual Collection Costs (each an Authorized Improvement Cost) as set forth in the 2019 Service and

Assessment Plan results in imposing equal shares of such costs on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the Authorized Improvement Costs;

(f) The 2019 Service and Assessment Plan should be approved as the service plan and assessment plan for Section 5B and the Commercial Parcels within the PID as described in Sections 372.013 and 372.014 of the PID Act;

(g) The Assessment Roll should be approved as the Assessment Roll for Section 5B and the Commercial Parcels within the PID;

(h) The provisions of the 2019 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.

Section 3. Service and Assessment Plan. The 2019 Service and Assessment Plan is hereby accepted and approved as the service plan and the assessment plan for Section 5B and the Commercial Parcels within the PID.

Section 4. Assessment Roll. The Assessment Roll is hereby accepted and approved as the Assessment Roll for Section 5B and the Commercial Parcels within the PID.

Section 5. Levy and Payment of Assessments.

- (a) The City here by levies the Assessments on each Parcel of Assessed Property (excluding Non-Benefitted Property, if any) located within Section 5B and the Commercial Parcels of the PID as shown on the Assessment Roll and as set forth in the 2019 Service and Assessment Plan.
- (b) The levy of the Assessments shall be effective on the date of execution of this Ordinance levying such Assessments and strictly in accordance with the terms of the 2019 Service and Assessment Plan and the PID Act.
- (c) The collection of the Assessments shall be as described in the 2019 Service and Assessment Plan and the PID Act.
- (d) Each Assessment may be paid in a lump sum at any time without penalty or may be paid in Annual Installments pursuant to the terms of the 2019 Service and Assessment Plan.
- (e) Each Assessment shall bear interest at the rate specified in the 2019 Service and Assessment Plan.
- (f) Each Annual Installment shall be collected each year in the manner set forth in the 2019 Service and Assessment Plan.
- (g) The Annual Collection Costs for the Section 5B and Commercial Parcels shall be calculated pursuant to the terms of the 2019 Service and Assessment Plan.

Section 6. Method of Assessment. The method of apportioning the Actual Costs of the Phase #2 Improvements and 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 2019 Service and Assessment Plan subject to the PID Act and all applicable law.

Section 8. Prepayment. As provided in the 2019 Service and Assessment Plan, any owner of the Section 5B and Commercial Parcels assessed may prepay the Assessments levied by this Ordinance at any time without penalty.

Section 9. Lien Priority. As provided in the PID Act, the Assessments, including each Annual Installment, together with interest, penalties, and expense of collection and reasonable attorneys' fees, as permitted by the Act, shall be a first and prior lien against the property assessed, superior to all other liens and claims, except liens or claims for state, county, school district, municipal or other ad valorem taxes, and shall be a personal liability of and charge against the owners of the property that runs with the land regardless of whether the owners are named. The lien for Assessments, each Annual Installment and penalties and interest thereon is effective from the date of this Ordinance until the Assessments are fully paid and shall be enforced by the City in the manner provided by the Texas Tax Code, as amended, for collecting ad valorem taxes on real property.

Section 10. 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, as amended, relating to the imposition and collection of ad valorem taxes by the City shall be applicable to the imposition and collection of the Assessments by the City

Section 11. Filing in Land Records and Other Actions. The City Secretary is directed to cause a copy of this Ordinance, including the 2019 Service and Assessment Plan and the Assessment Roll, to be recorded in the real property records of Galveston County. The City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council. The Mayor, City Secretary and any other appropriate officials of the City are hereby authorized to take all necessary actions on behalf of the City to implement the terms of this Ordinance and the 2019 Service and Assessment Plan.

Section 12. Development Agreement. The City authorizes any amendment to the Development Agreement regarding Magnolia Creek that is necessary to complete this transaction.

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 governing body of the City in adopting this Ordinance that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 13. Open Meeting. It is hereby found, determined and declared that a sufficient 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 at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code, 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 thereof has been discussed, considered and formally acted upon. City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

[Remainder of page left blank intentionally.]

PASSED first reading the _____ day of _____, 2019.

PASSED second reading the _____ day of _____, 2019.

PASSED AND ADOPTED the _____ day of _____, 2019.

PAT HALLISEY
Mayor

ATTEST:

DIANA M. STAPP
City Secretary

APPROVED AS TO FORM:

NGHIEM V. DOAN
City Attorney

EXHIBIT A

League City Public Improvement District Number One (Magnolia Creek Master Planned Community)
City of League City, Texas, Section 5B and Commercial Parcels Service and Assessment Plan