

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARROLLTON ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR AUTHORIZED IMPROVEMENTS FOR THE CARROLLTON CASTLE HILLS PUBLIC IMPROVEMENT DISTRICT NO. 2; MAKING A FINDING OF SPECIAL BENEFIT TO CERTAIN PROPERTY IN THE CORPORATE LIMITS OF THE CITY; LEVYING SPECIAL ASSESSMENTS AGAINST CERTAIN PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR PAYMENT OF THE ASSESSMENT IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS; PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on January 24, 2017, the City of Carrollton (the “City”) accepted a petition meeting the requirements of Sec. 372.005 of the Public Improvement District Assessment Act (the “Act”) requesting the creation of a public improvement district over an area within the corporate limits of the City to be known as the Carrollton Castle Hills Public Improvement District No. 2 (the “PID”); 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 boundaries of the proposed PID, as determined by the then current ad valorem tax rolls of the Denton 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 City; and

WHEREAS, after publication of notice of such public hearing on February 10, 2017, the City Council of the City (the “City Council”) held the public hearing on February 28, 2017 in the manner required by law on the advisability of the Authorized Improvements described in the petition as required by Sec. 372.009 of the Act and made the findings required by Sec. 372.009(b) of the Act and, by Resolution adopted by a majority of the members of the City Council, authorized the PID in accordance with its finding as to the advisability of certain public improvement projects (the “Authorized Improvements”); and

WHEREAS, the developer of property within the PID as described in the Service and Assessment Plan for the PID (the “Service and Assessment Plan”) is ready to commence the construction and acquisition of the Authorized Improvements (as defined in the Service and Assessment Plan) within the PID; and

WHEREAS, the City wishes to levy assessments on the property within the PID for such Authorized Improvements (the “Assessments”); and

WHEREAS, the City, pursuant to Section 372.016(b) of the Act, published notice on March 24, 2017 in a newspaper of general circulation in the corporate limits of the City to

consider the proposed Service and Assessment Plan for the PID and the levy of the Assessments on property in the PID; and

WHEREAS, the City Council, pursuant to Section 372.016(c) of the Act, caused the mailing of notice of the public hearing to consider the proposed Service and Assessment Plan and the related assessment roll (the “Assessment Roll”) and the levy of Assessments on property in the PID to the address of the last known address of the owners of the property liable for the Assessments; and

WHEREAS, the City Council convened the hearing at 7 p.m. on the 4th day of April, 2017, 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 Service and Assessment Plan, the Assessment Roll, and each proposed Assessment, and to offer testimony pertinent to any issue presented on the amount of the Assessment, the allocation of the costs of the Authorized Improvements, the purposes of the Assessment, the special benefits of the Assessment, 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 Service and Assessment Plan and Assessment Roll should be approved and that the Assessments (as defined in the Service and Assessment Plan) should be levied on property within the PID as provided in this Ordinance and the Service and Assessment Plan and Assessment Roll; and

WHEREAS, the City Council further finds that there were no oral or written objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of the costs of the Authorized Improvements, the Assessment Roll and the levy of 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 PID, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the Act.

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

Section 1. Terms. Terms not otherwise defined herein are defined in the Service and Assessment Plan attached hereto as Exhibit “A” (the “Service and Assessment Plan”).

Section 2. Findings. The findings and determinations set forth in the preambles are hereby incorporated by reference for all purposes. The City Council hereby finds, determines and orders, as follows:

- a. The apportionment of the Authorized Improvements and the Annual Administrative Costs pursuant to the Service and Assessment Plan are fair and reasonable, reflect an accurate presentation of the special benefit each property will receive from the Authorized Improvements identified in the Service and Assessment Plan, and are hereby approved;

- b. The Service and Assessment Plan covers a period of at least five (5) years and defines the annual indebtedness and projected costs for the Authorized Improvements;
- c. The Service and Assessment Plan apportions the cost of the Authorized Improvements to be assessed against property in the PID and such apportionment is made on the basis of special benefits accruing to the 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 Service and Assessment Plan and Assessment Roll will be benefited by the Authorized Improvements proposed to be provided through the PID in the Service and Assessment Plan, and each parcel of real property in the PID 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 PID Costs and Annual Administrative Costs set forth in the PID Service and Assessment Plan results in imposing equal shares of the costs of the Authorized Improvements and Annual Administrative Costs on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the PID Costs;
- f. The Carrollton Castle Hills PID Service and Assessment Plan should be approved as the service plan and assessment plan for the PID, as described in Section 372.013 and 372.014 of the Act;
- g. The Assessment Roll in the form attached to the Service and Assessment Plan (the "Assessment Roll") should be approved as the assessment roll for the PID;
- h. The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Assessments, interest of 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 improvements needed and required for the area within the PID; and
- i. A written notice of the date, hour, place and subject of this meeting of the City Council was posted as 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. Assessment Plan. The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the Act as a service plan and an assessment plan for the Authorized Improvements within the PID.

Section 4. Assessment Roll. The Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the Act as an assessment roll for Authorized Improvements within the PID.

Section 5. Levy and Payment of Special Assessment for Costs of Authorized Improvements.

- a. The City Council hereby levies an assessment on each tract of property located within the PID, 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 within the PID as set forth in the Service and Assessment Plan and 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.
- c. The collection of the Assessments shall be as described in the Service and Assessment Plan.
- d. Each Assessment may be paid in a lump sum 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 Administrative Costs for Assessed properties shall be calculated pursuant to the terms of the Service and Assessment Plan.

Section 6. Method of Assessment. The method of apportioning the PID Costs is as 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. The Assessments shall have lien priority as specified in the Act and the Service and Assessment Plan.

Section 8. Prepayments of Assessments. As provided in Section 372.018(f) of the Act and in the Service and Assessment Plan, the owner (the "Owner") of any Assessed Property may prepay the Assessments levied by this Ordinance.

Section 9. Lien Priority. As provided in the Act, the City Council and owners of the Assessed Property intend for the obligations, covenants and burdens on the owners of Assessed Properties, including without limitation such owner'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 Assessed Parties, as the owners of assessed properties, 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 Service and Assessment Plan and the Act.

Section 10. Collector of Assessments. The Denton County Tax Assessor Collector is hereby appointed as the collector of the Assessments. The City is hereby authorized to enter into an agreement with the Denton County Tax Assessor Collector for the collection of the Assessments. The City may also contract with any other qualified collection agent selected by the City or may collect the Assessments on its own behalf. The costs of such collection contracts shall constitute an Annual Collection Cost.

Section 11. Applicability of Tax Code. To the extent not inconsistent with this Ordinance and the Act or 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. 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 of any other portion here, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 13. 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 thereof.

PASSED AND APPROVED this 4th day of April, 2017.

Matthew Marchant
Mayor, City of Carrollton

ATTEST:

Laurie Garber
City Secretary, City of Carrollton

APPROVED AS TO FORM:

Meredith Ladd
City Attorney, City of Carrollton

EXHIBIT A

SERVICE AND ASSESSMENT PLAN
AND ASSESSMENT ROLL