

**CITY OF FORNEY, TEXAS
ORDINANCE NO.**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS APPROVING A SERVICE AND ASSESSMENT PLAN AND AN ASSESSMENT ROLL FOR THE FOX HOLLOW PUBLIC IMPROVEMENT DISTRICT NO. 1; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY WITHIN THE DISTRICT; LEVYING SPECIAL ASSESSMENTS AGAINST PROPERTY WITHIN THE DISTRICT; ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR ASSESSMENTS TO BE PAID IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; SPECIFYING THE METHOD AND THE AMOUNT OF PAYMENT; PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, in 2004, the City Council of the City of Forney, Texas (the "**City**"), approved the creation of a public improvement district to be known as the Fox Hollow Public Improvement District No. 1 (the "**District**") encompassing certain property located within the corporate limits of the City pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Act (the "**Act**") for the stated purposes of (i) the maintenance, repair, and improvement of public improvements authorized by the Act and for the benefit of property within the District, and (ii) the acquisition, construction, and/or installation of certain public improvements authorized by the Act and for the benefit of property within the District subject to available funds; and

WHEREAS, on September 22, 2022, the City Secretary or her designee filed the proposed assessment roll and made the same available for public inspection; and

WHEREAS, on September 22, 2022, the City Secretary or her designee mailed notice of the levy and Assessment Hearing to the owners of property liable for assessment; and

WHEREAS, the City Council conducted a public hearing (the "**Levy and Assessment Hearing**") on October 4, 2022, 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 final service and assessment plan (the "**Service and Assessment Plan**"), the final assessment roll (the "**Assessment Roll**"), and each proposed assessment, and offer testimony pertinent to any issue presented on the amount of the assessment, purpose of the assessment, special benefit of the public improvements undertaken for the benefit of the property within the District (the "**Authorized Improvements**") and the annual administrative expenses, which include all administrative, organizational, maintenance and operation costs and expenses associated with, or incident to, the administration, organization, maintenance and operation of the District as more particularly described in the Service and Assessment Plan (the "**Authorized Expenses**"), and the penalties and interest on annual installments and on delinquent annual installments of the assessment;

WHEREAS, based on the evidence, information, and testimony provided to the City Council, the City Council finds and determines that the assessed property will be specially benefited by the Authorized Improvements and Authorized Expenses as set forth in the Service and Assessment Plan;

WHEREAS, based on the evidence, information, and testimony provided to the City

Council, the City Council further finds and determines: (i) that the method of apportioning the cost of the Authorized Improvements and Authorized Expenses against the assessed property and the real and true owners thereof as set forth in the Service and Assessment Plan is just and equitable; (ii) that such method of apportioning the cost will produce substantial equality considering the benefits to be received by and the burdens imposed on the assessed property; and (iii) that the assessments levied and charges declared against the assessed property and the real and true owners thereof as set forth in the Service and Assessment Plan are just and equitable; and

WHEREAS, after closing the public hearing on October 4, 2022, and after considering all evidence, information, and testimony provided to the City Council, the City Council finds and determines that the Service and Assessment Plan should be approved and the assessments should be levied as provided in the Assessment Roll; and

WHEREAS, the governing body of the City, after considering all evidence presented at the hearing, both written and documentary, and all written comments and statements filed with the City, passed and adopted this Ordinance.

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

Section 1. Terms.

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

Section 2. Findings.

That the recitals and findings in the Recitals of this Ordinance are hereby found and determined to be true and correct and constitute the legislative findings and determinations of the City Council.

Section 3. Exhibits.

The exhibits attached to this Ordinance are incorporated as part of this Ordinance as if fully set forth in the body of this Ordinance.

Section 4. Assessment Plan.

The "Fox Hollow Public Improvement District No. 1 Service and Assessment Plan", in the form attached as **Exhibit A** is hereby approved as the Service and Assessment Plan for the District.

Section 5. Assessment Roll.

The Assessment Roll attached as Appendix A to the Service and Assessment Plan is hereby approved as the Assessment Roll of the District.

Section 6. Levy of Assessments.

(a) The City Council hereby levies an assessment (the "**Assessment**") at \$0.12 per \$100.00 of appraised value on each lot of assessed property within the District as shown and described in the Service and Assessment Plan and the Assessment Roll. Pursuant to Section 372.015(d) of the Act, the amount of the Assessment for each property owner within the District may be adjusted following the annual review of the Service and Assessment Plan.

(b) Properties within the District that are not liable for assessment include real property, right-of-way, and easements located within the boundaries of the District that are owned by or irrevocably offered for dedication to the federal government, the State of Texas, Kaufman County, the City, a school district, a public utility provider, or any political subdivision or public agency, whether in fee simple, through an easement or by plat.

(c) The levy of the Assessments shall be effective on the date of adoption of this Ordinance.

Section 7. Method of Apportionment.

The method of apportioning the costs of the Authorized Improvements and Authorized Expenses is according to the value of the property at \$0.12 per \$100.00 of appraised value without regard to improvements on the property.

Section 8. Penalties and Interest on Delinquent Assessments.

The Assessments shall be billed and collected by Kaufman County or other collection agent as determined by the City as stated in the Service and Assessment Plan. The Assessments shall be due when billed and shall be delinquent if not paid by January 31, 2022. As provided by Section 372.018(f) of the Act, Assessments not paid by January 31, 2022 shall incur interest, penalties, and attorney's fees in the same manner as delinquent ad valorem taxes.

Section 9. Assessment Lien on Property.

The Assessments together with interest, penalties, and expense of collection and reasonable attorney's 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, or municipal ad valorem taxes, and shall be a personal liability of and charge against the real and true owners of the property assessed, including the successors and assigns, regardless of whether such owners are named. The lien for Assessments, including penalties and interest, if applicable, is effective from the date of this Ordinance until the Assessments are paid, and shall be enforced by the City in the same manner as the City may enforce an ad valorem tax lien on real property as provided in the Act.

Section 10. Lien Survives Foreclosure.

As provided in the Act, the lien described in Section 9 of this Ordinance runs with the land and that portion of an Assessment payment that has not yet come due is not eliminated by foreclosure of an ad valorem tax lien.

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, as amended, governing the collection of ad valorem taxes and the enforcement of ad valorem tax liens shall be applicable to the imposition and collection of the Assessments by the City, and the Texas Tax Code, as amended, shall otherwise be applicable to the extent provided by the Act.

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 recorded in the real property records of Kaufman County. The City Secretary is further directed to similarly file each Annual Service Plan

Update approved by the City Council.

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 14. Effective Date.

This Ordinance shall take effect on October 4, 2022.

Section 15. Open Meetings.

It is hereby officially found and determined that the meeting at which this Ordinance was 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 Chapter 551, Texas Government Code, as amended.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, ON THE 4th DAY OF OCTOBER, 2022.

CITY OF FORNEY

Amanda Lewis, Mayor

ATTEST:

Dorothy Brooks, TRMC, CMC, City Secretary

[SEAL]

APPROVED AS TO FORM:

Jennifer Barnes Smith, City Attorney

EXHIBIT A

**THE FOX HOLLOW PUBLIC IMPROVEMENT DISTRICT NO. 1
SERVICE AND ASSESSMENT PLAN**