

An Ordinance of the City of Plano, Texas, related to the Downtown Plano Public Improvement District; approving the 2024 O&M Annual Service Plan Update; levying assessments against the assessed property and establishing a lien on such property; providing for the collection of assessments; creating a charge and lien against the assessed property; providing for penalties for delinquent assessments; resolving matters incident and related thereto; providing for severability; and providing an effective date.

WHEREAS, Chapter 372, Texas Local Government Code, as amended (the "Act"), authorizes the City of Plano, Texas (the "City"), to create a public improvement district within the corporate limits of the City; and

WHEREAS, on January 9, 2022, the City Council of the City (the "City Council") approved Resolution No. 2023-1-6(R) (the "Authorization Resolution"), authorizing, establishing, and creating the Downtown Plano Public Improvement District (the "District") within the corporate limits of the City; and

WHEREAS, on February 27, 2023, the City Council approved Ordinance No. 2023-2-4 approving the Downtown Plano Public Improvement District Operation and Maintenance Service and Assessment Plan (the "SAP") for the District, that included: (1) a determination of the cost of the improvement projects and services to be provided and financed for the special benefit of the property within the District (2) a service plan, (3) an assessment plan, and (4) an assessment roll, and levied the O&M Assessments (defined below) for the costs of operations and maintenance of Authorized Improvements (defined below) within the District; and

WHEREAS, the SAP describes, in detail, the Authorized Improvements as improvements, services, operation expenses, and repair and maintenance for the District (the "Authorized Improvements"); and

WHEREAS, the City, at its sole cost, will maintain the Authorized Improvements with proceeds from operation and maintenance assessments (the "O&M Assessment") levied against assessed property within the District (the "Assessed Property"); and

WHEREAS, the Act requires that the SAP be updated annually; and

WHEREAS, on July 22, 2024, the City Council adopted and approved Resolution No. 2024-7-1(R), accepting the *Downtown Plano Public Improvement District Preliminary 2024 O&M Annual Service Plan Update* (the "2024 Preliminary O&M Annual Service Plan Update"), directing that the 2024 Preliminary O&M Annual Service Plan Update be filed with the City Secretary and made available for public inspection, calling for a public hearing on August 12, 2024, (the "Assessment Hearing") to consider the levy of O&M Assessments against the Assessed Property to pay for the maintenance of Authorized Improvements within the District, and authorizing and directing the City Secretary to mail, publish, and otherwise provide notices of the Assessment Hearing as required by the Act; and

WHEREAS, the 2024 Preliminary O&M Annual Service Plan Update includes a service plan, assessment plan, and an assessment roll as required by the Act; and

WHEREAS, the City Secretary caused to be mailed and published notice of the Assessment Hearing before the 10th day before the date of the Assessment Hearing as required by the Act; and

WHEREAS, after mailing, publishing, and otherwise providing all notices of the Assessment Hearing as required by the Act, the City Council conducted the Assessment Hearing on August 12, 2024, at the time and place and for the purposes set forth in the notices; and

WHEREAS, after all persons having an interest in the levy of O&M Assessments against the Assessed Property were given an opportunity to be heard in support of or in opposition to the O&M Assessments, the City Council closed the Assessment Hearing on August 12, 2024; and

WHEREAS, the City Council find and determines that the Downtown Plano Public Improvement District 2024 O&M Annual Service Plan Update, in a form substantially similar to the attached **Exhibit A** (the “2024 O&M Annual Service Plan Update”), and which is incorporated herein for all purposes, should be approved and that the O&M Assessments should be levied as provided in this Ordinance and the Assessment Roll attached thereto as Exhibit C (the “Assessment Roll”); and

WHEREAS, after the closing of the Assessment Hearing, and after considering the information, materials, evidence and testimony offered to the City Council prior to and at the Assessment Hearing, the City Council has determined that it promotes the interest of the City to adopt and approve this Ordinance.

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

SECTION I. The findings set forth above, together with the Exhibits attached hereto, are incorporated into the body of this Ordinance as if fully set forth herein. Any capitalized terms used herein but not otherwise defines shall have the meanings set forth in the SAP.

SECTION II. The City Council hereby accepts the 2024 O&M Annual Service Plan Update substantially the form attached hereto as **Exhibit A** and is incorporated as part of the Ordinance for all purposes. The SAP shall be updated by the City Council no less frequently than annually as required by the Act.

SECTION III. Based on the 2024 O&M Annual Service Plan Update, the City Council hereby levies an O&M Assessment upon each Assessed Property in the amounts set forth on the Assessment Roll.

SECTION IV. Each O&M Assessment against an Assessed Property, together with Annual Collection Costs, and reasonable attorney’s fees, if incurred, constitutes a lien against the Assessed Property and is the personal liability of and charge against the owner of the Assessed Property regardless of whether the owner is named in this Ordinance.

SECTION V. The O&M Assessment lien against each Assessed Property created by is effective from the date of this Ordinance and “runs with the land.” The special O&M Assessment lien may be enforced by the City, including foreclosure, in the same manner that an ad valorem tax lien is foreclosed. Any purchaser of an Assessed Property in foreclosure takes subject to the lien against the Assessed Property created by the O&M Assessment.

SECTION VI. The O&M Assessments against each Assessed Property as set forth in the Assessment Roll are due and payable not later than January 31, 2025, and will be delinquent February 1, 2025. Delinquent O&M Assessments shall incur interest, penalties, and attorney’s fees in the same manner as delinquent ad valorem taxes.

SECTION VII. Based on materials and information prepared by City staff and qualified professional consultants, on testimony provided throughout the process of creating the District and levying the O&M Assessments including, but not limited to, testimony offered at the Assessment Hearing, the City Council, acting in its discretionary, legislative capacity hereby finds and determines:

- (a) That the Assessed Property is specially benefitted by the Authorized Improvements in an amount that meets or exceeds the O&M Assessments.
- (b) The O&M Assessments (i) are just and equitable; (ii) produces substantial equality, considering benefits received and the burdens imposed; (iii) results in equal shares of the cost of the services on property similarly benefitted; and (iv) is authorized by and has been levied in accordance with the Act, state law, and ordinances of the City.
- (c) That the O&M Assessments against the Assessed Property are in amounts required to pay the costs of the Authorized Improvements.

SECTION VIII. The City Council may make supplemental O&M Assessments to correct omissions or mistakes related to the cost of the Authorized Improvements and O&M Assessments if the City Council determines that any O&M Assessment is excessive. The City Council may also adjust the O&M Assessments downward following each annual update to the SAP.

SECTION IX. P3Works, LLC, is hereby and designated to serve, or until otherwise determined by the City Council, as the Administrator of the SAP, as amended and supplemented from time to time, and of the O&M Assessments levied by this Ordinance. The Administrator shall perform the duties of the Administrator described in the SAP and in this Ordinance. The Administrator’s fees, charges and expenses for provided such service shall constitute an Annual Collection Costs.

SECTION X. The City Secretary is directed to cause a copy of this Ordinance, including the 2024 O&M Annual Service Plan Update, to be recorded in the real property records of Collin County, Texas, not later than the seventh day after the date the City Council adopts this Ordinance approving the 2024 O&M Annual Service Plan Update. The City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council, with each such filing to occur within seven days of the date each respective Annual Service Plan Update is approved.

SECTION XI. This Ordinance incorporates, by reference, all provisions of the Act. In the event of any conflict between this Ordinance and the Act, the Act shall control. 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 the O&M Assessments by the City.

SECTION XII. If any section, article, paragraph, sentence, clause, phrase or word of this Ordinance, or application thereto any persons or circumstances, is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalid portions, which remaining portions shall remain in full force and effect.

SECTION XIII. This Ordinance shall become effective from and after its date of passage and approval by the City Council.

PASSED AND APPROVED on the 12th day of August, 2024.

John B. Muns, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

Exhibit A

2024 O&M Annual Service Plan Update

[Remainder of page intentionally left blank.]