

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND ADOPTING THE FINAL 2021 SERVICE PLAN, THE FINAL 2020 ASSESSMENT PLAN, AND THE 2020 ASSESSMENT ROLL (TO BE KEPT ON FILE WITH THE CITY SECRETARY); ESTABLISHING CLASSIFICATIONS FOR THE APPORTIONMENT OF COSTS AND THE METHODS OF ASSESSING SPECIAL ASSESSMENTS FOR THE SERVICES AND IMPROVEMENTS TO PROPERTY IN THE DEEP ELLUM PUBLIC IMPROVEMENT DISTRICT (DISTRICT); CLOSING THE PUBLIC HEARING AND LEVYING A SPECIAL ASSESSMENT ON PROPERTY IN THE DISTRICT FOR SERVICES AND IMPROVEMENTS TO BE PROVIDED IN THE DISTRICT DURING 2021; PROVIDING FOR REIMBURSEMENT OF CITY ADMINISTRATIVE COSTS FOR OPERATIONAL OVERSIGHT OF THE DISTRICT; FIXING CHARGES AND LIENS AGAINST THE PROPERTY IN THE DISTRICT AND AGAINST THE OWNERS THEREOF; PROVIDING FOR THE COLLECTION OF THE 2020 ASSESSMENT; AUTHORIZING THE RECEIPT AND DEPOSIT OF ASSESSMENTS FROM DALLAS COUNTY; AUTHORIZING THE DISBURSEMENT OF ASSESSMENTS TO DEEP ELLUM FOUNDATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Public Improvement District Assessment Act, Chapter 372 of the Texas Local Government Code (the Act) allows for the creation of public improvement districts; and

WHEREAS, on August 14, 2013, City Council authorized the renewal of the Deep Ellum Public Improvement District (District) for a period of seven-years and designated the Deep Ellum Foundation, as the management entity for the District by Resolution No. 13-1376; and

WHEREAS, on September 9, 2015, City Council authorized an ordinance approving and adopting the final 2016 Service Plan, 2015 Assessment Plan and the 2015 Assessment Roll by Resolution No. 15-1696; Ordinance No. 29861; and

WHEREAS, on September 14, 2016, City Council authorized an ordinance approving and adopting the final 2017 Service Plan, 2016 Assessment Plan and the 2016 Assessment Roll by Resolution No. 16-1497; Ordinance No. 30202; and

WHEREAS, on September 13, 2017, City Council authorized an ordinance approving and adopting the final 2018 Service Plan, 2017 Assessment Plan and the 2017 Assessment Roll by Resolution No. 17-1483; Ordinance No. 30637; and

WHEREAS, on May 23, 2018, City Council authorized the renewal of the Deep Ellum Public Improvement District (District) for a period of seven-years and designated the Deep Ellum Foundation, as the management entity for the District by Resolution No. 18-0784; and

WHEREAS, on September 12, 2018, City Council authorized an ordinance approving and adopting the final 2019 Service Plan, 2018 Assessment Plan and the 2018 Assessment Roll by Resolution No. 18-1306; Ordinance No. 30979; and

WHEREAS, on September 12, 2018, City Council authorized an amended and restated management contract with Deep Ellum Foundation, the non-profit corporation designated as the management entity for the Deep Ellum Public Improvement District (District) to reflect changes in the process for disbursement of assessment revenue, authorizing the City to disburse assessments to Deep Ellum Foundation, and to address other amendments to the agreement form; by Resolution No. 18-1307; and

WHEREAS, on September 11, 2019, City Council authorized an ordinance approving and adopting the final 2020 Service Plan, 2019 Assessment Plan and the 2019 Assessment Roll by Resolution No. 19-1434; Ordinance No. 31316; and

WHEREAS, on August 26, 2020, City Council authorized a public hearing to be held on September 9, 2020, to receive comments on the Deep Ellum Public Improvement District 2021 Service Plan and 2020 assessment rate; and

WHEREAS, the Deep Ellum Foundation provided City staff with the proposed District 2021 Service Plan and 2020 Assessment Plan as shown in **Exhibits B and C**; and

WHEREAS, City Council desires to authorize and adopt the Assessment Roll that was filed with the City Secretary and subject to public inspection in the City's official records prior to the public hearing; and

WHEREAS, City Council finds that the supplemental services and improvements described in the Service Plan and Assessment Plan are feasible and advisable and will serve the needs and desires of the property owners, and that an assessment apportioned in an amount equal to a rate of \$0.12 per \$100.00 of appraised value of property or improvements to the property in the District, as determined by the Dallas Central Appraisal District (DCAD) is reasonable and adequate.

Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City Council shall adopt an ordinance approving and adopting the final 2021 Service Plan, the final 2020 Assessment Plan and the 2020 Assessment Roll (to be kept on file with the City Secretary); establishing classifications for the apportionment of costs and the methods of assessing special assessments for the services and improvements to property in the District; closing the public hearing and levying a special assessment on property in the District for services and improvements to be provided during 2021; providing for reimbursement of city administrative costs for operational oversight of the District; fixing charges and liens against the property in the District and against the owners thereof; providing for the collection of the 2020 assessment; authorizing the receipt and deposit of assessments from Dallas County; authorizing the disbursement of assessments to Deep Ellum Foundation; authorizing payment of the City's 2020 assessment directly to the District; and providing for an effective date.

SECTION 2. That the recitals and findings listed above are true and correct and that the action of the City Council closing the public hearing in these proceedings is hereby ratified and confirmed.

SECTION 3. That the assessment shall apportion the costs each year among the property owners on the basis of special benefits accruing to the property. The proposed method of assessment, which may specify included or excluded classes of assessable property, shall be assessed according to the value of the real property and real property improvements as determined by DCAD. The net assessment amount for 2020 is proposed to be \$892,672.00. This amount shall be apportioned in an amount equal to \$0.12 per \$100.00 of appraised value as determined by DCAD. Once levied, this assessment rate shall not increase during the 2021 Service Plan year. Properties otherwise exempt from ad valorem taxes are not subject to assessment. Payment of assessments by other exempt jurisdictions and entities must be established by contract.

SECTION 4. That the City Council hereby authorizes and adopts the final 2021 Service Plan, the final 2020 Assessment Plan and the 2020 Assessment Roll (to be kept on file with the City Secretary) apportioning the total cost of the services and improvements to be assessed against property in the District for tax year ending December 31, 2020, of approximately \$892,672.00. The Assessment Roll apportions the assessment against each parcel of land in the District and is subject to public inspection in the City's official records.

SECTION 5. That notice of City Council's intention to consider the proposed assessments at a virtual public hearing on September 9, 2020 no earlier than 1:00 p.m. in the City Council Chamber, 6th Floor, 1500 Marilla Street, Dallas, Texas 75201 was published in the official newspaper of the City of Dallas, Texas 75201 before the 10th day before the date of the hearing. The notice stated: (1) the date, time and place of the hearing; (2) the general nature of the services and improvements; (3) the cost of the services and improvements; (4) the boundaries of the District; and (5) that written or oral objections will be considered at the hearing.

SECTION 6. That Dallas City staff mailed to the owners of property liable for assessment notice of the hearing as the ownership appears on the City tax roll. The notice contained the information required by the Act. The notice was mailed before the 10th day before the date of the hearing to the last known address of the property owner on the City tax roll. The failure of the property owner to receive notice does not invalidate the proceeding.

SECTION 7. That the City Council finds that the assessments should be made and levied against the respective parcels of property within the District and against the owners thereof, and are substantially in proportion to the special benefits accrued to the respective parcels of property by means of the services and improvements in the District for which such assessments are levied, and further finds that in each case the property assessed is specially benefited by means of the said services and improvements in the District, and further finds that the apportionment of costs of the services and improvements is in accordance with the law in force in this City and the State, and that the proceedings of the City heretofore held with reference to the formation of the District and the imposition of assessments for said services and improvements are in all respects valid and regular.

SECTION 8. That there shall be and is hereby levied and assessed against the parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sums of money as listed in the Assessment Roll on file with the City Secretary and subject to public inspection, and the several amounts assessed against the same, and the owners thereof.

SECTION 9. That the several sums above mentioned and assessed against the said parcels of property and the owners thereof, and interest thereon at the rate of eight percent per annum, provided, however, that such interest rate shall not exceed the maximum amount allowed by law, together with reasonable fees and the costs of collection, if incurred, are hereby declared to be and are made a first and prior lien against the property assessed, superior to all other liens and claims except liens and claims for state, county, school district and municipality ad valorem taxes and are a personal liability of and charge against the owners of the property regardless of whether the owners are named. The lien is effective from the date of this ordinance until the assessment is paid and may be enforced by the governing body in the same manner that an ad valorem tax lien against real property may be enforced by the governing body.

SECTION 10. That the assessments levied herein shall be due and payable in full on or before January 31, 2021. That if default be made in the payment of any of the said sums hereby assessed against said property owners and their property, collection thereof, including, costs and fees, shall be enforced by the governing body in the same manner that an ad valorem tax lien against real property may be enforced by the governing body. The owner of the assessed property may pay at any time the entire assessment, with interest that has accrued on the assessment, on any lot or parcel.

SECTION 11. That all assessments levied are a personal liability and charge against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

SECTION 12. That the Chief Financial Officer is hereby authorized to receive and deposit assessment funds from Dallas County (net County collection fees) in the Deep Ellum Public Improvement District Fund, Fund 9P01, Department ECO, Unit 1856, Revenue Code 8576.

SECTION 13. That as part of the assessment levied herein, and as a part of the service plan, the District shall reimburse the City administrative costs for the day to day operations and oversight conducted by City staff for the District, which amount shall be reimbursed by the District to City through the deduction from assessment revenues received.

SECTION 14. That the Chief Financial Officer be authorized to reimburse General Fund, Fund 0001, Department ECO, Unit Various, Object Code 5011 for administrative costs incurred for the day-to-day administrative and operational oversight of the District, in amounts to be determined based upon costs incurred and related rates in effect, from Fund 9P01, Department ECO, Unit 1856, Object Code 3090.

SECTION 15. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed actual collections estimated at \$892,672.00 from Fund 9P01, Department ECO, Unit 1856, Object 3034 to Deep Ellum Foundation, Vendor VS0000021356, for assessments due to the District as assessed, paid to Dallas County and transferred to the City for processing net of administrative fees, any retainage necessary, and any required reconciliation adjustments, related to this activity.

SECTION 16. That the Chief Financial Officer is hereby authorized to disburse funds from Fund 9P01, Department ECO, Unit 1856, Object 3034 to Dallas County, Vendor 243282 for refunding assessments paid by property owners in excess of adjusted amounts resulting from successful appeal of property tax values, and for other necessary reconciliation adjustments.

SECTION 17. That the assessments herein levied are made and levied under and by virtue of the terms, powers and provisions of the Public Improvement District Assessment Act, Chapter 372 of the Texas Local Government Code, as amended.

SECTION 18. That this ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:
CHRISTOPHER J. CASO, City Attorney

BY: 
Assistant City Attorney

Passed _____