

ORDINANCE NO.

**AN ORDINANCE LEVYING ASSESSMENTS FOR CALENDAR YEAR 2009
FOR PROPERTY IN THE AUSTIN DOWNTOWN PUBLIC IMPROVEMENT
DISTRICT.**

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

PART 1. Findings: The Council finds that:

- (A) Chapter 372 (*Public Improvement District Assessment Act*) of the Texas Local Government Code (Act) authorized the creation of the Austin Downtown Public Improvement District (District).
- (B) On October 18, 2007, the City Council passed a resolution, which approved the reauthorization of the District in accordance with its findings.
- (C) On November 20, 2008, the City Council approved a calendar year 2009 assessment rate, proposed year 2009 assessment roll, and a Service Plan and Budget for the District.
- (D) On December 11, 2008, the City Council held a public hearing, properly noticed under the Act, to consider the levy of the proposed assessments on property within the District for calendar year 2009.
- (E) At the December 11, 2008 public hearing, the City Council heard each objection to a proposed assessment, found in each case that the assessments levied against each parcel are reasonable and consistent with the special benefits conferred by the District, and passed on each objection before it closed the public hearing.
- (F) The assessments set out in Exhibit A, attached to and incorporated in this ordinance:
 - (1) should be made and levied against the property and property owners within the District;
 - (2) are in proportion to the benefits to the property for the services and improvements in the District; and

1 (3) establish substantial justice, equality, and uniformity in the
2 amount assessed against each property owners for the benefits
3 received and burdens imposed.

4 (G) In each case, the property assessed is benefited by the services and
5 improvements provided in the District.

6 (H) The exclusion of certain property from assessment is reasonable because the
7 excluded property will not receive a benefit from the District that is
8 sufficient to justify an assessment and the exclusions promote efficient
9 management of the District.

10 (I) The procedures followed and apportionment of the cost of the services and
11 improvements in the District comply with applicable law and the purpose for
12 which the District was formed.

13 (J) The assessments are based on the Travis Central Appraisal District appraised
14 value of property within the District.

15 **PART 2. Exemptions and Exclusions.** The Council exempts the following from
16 payment of the assessment and excludes from the assessment roll:

17 (A) City property used for a public purpose;

18 (B) property owned by the County, or a political subdivision of the State of
19 Texas and used for a public purpose;

20 (C) property exempt from taxation under Section 11.20 (*Religious*
21 *Organizations*) of the Texas Property Tax Code;

22 (D) property used exclusively for school purposes, as identified by the Travis
23 Central Appraisal District records;

24 (E) property owned by an association engaged in promoting the religious,
25 education, and physical development of boys, girls, young men or young
26 women operating under a state or national organization and used exclusively
27 for such purpose, including property owned by the Austin Independent
28 School District;

29 (F) property owned by an institution of purely public charity, as identified by the
30 Travis Central Appraisal District records;

- 1 (G) property used primarily for recreational, park, or scenic purposes during the
2 calendar year immediately preceding the effective date of this ordinance;
- 3 (H) property owned by a utility that is located in a public street or rights-of-way;
- 4 (I) property used as a residence that fits the definition of a homestead in Section
5 41.002 (*Definition of Homestead*) of the Texas Property Code;
- 6 (J) any hospital; and
- 7 (K) the first \$500,000 in valuation of property liable for assessment.

8 **PART 3. Historic Property.** Property designated by the City as “H” Historic is
9 assessed on the basis of the reduced value provided by the formula in City Code Section
10 11-1-22 (*Determination of Exemption Amount*).

11 **PART 4. Assessment and Levy.** The assessments shown on Exhibit A are levied and
12 assessed against the property in the District and against the record owner of the property
13 identified by the Travis Central Appraisal District records.

14 **PART 5. Liability of Multiple Owners.** Each owner of property in the District owned
15 by two or more individuals or entities is personally liable for the amount of the
16 assessment equal to the share of the total assessment against the property based on the
17 owner’s partial interest in the total property ownership. A property owner’s interest in
18 property may be released from an assessment lien if the owner pays the owner’s
19 proportionate share of an assessment.

20 **PART 6. Interest and Lien.**

- 21 (A) An assessment shown on Exhibit A:
- 22 (1) accrues interest at the rate of 0% from the effective date of this
23 ordinance until February 1, 2009;
- 24 (2) accrues interest, penalties, and attorney’s fees in the same
25 manner as a delinquent ad valorem tax after February 1, 2009,
26 until paid; and
- 27 (3) is a lien on the property shown in Exhibit A” and the personal
28 liability of the property owner.
- 29 (B) A lien executed under this ordinance is the first enforceable lien and claim
30 against the property on which an assessment is levied, and is superior to all

1 other liens and claims except a state, county, school district, or City ad
2 valorem tax.

3 **PART 7. Due Date and Collection.** An assessment is due and payable in full on or
4 before February 1, 2009. If a property owner defaults on payment of an assessment
5 against the owner's property, the city manager may file suit to collect the assessment and
6 may initiate a lien foreclosure, including interest, penalties, costs and attorney's fees.

7 **PART 8. Statutory Authority.** The assessments levied by this ordinance are made
8 under the authority of Chapter 372 (*Public Improvement District Assessment Act*) of the
9 Texas Local Government Code.

10 **PART 9. Reassessment.**

- 11 (A) If the Travis Central Appraisal District's appraised value of property in the
12 District is reduced by a court order, from which appeal has been exhausted,
13 or by a final settlement or appeal process of the Travis Central Appraisal
14 District, the City Manager shall reduce the assessment on the property, under
15 Section 372.020 (*Reassessment*) of the Texas Local Government Code.
- 16 (B) The City Manager shall reimburse a property owner with the amount of an
17 assessment paid to the City that is excessive due to the reduction in the
18 Travis Central Appraisal District's appraised value of the property, plus
19 interest on the excess payment at the rate of 1.75% per annum.
- 20 (C) The City Manager shall reimburse assessments that have been paid on
21 property that has been approved for a homestead exemption by the Travis
22 Central Appraisal District, for those years for which the Appraisal District
23 has approved a homestead exemption.

24 **PART 10. Severability.** The provisions of this ordinance are severable. If any provision
25 of this ordinance or its application to a person or circumstance is held to be invalid, the
26 invalidity does not affect other provisions or applications of this ordinance.

PART 11. This ordinance takes effect on _____, 2008.

PASSED AND APPROVED

_____, 2008 § _____
§
§

Will Wynn
Mayor

APPROVED: _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk