ORDINANCE NO.

AN ORDINANCE LEVYING ASSESSMENTS FOR CALENDAR YEAR 2013 FOR PROPERTY IN THE EAST SIXTH STREET 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 East Sixth Street Public Improvement District (District).

(B) On August 20, 2009, the City Council passed a resolution, which approved the reauthorization of the District in accordance with its findings.

(C) On November 8. 2012, the City Council approved a calendar year 2013 assessment rate, proposed year 2013 assessment roll, and a Service Plan and Budget for the District.

(D) On December 6, 2012, 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 2013.

(E) At the December 6, 2012 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

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

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

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

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

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

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

(A) City property used for a public purpose;

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

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

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

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

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

(G) property used primarily for recreational, park, or scenic purposes during the calendar year immediately preceding the effective date of this ordinance;

(H) property owned by a utility that is located in a public street or rights-of-way;

(I) property used as a residence that fits the definition of a homestead in Section 41.002 *(Definition of Homestead)* of the Texas Property Code;

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(J) any hospital; and

(K) the valuation over $500,000 of property liable for assessment.

PART 3. Assessment and Levy. The assessments shown on Exhibit A are levied and assessed against the property in the District and against the record owner of the property identified by the Travis Central Appraisal District records.

PART 4. Liability of Multiple Owners. Each owner of property in the District owned by two or more individuals or entities is personally liable for the amount of the assessment equal to the share of the total assessment against the property based on the owner's partial interest in the total property ownership. A property owner's interest in property may be released from an assessment lien if the owner pays the owner's proportionate share of an assessment.

PART 5. Interest and Lien.

(A) An assessment shown on Exhibit A:

(1) accrues interest at the rate of 0% from the effective date of this ordinance until February 1, 2013;

(2) accrues interest, penalties, and attorney's fees in the same manner as a delinquent ad valorem tax after February 1, 2013, until paid; and

(3) is a lien on the property shown in Exhibit "A" and the personal liability of the property owner.

(B) A lien executed under this ordinance is the first enforceable lien and claim against the property on which an assessment is levied, and is superior to all other liens and claims except a state, county, school district, or City ad valorem tax.

PART 6. Due Date and Collection. An assessment is due and payable in full on or before February 1, 2013. If a property owner defaults on payment of an assessment against the owner's property, the city manager may file suit to collect the assessment and may initiate a lien foreclosure, including interest, penalties, costs and attorney's fees.

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

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PART 8. Reassessment.

(A) If the Travis Central Appraisal District's appraised value of property in the District is reduced by a court order, not subject to further appeal, or by a final settlement or appeal process of the Travis Central Appraisal District, the city manager shall reduce the assessment on the property, so that the reduction in value reduces an assessment as calculated in accordance with this ordinance, under Section 372.020 (*Reassessment*) of the Texas Local Government Code.

(B) The city manager shall reimburse a property owner the amount of an excess assessment paid to the City based on the reduction in the Travis Central Appraisal District's appraised value of the property, plus interest on the excess payment at the rate of 1.75 percent per annum.

(C) The City Manager shall reimburse assessments that have been paid on property that has been approved for a homestead exemption by the Travis Central Appraisal District, for those years for which the Appraisal District has approved a homestead exemption.

PART 9. Severability. The provisions of this ordinance are severable. If any provision of this ordinance or its application to a person or circumstance is held to be invalid, the invalidity does not affect other provisions or applications of this ordinance.

PART 10. This ordinance takes effect on _____.

PASSED AND APPROVED

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§
_____, 2013 § _____
Lee Leffingwell
Mayor

APPROVED: _____ **ATTEST:** _____
Karen M. Kennard
City Attorney

Shirley A. Gentry
City Clerk

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