

ORDINANCE NO. 378

**AN ORDINANCE OF THE CITY OF MANOR, TEXAS, CLOSING THE PUBLIC HEARING AND AUTHORIZING REASSESSMENT FOR THE PARCELS OF LAND LOCATED IN THE ROSE HILL PUBLIC IMPROVEMENT DISTRICT; CREATING A NEW SCHEDULE FOR THE PAYMENT OF ASSESSMENTS; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Manor, Texas (the "City") is authorized under Chapter 372 of the Texas Local Government Code (the "Act") to create and take other actions regarding a public improvement district within its corporate limits and within its extraterritorial jurisdiction;

**WHEREAS**, on June 25, 2003, the City Council of the City (the "City Council"), following all necessary notices and public hearings, adopted Resolution No. 2003-15 (the "Original Creation Resolution") creating the Rose Hill Public Improvement District (the "District");

**WHEREAS**, on July 16, 2003, the City Council, following all necessary notices and public hearings, adopted Ordinance No. 227 (the "Original Assessment Ordinance") levying special assessments against lots located within the District;

**WHEREAS**, on September 20, 2006, the City Council, following all necessary notices and public hearings, adopted Resolution No. 2006-14 (the "Amendment Resolution") adding certain land to the District and recalculating and establishing the special assessment against lots located within the District;

**WHEREAS**, pursuant to the Management Agreement dated effective June 26, 2003 between the City and Kevin McCright, the Manager named therein (the "Manager"), the Manager has been collecting and accounting for the special assessments levied in the District;

**WHEREAS**, the City Council has investigated and determined that the special assessment of \$7,212 per lot established in the Amendment Resolution was excessive;

**WHEREAS**, the City Council has investigated and determined that the owners of lots subject to the Original Creation Resolution and the Original Assessment Ordinance (as amended by the Amendment Resolution), their mortgagees, and/or their title insurers were not in all cases actually aware of the special assessments to which their lots were subject, resulting in confusion and, despite the best efforts of the Manager, incomplete collection of assessments on behalf of the District;

**WHEREAS**, the City Council wants to make a reassessment, lowering the special assessment against the lots, pursuant to Section 372.020(2) of the Act without affecting the

effective date or priority of the creation of the District or the special assessment as created in the Original Creation Resolution and the Original Assessment Ordinance, respectively;

**WHEREAS**, the City Council is adopting this Ordinance after prior public notices in accordance with Chapter 551 of the Texas Government Code, and following action in a public meeting;

**WHEREAS**, after notice was provided as required by the Act, the City Council, on October 21, 2009, held a public hearing to consider the levy of the proposed reassessments on the lots in the District;

**WHEREAS**, at the October 21, 2009, public hearing, information was provided to the City Council regarding the value of the improvements and the special benefit to be received by the lots in the District from such improvements; and

**WHEREAS**, at the October 21, 2009, public hearing, the City Council heard and passed on any objections to the proposed assessment and closing the public hearing;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL:**

**Section 1.** That the action of the City Council closing the public hearing in these proceedings is hereby ratified and confirmed.

**Section 2.** That the City Council finds that the reassessments (i) should be made and levied against each final platted residential lot within the District and against the owners thereof, (ii) are substantially in proportion to the benefits to each final platted residential lot within the District because of the services and improvements within the District for which such assessments are levied, and (iii) establish substantial justice and equality and uniformity between the respective owners of the final platted residential lots and between all parties concerned considering the benefits received and the burdens imposed; and further finds that in each case the lots assessed are specially benefited by means of the said services and improvements within the District; and further finds that the apportionment of the cost of the services and improvements is in accordance with the law in force in this City and the State of Texas and the proceedings of the City heretofore had with reference to the formation of the District and that the imposition of the assessments for said services and improvements are in all respects valid and regular.

**Section 3.** That there is levied and assessed against each final platted residential lot within the District and against the real and true owners thereof (whether such owners be correctly named or not) an assessment (being a reassessment) in the amount of \$7,102.00 (excluding interest) (the "Lot Assessment"). Any owner of a lot may choose to pay the entire unpaid amount of the Lot Assessment, including accrued interest, in a lump sum at any time; however, the owner has no obligation to do so. If the owner of any lot does not choose to pay the entire amount in a lump sum, then the Lot Assessment on each lot, including accrued interest, shall be paid as follows: (A) \$100.00 each year until a completed home has been constructed on the lot, and (B) \$\_\_\_\_\_ each year after a completed home has been constructed on the lot. The Assessment Date for each lot shall be determined as set out in the Original Assessment Ordinance. This Lot Assessment shall be levied, assessed, and applied in accordance with the

Original Creation Resolution and the Original Assessment Ordinance (as amended by the Amendment Resolution) except as those prior documents are amended by the express terms of this Ordinance.

**Section 4.** That the District and the Manager shall deem the collection accounts for all lots within the District and all owners of land within the District as of the date of this Ordinance as being current and in compliance with regard to payment of their Lot Assessment, provided that from and after the date of this Ordinance the Manager shall resume collecting, and shall take all appropriate enforcement actions regarding payment of, the Lot Assessment in the amount authorized in this Ordinance. The Manager shall credit against the total outstanding balance of unpaid assessments for any lot within the District an amount equal to the total of all payments of assessment principal received by the Manager with regard to the lot prior to the date of this Ordinance.

**Section 5.** That the City Council finds that (i) no owner within the District has paid in full the Lot Assessment against its lot(s), whether as that Lot Assessment was made under the Original Assessment Ordinance or the Amendment Resolution, and (ii) no refunds will be due from the District or the City to any owner of land within the District as a result of the lower Lot Assessment made by this Ordinance.

**Section 6.** That the City Council, at such time as the District's collection of assessments is sufficient to support debt service, may consider, in its discretion, an amendment to Section 1(c)(1) of the Original Creation Resolution to delete the prohibition therein against the District having authority to issue bonds, provided in any event, if such an amendment is approved, that no such bonds could be issued until the earlier of (i) 5 years from the date of this Ordinance, or (ii) the completion of construction of at least 500 houses in the District, and that any such bond issuance would be subject to all then applicable rules and laws regarding the approval and issuance of bonds.

**Section 7.** That the effect and the effective dates of the Original Creation Resolution and the Original Assessment Ordinance, as amended by the Amendment Resolution, are renewed and extended in full force and are not changed by this Ordinance, except for the amount of the special assessment as reassessed by this Ordinance. The reason for and the method of apportionment of the special assessment is not changed by this Ordinance.

**Section 8.** That the reassessment made by this Ordinance, as it relates to the indebtedness of the District and the budget for improvements, be considered and included in the annual review and update of the ongoing service plan for the District pursuant to Section 372.013(b) of the Act.

**Section 9.** That the assessment roll for the District must be amended by the Manager to state the new assessment against each lot in the District as of the date of this Ordinance.

**Section 10.** That notice of the adopted reassessment made by this Ordinance shall be (i) given as a courtesy to the public by publishing notice of this Ordinance once in the Austin American-Statesman, a newspaper of general circulation in Travis County, Texas, (ii) filed with the Secretary of the City, along with a copy of the amended assessment roll, and (iii) recorded in

the Official Public Records of Travis County, Texas, which latter filing will include a legal description of the land located within the District at the time of such filing and a reference to the Original Creation Resolution and the Original Assessment Ordinance.

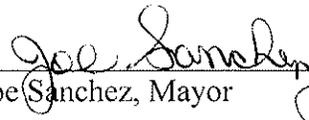
**Section 11.** That this Ordinance shall take effect immediately from and after its passage.

**PASSED AND APPROVED** on this 21<sup>ST</sup> day of OCTOBER, 2009.

**ATTEST:**

**THE CITY OF MANOR, TEXAS**

  
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Dustin Haisler, City Secretary

  
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Joe Sanchez, Mayor