

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AND CREATING THE LOS PRADOS PUBLIC IMPROVEMENT DISTRICT TO FINANCE IMPROVEMENTS WITHIN AND/OR RELATED TO THE LOS PRADOS DEVELOPMENT PROJECT, IN ACCORDANCE WITH SUBCHAPTER A OF CHAPTER 372, AS AMENDED, TEXAS LOCAL GOVERNMENT CODE; MAKING CERTAIN FINDINGS RELATIVE TO THE IMPROVEMENTS THAT ARE TO RESULT FROM THE DISTRICT; PROVIDING FOR MATTERS RELATING TO THE FOREGOING; AND PROVIDING AN EFFECTIVE DATE

* * *

WHEREAS, on October 8, 2024, the owner(s) of taxable real property (the *Owner*) representing greater than 50% of the appraised value of taxable real property liable for assessment, being a definable piece of property of approximately 94.98 contiguous acres located in Hidalgo County, Texas (the *County*) (such property, as described in the metes and bounds contained in Exhibit A hereto, the *Property*), delivered a petition (a copy of which is attached hereto as Exhibit A and made a part of this Resolution for all purposes as though reproduced herein in its entirety; referred to herein as the *Petition*) to the Commissioners Court (the *Court*) of the County requesting that a public improvement district be established upon the Property pursuant to Subchapter A, Chapter 372, Texas Local Government Code (the *PID Act*) for the purpose of improving and financing the costs of improving the Property (as further described below, the *Improvements*); and

WHEREAS, the Owner constituted more than 50% of all record owners of the Property that will be liable for any assessments imposed under the proposal described in the Petition; and

WHEREAS, the PID Act permits Texas counties, such as the County, to establish a public improvement district upon a definable area within its territory, such as the Property, provided that, as described in the PID Act, certain prerequisites to such designation are found to have been satisfied and findings in connection therewith made; and

WHEREAS, the Court has determined that the Petition was validly submitted and compliant with applicable laws of the State of Texas (the *State*); and

WHEREAS, in response to its receipt of the Petition (and determination of the validity thereof), the Court, by Resolution adopted on October 15, 2024, authorized publication of notice of the County's intention to conduct a public hearing (the *Hearing*) concerning the establishment of the Los Prados Public Improvement District (the *District*) upon the Property and the advisability of the Improvements, all in accordance with and as required by the PID Act, and established November 12, 2024 as the date of the Hearing; and

WHEREAS, notice of the Hearing was published on October 23, 2024, which was a date at least fifteen days prior to the date of the Hearing, in the *Advance News Journal* which (because of its general availability throughout the County) is found by the Court to be a newspaper of

general circulation in the County and in the extraterritorial jurisdiction of the City of Mercedes, Texas, the foregoing being in accordance with Section 372.009(c) of the PID Act; and

WHEREAS, written notice of the above described Hearing was sent to all owner(s) by mail at the current address(es) of such owner(s), as reflected on the tax rolls, of property subject to assessment under the proposed District. Such written notice was sent in accordance with and contained all such information as required under TEX. LOC. GOV'T CODE § 372.009.

WHEREAS, at the Hearing, interested persons were allowed to speak for or against the establishment of the District, the advisability of the Improvements, and/or the concept of a public improvement district, and Owner of Property proposed for inclusion in the District was given a reasonable opportunity to protest the inclusion of the same in the District; and

WHEREAS, evidence and testimony was received and presented at the Hearing in favor of and/or against the establishment of the District and the advisability of the Improvements; and

WHEREAS, no owner of real property in the proposed District protested the inclusion of their property in the District; and

WHEREAS, as a result of the foregoing, the County has complied with the prerequisites to the adoption of this Resolution concerning the establishment of the District under the PID Act; and

WHEREAS, the Court has reviewed data and information, which data and information it determines to represent an adequate basis for the adoption of this Resolution, for the purpose of determining the feasibility and desirability of establishing the District; and

WHEREAS, the Court anticipates that, as a result of the establishment of the District and its entering into of a Development Agreement (defined herein) with the Developer (defined herein) and the District Manager (defined herein), the County will be able to increase affordability and availability of housing in a manner beneficial to the County and its inhabitants than otherwise would occur absent creation of the District; and

WHEREAS, the Court finds that the adoption of this Resolution is in the best interest of the residents of the County; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF HIDALGO COUNTY, TEXAS:

Section 1. Findings; Establishment of District; Identification of Improvements.

The Court hereby finds and determines:

- (a) That the facts and recitations contained in the preamble of this Resolution are true and correct and are adopted as part of this Resolution for all purposes.
- (b) That it is advisable to establish the District to provide the Improvements, which will promote the general interests of the County and will confer a special benefit on

the Property, and the establishment of the District is necessary to fund the costs of the Improvements.

- (c) That the District is hereby established, upon the effectiveness of this Resolution (as determined by Section 7 hereof).
- (d) That the District's boundaries are contiguous with those of the Property.
- (e) That the District shall be known as "Los Prados Public Improvement District."
- (f) That the purpose of the District is to fund the following improvements, which are hereby found and determined to be advisable, upon the Property (referred to herein as the *Improvements*):
 - (1) Expenses incurred in the establishment, administration, and operation of the District; and
 - (2) Costs of the design, acquisition, construction, and installation of public improvement projects, as authorized by the PID Act, that are necessary for the development of the Property, which public improvements will include (but are not limited to) improvements to utilities; establishment of roads, bridges, and associated drainage and trails; water and sewer facilities; demolition and land clearing; lighting improvements; construction of entry-way features; signage; other infrastructure improvements within the District; and ongoing services (including maintenance of Improvements).
- (g) That the estimated cost to fund the design, acquisition, construction, and installation of the Improvements for which the District is responsible is Twenty-Three Million and No/00 U.S. Dollars (\$23,000,000) (which amount is exclusive of (1) interest costs incurred in connection with the financing of any Improvements and (2) the costs of ongoing and continued maintenance thereof).
- (h) That the costs of Improvements and any authorized maintenance thereof shall be paid from the assessments and from other sources of funds lawfully available to the District (including, but not limited to, contributions from private third parties and proceeds from bond sales, time warrants, and/or permanent or temporary notes issued by the County on the District's behalf and to be paid solely from a lien on and pledge of revenues generated by or otherwise available to the District); provided, however, that the County's issuance of indebtedness for the benefit of the District, if any, regardless of source of security or repayment, shall be undertaken at the sole and absolute discretion of the Court; provided further, however, that notwithstanding the fact that the County is not obligated to provide any County funds (other than those resultant from the creation of the District that are described above and in Section 2 hereof) to support the operations or undertakings of the District, nothing shall prevent it from doing so at the Court's discretion.
- (i) That the District is responsible for reimbursing Developer, from assessments imposed and collected on an annual basis on Assessable Property within the

District, the costs of construction, operation, and maintenance of the public improvements within the District as acquired, designed, constructed, and/or installed within the District by Developer.

- (j) That the District shall be managed by the private sector through a PID Manager (defined herein), but that the Court has elected to not establish an advisory board of the type described in Section 372.008 of the PID Act.
- (k) In accordance with TEX. LOC. GOV'T CODE § 372.010, actual construction of an Improvement may not begin until after the 20th day after the date the authorization takes effect and may not begin if during that 20-day period written protest(s) signed by at least two-thirds of the owner(s) of record of property within the District or by the owner(s) of record property comprising at least two-thirds of the total area of the District are filed with the County Clerk.

Section 2. Assessments.

- (a) The County shall levy assessments on all Assessable Property (defined herein) within the District in a manner that results in the imposition of an assessment that equally apportions the costs of the Improvements to Assessable Property that is similarly benefited by such Improvements.
- (b) As requested in the Petition, the Court hereby finds that, subject to the contents of the assessment plan to be included in and made a part of the service plan applicable to the District (prepared from time to time and as required by and in conformance with the PID Act and Section 3(f) hereof), an annual assessment shall be imposed on the Assessable Property within the District on an equal per Parcel basis, as reflected in the official tax rolls of Hidalgo County Appraisal District, for the year of each respective assessment; provided, however, that if this methodology for imposing assessments within public improvement districts is ever invalidated under applicable State law, the Court shall implement a substitute assessment methodology that is permissible under applicable State law and most closely approximates the funding result of the then-invalidated methodology.
- (c) All assessments may be paid in full at any time (including accrued and unpaid interest, if any), and certain assessments may be paid in annual installments (including accrued and unpaid interest, if any). If an assessment is allowed to be paid in installments, then the installments must be paid in amounts sufficient to meet annual debt service (including any interest and costs of principal amortization) and maintenance costs of Improvements that have been financed and must continue for a period required to fully retire any such indebtedness.
- (d) “Assessable Property” means property within the District that has been converted into a developed lot and has on such lot a newly constructed single-family residence that has been sold and conveyed to a third-party homebuyer (not including Developer, or any homebuilder), but specifically excludes (i) undeveloped property (i.e. property within the District that has not been converted into developed lots containing suitable sites for building single family residences), (ii) publicly-owned

property (including, but not limited to, schools, public parks, and other property owned by a political subdivision of the State), and (iii) property within the District that is subject to an agricultural or open space tax exemption (as reflected on the official tax rolls of the Hidalgo County Appraisal District for the year in which the assessment is made).

Section 3. Management of District; PID Manager.

- (a) The District shall be managed by the private sector as permitted under the Act, with and such private managing entity of the District being Texas Special District Management, LLC (the *PID Manager*), who shall, from time to time (and at least annually) advise the County regarding the operations of the District and perform other management activities of the District as permitted (but only to the extent permitted) by this Resolution and the PID Act. The PID Manager shall be responsible for and prepare an ongoing service plan and present the plan to the Court for review and approval, with such approval being given, if any, by order of the Court. The service plan, as prepared and proposed by the PID Manager, shall be reviewed and, if approved by the Court, be updated annually for the purpose of determining the annual budget for Improvements. Not later than the seventh day after the date the Court approves and updates the service plan, including the notice form required by TEX. PROP. CODE § 5.014, as amended, the Court shall file or cause to be filed a copy of the updated service plan with the County Clerk.
- (b) The Court directs and authorizes the PID Manager, at its earliest convenience, to finalize and approve the Development Agreement with the Developer for presentation to and consideration by the Court.
- (c) The Court hereby assigns and delegates to the PID Manager the obligation to prepare and present to the Court on an annual basis a service plan and an assessment plan, as described in the PID Act and in Subsection 3(a) hereof.

Section 4. Reservation of Powers to the County.

Though the day-to-day management of the District is delegated to the PID Manager, the Court reserves exclusive right and jurisdiction over the District's ability to annually impose assessments upon Assessable Property, approve the District's annual budget, obligate funds on deposit or to be deposited to the PID Fund (defined herein) for a period greater than one year, and all other powers reserved to the Court under the PID Act.

Section 5. PID Fund.

There is hereby created and established a special fund of the County for the benefit of the District, to be designated Los Prados Public Improvement District Fund (the *PID Fund*), which may be divided into subaccounts as authorized by subsequent orders or resolutions of the Court. The PID Fund and any subaccount shall be maintained at the depository bank of the County and shall be secured in the manner prescribed by law for funds of counties of the State. Money shall be disbursed from the PID Fund only to pay costs and/or reimburse such costs of Improvements, debt service on debt obligations issued in support

of the District, if any, or maintenance costs of any Improvement (the foregoing to include any lawful reimbursement to a Developer under a Development Agreement). The County shall deposit to the PID Fund, upon receipt, assessments paid by owners of Assessable Property.

Section 6. Effect of Annexation.

Though contributions made by a Developer pursuant to the terms of a Development Agreement in anticipation of reimbursement from assessments collected within the District, but not at such time repaid, shall not be, nor shall the same be construed to be, financial obligations of the County or any other political subdivision of the State, except the same shall, to the extent permitted by applicable law, become binding and reimbursable obligations of the District, and be outstanding debt of the District, in the event of any proposed or actual annexation by a municipality (home rule or otherwise), and must, to the extent permitted by applicable law, be paid in full by such annexing municipality, as required by Section 43.0712, as amended, Texas Local Government Code (or any successor statute thereto), as a condition of such annexation.

Section 7. Effective Date.

Upon approval of this Resolution by the Court, the authorization for creation of the District shall become effective, establishing the District on the Property. Said authorization for and the creation of the District upon passage of this Resolution, and thereby being the effective date, having occurred on a date within the six-month period after adjournment of the hearing required under TEX. LOC. GOV'T CODE § 372.009.

Section 8. Effect of Development Agreement.

The Court anticipates that the Improvements will be designed, acquired, constructed, and installed by a private third party (the *Developer*) pursuant to a development and reimbursement agreement (the *Development Agreement*) by and among the County, the PID, TIRZ, if any, and the Developer. The County acknowledges that the Petition was conditioned upon the Court's approval of the Development Agreement with the Developer. No funds deposited to or held in the PID Fund shall be expended until the Development Agreement has been entered into by all parties thereto and such Development Agreement represents a valid and enforceable obligation of each such party.

Section 9. Severability.

If any provision, section, subsection, sentence, clause or phrase of this Resolution, or the application of same to any person or to any set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Resolution or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the Court in adopting this Resolution that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Resolution are declared severable for that purpose.

Section 10. Open Meetings.

It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the Court at which this Resolution was adopted was posted at a place convenient and readily accessible at all times to the general public at the Hidalgo County Courthouse for the time required by law preceding its meeting, as required by the Open Meetings Law, Chapter 551, as amended, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Resolution and the subject matter hereof has been discussed, considered and formally acted upon. The Court further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 11. Notices.

The contents of the notice of the Hearing, which Hearing was held before the Court on November 12, 2024, and the publication of said notice, are hereby ratified, and confirmed.

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PASSED AND APPROVED ON THIS ___ DAY OF _____, 2024.

COUNTY OF HIDALGO, TEXAS

Honorable Richard F. Cortez
Hidalgo County Judge

ATTEST:

Arturo Guajardo, Jr.

EXHIBIT A
Copy of Petition Filed for Authorization and Creation of
Los Prados Public Improvement District