

ORDINANCE NO. _____

AN ORDINANCE CLOSING HEARING, FINDING THE PROPOSED IMPROVEMENTS ARE ADVISEABLE AND LEVYING ASSESSMENTS FOR THE COST OF CERTAIN IMPROVEMENTS TO BE PROVIDED IN THE EL PASO PUBLIC IMPROVEMENT DISTRICT NO. 1 (THUNDER CANYON); FIXING CHARGES AND LIENS AGAINST THE PROPERTY IN THE DISTRICT AND AGAINST THE OWNERS THEREOF; PROVIDING FOR THE COLLECTION OF THE ASSESSMENT; AND PROVIDING AN EFFECTIVE DATE

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

WHEREAS, on or before July 21, 2006, owners of real property located within El Paso Public Improvement District No. 1 (Thunder Canyon) delivered to the City of El Paso, Texas (the "City") a Petition (the "Petition") to create El Paso Public Improvement District No. 1 (Thunder Canyon) (the "District"); and

WHEREAS, the City staff and City Council reviewed the Petition and determined that the owners of taxable real property representing more than 50% of the appraised value of the taxable real property liable for assessment under the Petition and owning more than 50% of the area of all taxable real property within the District executed the Petition and that the Petition complies with the Act and authorized the City Council of the City to consider making findings as to the advisability of the creation of the District; and

WHEREAS, after providing notices required by Section 372.009 of the Act, the City Council on January 16, 2007, conducted a public hearing on the advisability of the improvements and the creation of the District; and

WHEREAS, on January 16, 2007, the City Council passed a Resolution which modified the property in the District, authorized and approved the creation of the District,

as described in the field notes and the map attached hereto and made a part hereof and marked Exhibit "A-1" (the "Property"); and in accordance with its findings as to the advisability of the improvements, recommended and approved the District Improvements; and

WHEREAS, the authorization of the District took effect when notice of the passage of the Resolution was published in a newspaper of general circulation in the City; and

WHEREAS, pursuant to the Act, the statutory notice of a public hearing on April 3, 2007, to consider the levy of the proposed assessments on the Property within the District was accomplished; and

WHEREAS, after notice was provided as required by the Act, the City Council of the City on April 3, 2007 held public hearings to consider the levy of the proposed assessments on the Property within the District, heard and passed on any objections to the proposed assessments and closed the public hearings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELPASO, TEXAS THAT:

I.

Section 1. All matters stated in the preamble of this Ordinance are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. The action of the City Council closing the April 3, 2007, public hearing in these proceedings is hereby ratified and confirmed.

Section 3. The City staff with input from the **owners of the real property** within the proposed District have prepared the Assessment/Service Plan attached

hereto as Exhibit "B" and the City Council hereby approves the Service and Assessment Plan (the "Assessment Plan").

Section 4. The City Council may appoint an advisory body pursuant to Section 372.008, Texas Local Government Code to develop and recommend an ongoing service plan.

Section 5. The City Council finds that the improvements set forth in the Assessment Plan are advisable and will provide sufficient benefits to the property within the District to justify the levy of assessments to reimburse the costs of such improvements.

Section 6. The City Council finds that the assessments as set forth in the Assessment Plan should be made and levied against the Property within the District and against the owners thereof, and are substantially in proportion to the benefits to the respective parcels of property within each class by means of improvements in the District for which such assessments are levied, and establish substantial justice and equality and uniformity between the respective owners to the respective properties within each class and between all parties concerned considering the benefits received and burdens imposed, and further finds that in each case the Property assessed is specially benefited by means of the said improvements in the District, and further finds that the apportionment of the cost of the services is in accordance with the law in force in this City and State and the proceedings of the City heretofore with reference to the formation of the District and the imposition of the assessments for said improvements are in all respects valid and regular.

Section 7. There shall be and is hereby levied and assessed against the 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 Plan attached hereto and made a part hereof. In the event the property owners make periodic installment payments of such Assessments, such payments shall bear interest, but may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the public debt used to finance the improvement.

Section 8. The sum above mentioned and assessed against the said Property and the owners thereof, together with any interest thereon, reasonable attorney's fees

and costs of collection, if incurred, are hereby declared to be and are made a first, prior and superior lien upon the Property against which the same are assessed, and a personal liability and charge against the real and true owners of such Property, whether such owners be named herein or not, and the said liens shall be and constitute the first enforceable lien and claim against the Property on which such assessments are levied, and shall be a first and paramount lien thereon, superior to all other liens and claims except state, county, school district and city ad valorem taxes.

Section 9. The assessments shall be due and payable as stated in the Assessment Plan. That if default be made in the payment of any of the said sums hereby assessed against said Property owners and their portion of the Property, collection thereof, costs and attorney's fees, shall be enforced by suit in any court having jurisdiction, or by lien foreclosure, or both, in the same manner that an ad valorem tax lien against real property may be enforced by a governing body, pursuant to the Texas Tax Code.

Section 10. All assessments levied are a personal liability and charged against the real and true owners of the portion of the Property described, notwithstanding such owners may not be named, or may be incorrectly named.. ***An owner may pay the full and complete amount of the assessment plus interest that has accrued to the date of payment, and upon such payment of principle and interest receive a full and complete release of lien executed by the City.*** All interest payments on the assessments are calculated to the date of payment. All payments shall be in accordance with the Assessment Plan attached hereto.

Section 11. The City shall reimburse itself for its actual costs of creating and providing administrative services to the District.

Section 12. City staff is hereby authorized to take all action necessary to effectuate the purposes of this Ordinance.

Section 13. This Ordinance shall take effect immediately from and after its passage and it is accordingly so ordained.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

PASSED and APPROVED on this the ____ day of _____, 2007.

CITY OF EL PASO, TEXAS

John F. Cook
Mayor

ATTEST:

Richarda Momsen
City Clerk

APPROVED AS TO CONTENT:

Kelly Carpenter
Deputy Director
Development Services-Planning Division

APPROVED AS TO FORM:

Theresa Cullen-Garney

Deputy City Attorney

APPROVED AS TO CONTENT:

Kelly Carpenter
Deputy Director
Development Services-Planning Division