

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE COSTS OF CERTAIN IMPROVEMENTS AND SERVICES BENEFITTING A CERTAIN ADDITIONAL HOTEL PROPERTY IN PUBLIC IMPROVEMENT DISTRICT 18 – TOURISM DURING THE REMAINDER OF FISCAL YEAR 2021-2022; SETTING CHARGES AND LIENS AGAINST PROPERTY IN THE DISTRICT AND AGAINST THE OWNER THEREOF; PROVIDING FOR THE COLLECTION OF THE SPECIAL ASSESSMENTS; PROVIDING FOR DUE DATES, PENALTIES, AND INTEREST; PROVIDING FOR RELIANCE ON ORDINANCE AND RECITALS IN EVENT OF A SUIT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT ORDINANCE IS CUMULATIVE OF ALL NON-CONFLICTING PRIOR ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 372 of the Texas Local Government Code (“**Code**”) authorizes the creation of a public improvement district consisting of non-contiguous territory in which is located hotels meeting certain criteria, with owners/operators of such hotel properties being subject to assessment to pay for the services and benefits provided by the district;

**WHEREAS**, on August 29, 2017, the City Council adopted Resolution No. 4837-08-2017, establishing Public Improvement District No. 18 - Tourism (“**PID**”) in accordance with Section 372.0035 and other applicable sections of the Code;

**WHEREAS**, on August 18, 2020, April 13, 2021, and September 14, 2021, the City Council adopted Resolution Nos. 5264-08-2020, 5382-04-2021, 5467-09-2021, respectively, expanding the boundaries of the PID;

**WHEREAS**, on September 21, 2021, the City Council approved the following: (i) fiscal year 2021-2022 budget in the amount of \$3,950,000.00, (ii) Six-Year Service Plan, and (iii) assessment roll (M&C No. 21-0707);

**WHEREAS**, on September 21, 2021, the City Council also adopted Ordinance No. 25089-09-2021, levying special assessments on property located in the PID for fiscal year 2021-2022 (“**Original Qualifying Hotels**”), which assessments were based on the approved budget;

**WHEREAS**, on April 12, 2022, the City Council conducted a public hearing on the following matters related to the PID: (i) expansion of the PID to include one additional hotel property and the advisability of the improvement and services to be provided (“**Services**”), and (ii) the 2021-2022 assessment for the additional hotel property (M&C No. 22-0269);

**WHEREAS**, on April 26, 2022, the City Council conducted a second public hearing on the above-stated PID matters and took the following actions (M&C Log Name: 17PID18 MIDYEARFY22):

- Adopted a Resolution to further Expand the PID (“**Expansion Resolution**”) to include the one additional hotel property listed in Exhibit A, which is attached hereto and made

a part of this Ordinance for all purposes (such property hereinafter being referred to as “**Hotel Parcel**” and the hotel located thereon being referred to as a “**Qualifying Hotel**”), pursuant to Section 372.0121 and other applicable sections of the Code;

- Approve the revised 2021-2022 assessment roll; and
- Adopted this Ordinance levying special assessments on the Hotel Parcel for the remaining Fiscal Year 2021-2022.

**WHEREAS**, the Texas Comptroller of Public Accounts has indicated that owners/operators may seek reimbursement in an amount equal to the special assessment from hotel guests, with such reimbursement being a mandatory charge that is subject to state and local hotel tax (Texas Comptroller Opinion Letter 201111277L, November 8, 2011);

**WHEREAS**, it is proposed that the owner/operator of the Hotel Parcel be assessed at a rate of two percent (2%) of the consideration received from occupancy of any sleeping room furnished by the Qualifying Hotel, which assessments will be collected in the same manner and in accordance with the same procedures as those established for collection of the City’s hotel occupancy tax, as set forth in Chapter 32, Article II of the City Code; and

**WHEREAS**, notice of the above-stated public hearings on April 12, 2022 and April 26, 2022, (“**Public Hearings**”) was published and mailed in accordance with state law, and all persons desiring to be heard were given a full and fair opportunity to be heard at the Public Hearings.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:**

#### **SECTION 1.**

The Public Hearings are hereby closed, and any and all protests and objections, whether herein enumerated or not, are hereby overruled.

#### **SECTION 2.**

The City Council, from all evidence before it, including all information provided to it and considered in the Public Hearings, finds that the assessments described herein on the Hotel Parcel should be made and levied in a manner that results in imposing the costs of the Services on the Qualifying Hotel and Original Qualifying Hotels that are similarly benefitted from the provision of those Services. The apportionment of those costs will be based on the special benefits accruing to the Qualifying Hotel and the Original Qualifying Hotels on account of the Services provided. As a result, the Qualifying Hotel and Original Qualifying Hotels that sell more guest rooms will pay a greater portion of the costs of the Services because those properties will have received a greater benefit from the promotions and marketing comprising the Services. The City Council further finds that this method of assessment is fair and equitable and results in an apportionment of the costs of the Services that complies with applicable law.

**SECTION 3.**

In accordance with Section 372.017, Texas Local Government Code, in order to pay the costs of the Services provided during the remaining Fiscal Year 2021-2022, the City hereby levies a special assessment against the owner/operator of the Hotel Parcel in an amount equal to two percent (2%) of the consideration received from the occupancy of any sleeping room furnished by the Qualifying Hotel, which assessments will be collected in the same manner and in accordance with the same procedures as those established for collection of the City’s hotel occupancy tax, as set forth in Chapter 32, Article II of the City Code. This is effective on the date that the Expansion Resolution is adopted by the City Council.

**SECTION 4.**

The assessments levied hereunder, together with reasonable attorney’s fees and cost of collection, if incurred, are hereby declared to be and are made a lien upon the Hotel Parcel and Qualifying Hotel, and are a personal liability and charge against the real and true owners of such properties, whether such owners are correctly named herein or not. Such liens shall be and constitute the first enforceable lien and claim against the Hotel Parcel and Qualifying Hotel, superior to all other liens and claims, except state, county, school district and city ad valorem taxes. A copy of this Ordinance may be filed with the County Clerk of each county in which a Hotel Parcel and Qualifying Hotel are located, and when so filed constitute complete and adequate legal notice to the public concerning the liens hereby assessed against the parcel of property and the owners thereof.

The sums assessed against the Hotel Parcel are due at the same time that hotel occupancy taxes on the Qualifying Hotel located thereon become due, and shall become delinquent if not paid by the applicable deadlines for hotel taxes remittance established by Chapter 32, Article II of the City Code. The entire amount assessed against the Hotel Parcel shall bear penalty and interest, from and after the respective due date at the same rate as prescribed Chapter 32, Article II of the City Code, for hotel tax.

**SECTION 5.**

If default shall be made in the payment of any assessments, collection thereof shall be enforced by suit in any court of competent jurisdiction, and said City shall exercise all of its lawful powers to aid in the enforcement and collection of said assessments.

**SECTION 6.**

The total amount assessed against the respective parcel of property and the owners thereof is in accordance with the proceedings of the City hereto and is permitted by applicable law.

**SECTION 7.**

Full power to make and levy reassessments and to correct mistakes, errors, invalidities, or irregularities in the assessments are, in accordance with the law in force in this City, vested in the City.

**SECTION 8.**

In any suit upon any assessment or reassessment, it shall be sufficient to allege the substance of the provision recited in this Ordinance and that the Recitals hereto are in fact true, and further allegations with reference to the proceedings relating to such assessment and reassessment will not be necessary.

**SECTION 9.**

Should any portion, section, or part of a section of this Ordinance be declared invalid, inoperative, or void for any reason by a court of competent jurisdiction, such decision, opinion, or judgment will in no way impair the remaining portions, sections, or parts of sections of this Ordinance, which remain in full force and effect.

**SECTION 10.**

This Ordinance is cumulative of all other ordinances and appropriations amending the same except in those instances where the provisions of this Ordinance are in direct conflict with such other ordinances and appropriations, in which instance said conflicting provisions of said prior ordinances and appropriations are hereby expressly repealed.

**SECTION 11.**

This Ordinance takes effect and is in full force and effect from and after the date of its passage.

**AND IT IS SO ORDAINED.**

**APPROVED AS TO FORM AND LEGALITY:**

**ATTEST:**

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Tyler F. Wallach, Assistant City Attorney

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Jannette Goodall, City Secretary

M&C: \_\_\_\_\_

Adopted: April 26, 2022

**EXHIBIT "A"**  
**QUALIFYING HOTEL AND HOTEL PARCEL**

<b>Account Name</b>	<b>Address</b>	<b>City, State, Zip</b>	<b>RMS</b>
Four Points by Sheraton Hotel	6828 North Freeway	Fort Worth, TX 76137	113