



To: Mayor & City Council

From: Raju Anthony, Director of Finance
Michael Kovacs, City Manager

Date: July11, 2019

Agenda Item & Caption: Public Improvement District Collection Contract

Action Requested: Consider the adoption of resolution authorizing City Manager to sign an Inter-local agreement for Public Improvement District Assessment Collection with Rockwall County Central Appraisal District (RCAD).

Prior Action: N/A

Financial Considerations: N/A

Overview and Background:

Pursuant to Chapter 372 of the Texas Local Government Code, Subchapter A, the City has created a Public Improvement District 1, phases 2B, 2C, and 3A1. The City has levied special assessments on properties within the boundaries of 2B, 2C, and 3A1.

Once the agreement is signed with RCAD, the Chief Appraiser shall mail all assessment statements to the homeowners, collect PID assessments, and deposit funds in the City's accounts and provide monthly collection statements to the City for tax year 2019, and annually in subsequent years.

Supporting Documents:

- Resolution
- Contract

RESOLUTION NO. R-2019-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FATE, TEXAS, APPROVING AN INTERLOCAL AGREEMENT WITH ROCKWALL COUNTY APPRAISAL DISTRICT FOR THE COLLECTION OF PUBLIC IMPROVEMENT DISTRICT ASSESSMENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FATE, TEXAS:

Section 1. The agreement with Rockwall County Appraisal District, for the collection of Public Improvement District assessments, attached hereto and incorporated herein as **Exhibit A**, is hereby approved and the City Manager is authorized to execute the agreement.

Section 2. This resolution shall become effective upon the date of passage.

AND IT IS SO RESOLVED.

PASSED AND APPROVED by the City Council of Fate, Texas, on this, the 15th day of July, 2019.

APPROVED:

Joe Burger, Mayor

ATTEST:

Victoria Raduechel, TRMC
City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF ROCKWALL §

**INTERLOCAL AGREEMENT FOR PUBLIC IMPROVEMENT DISTRICT ASSESSMENT COLLECTION BETWEEN ROCKWALL COUNTY CENTRAL APPRAISED DISTRICT (“DISTRICT”), TEXAS AND THE CITY OF FATE
_____ PUBLIC IMPROVEMENT DISTRICT (“PID”)**

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between Rockwall County Central Appraisal District, hereinafter referred to as “**DISTRICT**”, and the City of Fate, Rockwall County, Texas, a political subdivision of the State of Texas, hereinafter referred to as “**CITY**”.

WHEREAS, pursuant to Chapter 372 of the Texas Local Government Code, Subchapter A, **CITY** has created a Public Improvement District, hereinafter referred to as the “**PID**”, and has levied special assessments on properties within the boundaries of the **PID**, and;

WHEREAS, pursuant to Chapter 372.0175 of the Texas Local Government Code, **CITY** has the authority to contract with the **DISTRICT** to perform the duties of **CITY** relating to collection of special assessments levied by the **CITY** under Chapter 372, Subchapter A; and

WHEREAS, **DISTRICT** and **CITY** mutually desire to be subject to the provisions of V.T.C.A. Government Code, Chapter 791, the Interlocal Cooperation Act; and

NOW THEREFORE, **DISTRICT** and **CITY**, for and in consideration of the mutual promises, covenants, and agreements herein contained, do agree as follows:

I.

The effective date of this **AGREEMENT** shall be the 1st day of October 2019. The term of this **AGREEMENT** shall be for a period of one year, from October 1, 2019 to and through September 30, 2020. This **AGREEMENT** shall be automatically renewed for an additional one (1) year term at the discretion of the **DISTRICT** and **CITY**, unless written notice of termination is provided by the terminating party prior to one hundred-fifty (150) days of the expiration date of the current term of the **AGREEMENT**. **CITY** agrees to deliver this **AGREEMENT** no later than August 1, 2019 or the first Monday of August of any subsequent year in manner required by **DISTRICT** to fully execute said collection services by **DISTRICT**.

II.

For the purposes and consideration herein stated and contemplated, **DISTRICT** shall provide the following necessary and appropriate services for **CITY** to the maximum extent authorized by this **AGREEMENT**, without regard to race, sex, religion, color, age, disability, or national origin:

1. **DISTRICT**, by and through its duly qualified Rockwall Appraisal District Chief Appraiser, shall collect **PID** assessments for tax year 2019, and annually in subsequent years subject to Section I. **CITY** does hereby expressly authorize **DISTRICT** and **DISTRICT** agrees to do and perform for **CITY** all acts necessary and proper to collect said **PID** assessments. **DISTRICT** agrees to collect base assessments, penalties, interest, and attorney's fees.
2. **DISTRICT** agrees to prepare and mail all assessment statements (included on the tax statement for each parcel), provide monthly collection reports to **CITY**, maintain both current and delinquent assessment rolls, make disbursements to **CITY** on a weekly basis, as is done with property taxes, and to develop and maintain such other records and forms as are necessary or required by State law, rules or regulations.
3. **DISTRICT** will disburse via ACH and/or Direct Deposit under the Deposit Agreement **attached hereto**.
4. If **DISTRICT** determines, based on **PID** assessment roll, that a person erred in paying a **PID** assessment by making a duplicate payment or payment on the wrong account, **DISTRICT** agrees to refund the payment to the person who erred in making it from current **PID** assessment collections. **DISTRICT** agrees that such refund will be made as soon as practicable after **DISTRICT** discovers the erroneous payment. The refund shall be accompanied by a description of the property subject to the assessment sufficient to identify the property. If the property is assigned an account number, **DISTRICT** shall include that number. **DISTRICT** will report any refunds made under this paragraph on its monthly report to the **CITY**.
5. If **DISTRICT** determines, based on **PID** assessment roll, that there has been an overpayment of a **PID** assessment, **DISTRICT** shall send the owner a refund application. Upon owner's return of the accurate and fully completed refund application, **DISTRICT** will issue, from current **PID** assessment collections, a refund of the overpayment. **DISTRICT** will report any refunds made under this paragraph on its monthly report to the **CITY**.
6. **DISTRICT** agrees to develop and maintain written policies and procedures of its operation. **DISTRICT** further agrees to make available full information about the **DISTRICT'S** collection operations under this **AGREEMENT** to **CITY**, and to promptly furnish monthly written reports to keep **CITY** informed of information related to this **AGREEMENT**.
7. **DISTRICT** agrees to allow an audit of the assessment collection records of **CITY** in **DISTRICT'S** possession during normal working hours with at least 5 days advance written notice to **DISTRICT** at a mutually agreeable time. The expense of any and all such audits shall be paid by **CITY**. A copy of any and all such audits shall be furnished to **DISTRICT**.

8. **DISTRICT** agrees that it will post a notice on its website, as a reminder that delinquent assessment penalties will apply to all assessments which are not paid by January 31, 2020, and any January 31 of subsequent years subject to Section I.
9. **DISTRICT** agrees that it will provide, as requested in advance by PID Administrator, collection reports for **CITY** listing current assessments, delinquent assessments, and penalties and interest on a monthly basis beginning November 1, 2019 and continuing through the pendency of this **AGREEMENT**. **DISTRICT** will also provide monthly collection reports, monthly recap reports, and monthly attorney fee collection reports.

CITY agrees to promptly deliver to **DISTRICT** all records that it has accumulated and developed in the collection of assessments, and to cooperate in furnishing or locating any other information and records needed by **DISTRICT** to perform its duties under the terms and conditions of this **AGREEMENT**.

CITY retains its right to select its own delinquent assessment/collection attorney and **DISTRICT** agrees to reasonably cooperate with the attorney selected by **CITY** in the collection of delinquent assessments and related activities. **CITY** will provide **DISTRICT** with notice of any change in collection attorney on or before the effective date of the new collection attorney contract.

III.

The Rockwall Appraisal District Chief Appraiser, and/or his/her designee, shall ensure the performance of all duties and obligations of **DISTRICT**; shall devote sufficient time and attention to the execution of said duties on behalf of **DISTRICT** in full compliance with the terms and conditions of this **AGREEMENT**; and shall provide direct supervision of the District employees, agents, contractors, subcontractors, and/or laborers, if any, in the furtherance of the purposes, terms and conditions of this **AGREEMENT** for the mutual benefit of **DISTRICT** and **CITY**.

IV.

It is understood and agreed between **DISTRICT** and **CITY** that the **CITY**, in performing its obligations hereunder, is acting independently, and the **DISTRICT** assumes no responsibility or liabilities in connection therewith to third parties. It is further understood and agreed between **DISTRICT** and **CITY** that the **DISTRICT**, in performing its obligations hereunder, is acting independently, and the **CITY** assumes no responsibilities in connection therewith to third parties. Nothing in this **AGREEMENT** is intended to benefit any third party beneficiary. This provision shall survive the termination of this **AGREEMENT**.

V.

DISTRICT accepts responsibility for the acts, negligence, and/or omissions of all **DISTRICT** employees and agents, sub-contractors and /or contract laborers, and for those actions of other persons doing work under a contract or agreement with **DISTRICT** to the extent allowed by law.

VI.

CITY accepts responsibility for the acts, negligence, and/or omissions of all **CITY** employees and agents, sub-contractors and/or contract laborers, and for those of all other persons doing work under a contract or agreement with **CITY** to the extent allowed by law.

VII.

CITY understands and agrees that **CITY**, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, and/or representatives of **DISTRICT**. **DISTRICT** understands and agrees that **DISTRICT**, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, and/or representatives of **CITY**.

VIII.

For the services rendered during the 2019 assessment year, and for each renewal year for which this Agreement is extended pursuant to Section I, **CITY** and **DISTRICT** agree to comply with the following conditions in connection with **CITY**'s payment to **DISTRICT** for its services to the **CITY** under this **AGREEMENT** as follows:

1. The **CITY** will provide **DISTRICT** with an assessment roll identifying the assessments levied by **CITY'S** governing body under Local Government Code Section 372.017 on or before September 5, 2019, or the first Monday of September in any subsequent year. The assessment roll is to be in the form of a spreadsheet as required by the **DISTRICT** and delivered to the **DISTRICT**; delivery may be by CD, FTP, or email of CSV files. **Assessment roll is to be accompanied by the governing body resolution for the respective assessment year.**
2. The current assessment statements will be mailed by the **DISTRICT** by October 10, 2019 or as soon thereafter as practical. All assessments become due on receipt of the tax statement each year.
3. If **CITY** does not provide **DISTRICT** with an assessment roll identifying the assessments levied by **CITY'S** governing body under Local Government Code Section 372.017 on or before September 5, 2019, or the first Monday of September of any subsequent year, the **DISTRICT** shall charge a **\$5,000.00** late processing fee.
4. All unpaid assessments become delinquent on February 1st of the year following the assessment year. Penalty and interest fees accrue at the same rate and time schedule as the same year's ad valorem property tax. (Tax Code, Section 31.02(a), and 33.01(a)). Delinquent assessment collection attorneys become involved at the same times as do the delinquent ad valorem property tax attorneys. (Tax Code, Sections 6.30, 33.07, 33.08, 33.11, and 33.48) A delinquent notice will be sent during the month of March following the mailing identified in Paragraph 2 above,

provided that **CITY** has requested such a notice on or before February 28 of each year. The fee for this service will be a rate not to exceed **\$1.00 for each statement.**

6. At least 30 days, but no more than 60 days, prior to July 1st, and following the initial mailing, a delinquent assessment statement meeting the requirements of Section 33.07 of the Texas Property Tax Code will be mailed to the owner of each parcel having delinquent assessments.
7. For accounts which become delinquent on or after June 1st, **DISTRICT** shall mail a delinquent tax statement meeting the requirements of Section 33.08 of the Texas Property Tax Code to the owner of each parcel having delinquent assessments.
8. In the event **CITY** levies a supplemental assessment by order of its governing body after the assessment statements have already been mailed, **CITY** shall provide **DISTRICT** with an updated assessment roll identifying the assessments levied by **CITY's** governing body under Local Government Code Section 372.017, as corrected by any supplemental assessments levied by its governing body under Section 372.019. **CITY** agrees **DISTRICT** may charge a programming charge of **\$5,000.00**. **DISTRICT** will mail corrected statements to the owner of each affected parcel. **DISTRICT** will charge a fee for preparing and mailing will be at rate not to exceed **\$1.00** per corrected statement. **Supplemental Assessment Roll will be accompanied by a resolution passed by the governing body authorizing the supplemental assessment(s).**

CITY understands and agrees that **DISTRICT** will, no later than January 31, 2020 deduct from current collections of **PID** the "Total Cost" of providing all services described in paragraphs 1-2 above. This "Total Cost" includes any such services that have not yet been performed at the time of deduction. The "Total Cost" of providing all services described in paragraphs 1 -2 above shall be the total of:

A base fee of \$500 per improvement area, as provided by the **PID** Administrator, plus a per statement fee of **\$1.00** times the total number of parcels on **PID** Assessment Roll as reported on in the assessment roll provided pursuant to paragraph 1.

In the event costs for additional delayed tax statements, processing and mailing are incurred as described in paragraphs 3-8, **DISTRICT** shall bill **CITY** for such amounts as described therein. **CITY** shall pay **DISTRICT** all billed amounts within 30 days of its receipt of said bill.

CITY further understands and agrees that **DISTRICT** (at its sole discretion) may increase or decrease the amounts charged to **CITY** for any renewal year of this **AGREEMENT**, provided that **DISTRICT** gives written notice to **CITY** one hundred eighty (180) days prior to the expiration date of the term of this **AGREEMENT**.

IX.

DISTRICT agrees to remit all assessments, penalties, and interest collected on **CITY** behalf and to deposit such funds into the **CITY** depositories, as designated:

1. For deposits of assessments, penalties, and interest, payment shall be by wire transfer or ACH to **CITY** depository accounts only. Only in the event of failure of electronic transfer protocol will a check for deposits of assessments, penalty and interest be sent by mail to **CITY**.

2. If **CITY** uses the same depository as **DISTRICT**, the deposits assessments, penalty and interest shall be by deposit transfer.

3. In anticipation of renewal of this **AGREEMENT**, **DISTRICT** further agrees that deposits will be made in a typical and customary manner as property taxes through September 30, 2020, and each respective year thereafter. It is expressly understood, however, that this obligation of **DISTRICT** shall not survive termination of this **AGREEMENT**, whether by termination by either party or by failure of the parties to renew this **AGREEMENT**.

4. In event that **DISTRICT** experiences shortage in collections as a result of an outstanding assessment debt of **CITY**, the **CITY** agrees a payment in the amount of shortage shall be made by check or ACH to **DISTRICT** within 15 days after notification of such shortage.

X.

In the event of termination, the withdrawing party shall be obligated to make such payments as are required by this **AGREEMENT** through the balance of the assessment year in which notice is given. **DISTRICT** shall be obligated to provide services pursuant to this **AGREEMENT**, during such period. In any dispute between the parties regarding this **AGREEMENT** the limit of any liability of the **DISTRICT** for damages to **CITY** is the amount paid by **CITY** during the current year of the **AGREEMENT**. No special, consequential or punitive damages are recoverable by **CITY**.

XI.

This **AGREEMENT** represents the entire agreement between **CITY** and **DISTRICT** and supersedes all prior negotiations, representations, and/or agreements, either written or oral. This **AGREEMENT** may be amended only by written instrument signed by the governing bodies of both **CITY** and **DISTRICT** or those authorized to sign on behalf of those governing bodies.

XII.

Any and all written notices required to be given under this **AGREEMENT** shall be delivered or mailed to the listed addresses:

DISTRICT:

Chairman of the Board
Rockwall Central Appraisal District
841 Justin Rd.
Rockwall, TX 75087
Phone: (972) 204-6000

CITY:

Address: _____
City, State, Zip: _____
Phone: _____ Email: _____

XIII.

CITY hereby designates _____ (Name) _____ (Title) to act on behalf of **CITY**, and to serve as Liaison for **CITY** to ensure the performance of all duties and obligations of **CITY** as stated in this **AGREEMENT**. **CITY** designee shall devote sufficient time and attention to the execution of said duties on behalf of **CITY** in full compliance with the terms and conditions of this **AGREEMENT**; shall provide immediate and direct supervision of the **CITY** employees, agents, contractors, subcontractors, and/or laborers, if any, in the furtherance of the purposes, terms and conditions of this **AGREEMENT** for the mutual benefit of **CITY** and **DISTRICT**.

XIV.

In the event that any portion of this **AGREEMENT** shall be found to be contrary to law, it is the intent of the parties that the remaining portions shall remain valid and in full force and effect to the extent possible.

XV.

The undersigned officers and/or agents of the parties are the properly authorized officials and have the necessary authority to execute this **AGREEMENT** on behalf of the parties. Each party hereby certifies to the other that any resolutions necessary for this **AGREEMENT** have been duly passed and are now in full force and effect.

Executed in triplicate originals this _____ day of _____ 2019.

DISTRICT

Rockwall Central Appraisal District
841 Justin Rd.

Rockwall, TX 75087

BY: _____

Russell Summers
Chairman Board of Directors

ATTEST:

BY: _____

Kevin Passons
Rockwall County Chief Appraiser

CITY

Address: _____

City, State, Zip: _____

BY:

Name: _____

Title: _____

ATTEST:

BY:

Name: _____

Title: _____

APPROVED AS TO FORM:

Brenda McDonald
City Attorney