

ORDINANCE NO. 2008-03

**AN ORDINANCE OF THE CITY COUNCIL OF SEALY, TEXAS,
APPROVING THE SERVICE AND ASSESSMENT PLAN FOR THE CITY
OF SEALY PUBLIC IMPROVEMENT DISTRICT NUMBER ONE.**

WHEREAS, the City of Sealy (the "City") is authorized pursuant to TEX. LOCAL GOV'T CODE, ch. 372, as amended ("Chapter 372") to create public improvement districts for the purposes described therein; and

WHEREAS, the City has received a petition (the "Petition") requesting the creation of the City of Sealy Public Improvement District Number One (the "PID"), held a public hearing, and created the PID in accordance with the applicable provisions of Chapter 372; and

WHEREAS, the City passed and adopted Resolution No. 2008-04 on February 13, 2008 establishing the City of Sealy Public Improvement District Number One; and

WHEREAS, the City Council wishes to adopt the Service and Assessment Plan with respect to the PID; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEALY, TEXAS, that:

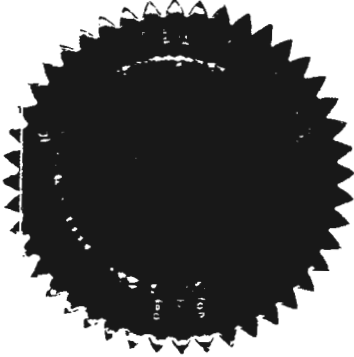
Section 1. The facts recited in the preamble hereto are found to be true and correct.

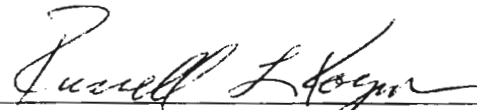
Section 2. The Service and Assessment Plan attached to this Ordinance as Exhibit A is hereby approved and adopted on behalf of the PID, and the Mayor, City Secretary and any other appropriate officials of the City are hereby authorized to take all necessary actions on behalf of the City to implement the terms thereof in accordance therewith.

Section 3. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

PASSED AND APPROVED on first reading this 12th day of March 2008.

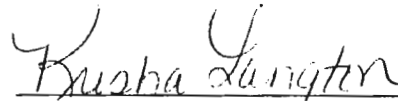
PASSED, APPROVED, AND ADOPTED on second and final reading this 9th day of April
2008.





Russell L. Koym
Mayor

ATTEST:



Krisha Langton
City Secretary

EXHIBIT A

Service and Assessment Plan City of Sealy Public Improvement District Number One City of Sealy, Austin County, Texas

1. Introduction

This Service and Assessment Plan (the "Plan") is prepared and adopted in conformance with the Public Improvement District Assessment Act, codified as Chapter 372, Texas Local Government Code (the "Act"), and pursuant to Resolution No. 2008-04 creating the City of Sealy Public Improvement District Number One (the "PID" or the "District"), Sealy (the "City"), Austin County, Texas. The creation of the PID was initiated by a petition (the "Creation Petition") submitted by property owners within the PID boundaries in compliance with the requirements of Section 372.005 of the Act.

2. Boundaries

The boundaries of the PID are as indicated in the metes and bounds description attached as Exhibit A and map attached as Exhibit B.

3. Administration of the District

Administration of the District is the responsibility of the City Council of the City of Sealy, Texas but to the extent allowed by law, the City may contract with a private sector company to carry out all or part of the City responsibilities as well as day-to-day operations and administration of the District.

4. Public Improvements

The Public Improvements to be financed and constructed hereby (the "Public Improvements") serve to promote the construction of single-family units ("SFU"). The Public Improvements included in the Plan will confer a special benefit to properties within the Public Improvement District and will consist of the construction of water lines, sanitary sewer lines, storm sewers, paving, parks, public landscaping, recreational amenities, erosion control, contingency provisions, engineering services, financing costs, and administrative and legal services for the PID. The Public Improvements will be pre-funded by the developers of the residential subdivisions within the PID. Under the Development Agreements executed between the Developers and the City, the Developers will be entitled to receive reimbursement of the Public Improvement costs subject to the limitations contained in the Agreement.

A. Sealy Homestead - *Generally*

Sealy Homestead Subdivision is being developed by LQH Development, Inc. and will contain an estimated 126 single-family units within the Public Improvement District. The Public Improvements authorized under this Plan for Sealy homestead, and the estimated costs thereof, are described below:

**SEALY HOMESTEAD
PID COSTS**

PUBLIC IMPROVEMENT	ESTIMATED COST
Pavement	\$840,000
Engineering	Included
PID Creation Costs	\$19,441
Total	\$857,500

B. Phase One

The Public Improvements for Phase One of Sealy Homestead containing 55 lots have been completed, subject to determination of developer's final costs for improvements and engineering services. The estimated total costs are as follows, and will be used to set the assessments for residential properties in Section One as detailed later in this document. This plan will be updated to include future sections as the improvements are constructed and costs are determined.

**Sealy Homestead, Section One
PID Costs**

PUBLIC IMPROVEMENT	ESTIMATED COST
Pavement	\$360,000
Engineering	Included
PID Creation Costs	<u>\$19,441</u>
Sub-Total	\$379,441
Financing Cost	\$434,559
Total	\$814,000

5. Construction of Public Improvements

Design and construction of all Public Improvements will be performed to City specifications, and all construction shall be bid as required by the City. The Plan will be reviewed annually in accordance with the provisions of Chapter 372 of the Local Government Code and will include a review of the budgets, expenditures and revenues of the District. Additionally, the Plan will be reviewed for the purpose of establishing the installments for assessments based upon the costs for Public Improvements and the financial needs of the District.

6. Conveyance of Improvements to the City

Upon completion of the improvements, and final inspection and acceptance of the Public Improvements by the City, the Developers will convey all rights to the improvements to the City or homeowner's association as applicable, subject to the Developer's rights of reimbursement described in the Development Agreement executed between the Developer and the City.

7. Authorized Improvements

The area within the PID that is covered by this Service and Assessment Plan will be developed as single family residential. This Plan designates the Public Improvements required for the growth and development of the land within the PID. The goal of this Plan is to provide sufficient certainty for the owners of land within the PID to proceed with the financing and construction of the necessary Public Improvements, while allowing for sufficient flexibility to meet the needs of the PID over the life of the development of residential properties within the PID.

The developer contemplates several phases of construction, portions of which may be constructed concurrently. The construction of the Public Improvements authorized herein will begin in calendar year 2007. The proposed phasing is estimated and may vary. The cost estimates provided above are expressed in calendar year 2007 dollars. The actual costs of the Public Improvements will be determined by an audit of the developer's costs.

8. Advance Financing by Developer

The Developer will advance the funds for construction of the Public Improvements and will be entitled to repayment pursuant to the Development Agreement executed between the City and the Developer. Although the Public Improvements are required for the growth and development of the PID, it is not necessary for them to be built simultaneously.

9. Apportionment of Costs

Payment of assessments, if any, on property owned by exempt jurisdictions other than the City shall be established by contract.

10. Levy of Assessments

The plan of assessment contemplates that the assessment will be levied in phases, as Public Improvements are constructed within each Phase. The assessment year shall be concurrent with the City's tax year. The assessments against property may be paid in annual installments based on an amortization of not more than twenty-five (25) years plus the period between the effective date of the assessment ordinance and the date of the first installment. The interest rate on financed assessments is seven percent (7%) per annum.

The assessments shall be based upon the actual cost of the Public Improvements plus those related costs as deemed reimbursable by the City. The cost of the Public Improvements will consist of the construction of water lines, sanitary sewer lines, storm sewers, paving, parks,

public landscaping, recreational amenities, erosion control, contingency provisions, engineering services, financing costs, and administrative and legal services for the PID, and interest payable to the Developer pursuant to the Development Agreement.

A. Sealy Homestead

The Plan estimates the following assessments for residential properties in Sealy Homestead according to the cost of the Public Improvements. The total assessment can be paid upfront at the time the property containing a habitable structure is purchased or at any time thereafter. The assessment can also be financed and paid in equal annual installments over twenty-five (25) years as prescribed below.

Total Assessment	\$6,898.92 per lot
Financed Assessment	\$592.00 per lot per year

The Public Improvements have been completed for Phase One containing 55 lots. The following assessment will apply to all lots in Section One and is payable in the manner described herein.

Section One Assessment

Total Assessment	\$6,898.92 per lot
Financed Assessment	\$592.00 per lot per year

B. Levy and collection.

Notice of the levy of each assessment will be given as provided in Chapter 372 of the Local Government Code. The assessment levy statement will be sent to each property owner in the District, and the installment of the assessment levy will be due and payable at the same time property taxes are due and payable to the City. Financed assessments shall bear interest at seven percent (7%) per annum.

The first installment of an assessment against a particular property shall be due with respect to the calendar year following the date such property has been improved with a habitable structure as evidenced by the issuance of a certificate of occupancy. The City will invoice each owner of property for the installment payment in conjunction with the City's annual property tax bill, and the installments shall be due and payable, and incur penalty and interest for unpaid installments in the same manner as provided for the City's property taxes. Thereafter, subsequent installments shall be due in the same manner in each succeeding calendar year until the assessment together with interest as provided herein has been paid in full. The owner of assessed property may pay at any time the entire assessment then due on each property, with interest accrued on the assessment through the date of payment. Failure of an owner to receive an invoice shall not relieve the owner of the responsibility of for the assessment.

A lien will be established against the property assessed effective as of the date of the ordinance levying the assessment, privileged above all other liens, including prior mortgage

liens, to the extent allowed by Section 372.018(b) of the Local Government Code. Assessment installments shall be considered delinquent on the same date as the City's property taxes. Delinquent assessments or installments shall incur the costs of collection. If practicable, the assessment shall be included on the City property tax statement. Notwithstanding the above, the assessment lien shall be perfected immediately as to the entire assessment, but may be executed only with respect to the amounts then due or past due for current or prior installments or final payment. Assessments are personal obligations of the person owning the property assessed in the year an installment payment becomes due, and only to the extent of such installment(s).

The owner of assessed property may pay at any time the entire assessment then due on each property, with interest accrued on the assessment through the date of payment.

EXHIBIT A

**FIELD NOTE DESCRIPTION
315.584 ACRES OF LAND
AUSTIN COUNTY, TEXAS**

BEING a 315.584 acre tract of land out of and part of tracts 1, 2 and 3 of the partition of the J. W. Allen Estate. Tract 2 is a 105 acre tract recorded in Volume 273, Page 15 and tract 3, a 105 acre tract recorded in Volume 228, Page 314 and tract 1 is recorded in Volume 133, Page 630 of the Deed Records of Austin County, Texas and a 33.4307 acre tract known as Sealy Homestead filed under file number 007427 of the Austin County Deed Records. Said tracts 1, 2 & 3 are out of the C. C. Allen Survey, Abstract 337 Austin County, Texas and Sealy Homestead is out of the Issac Gifford Survey, Abstract No. 179 Austin County, Texas. Said 315.584 acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a 3/8" iron rod at the intersection of the north right-of-way of F.M. Highway 2187 and the east line of said tract 1, being the a northeast corner of this tract;

THENCE S 48°12'08"E, along the east line of tract 1, across said highway, 151.78 feet to a point in the south right-of-way of FM 2187 being the west corner of Sealy Homestead for an interior corner of this tract;

THENCE N 79°33'15"E, along the south right-of-way of F.M. Highway 2187, 1748.11 feet to the beginning of a curve to the right, having a radius of 22,858.30 feet, a central angle of 0°25'38" and a chord bearing N79°45'14"E – 170.39 feet;

THENCE along said curve 170.39 feet to a point being the northeast corner of said Sealy Homestead and the most northerly corner of this tract;

THENCE S09°42'02"E, along the southeast line of Sealy Homestead and a 1.514 acre tract described in Volume 653, Page 297 of the deed records of Austin County, Texas and a 1.089 acre tract described in Volume 361, Page 448 of the deed records of Austin County, Texas, 701.85 feet to point being the southwest corner of said 1.089 acre tract and an angle point;

THENCE continuing S16°33'07"E along said east line of Sealy Homestead and the west line of a tract described in Volume 554, Page 417 of the deed records of Austin County, Texas, 200.14 feet to a point being the southeast corner of Sealy Homestead and a southeast corner of this tract;

THENCE S76°02'43"W, along the south line of Sealy Homestead and the north line of a 42.066 acre tract described in Volume 263, Page 262 of the deed records of Austin County, Texas, 1178.90 feet to a point in the east line of tract 1 being the southwest corner of Sealy Homestead and an interior corner of this tract;

THENCE S48°12'08"E, along the east line of tract 1 and the west line of said 42.066 acre tract, 2561.65 feet to a point for an interior corner of this tract;

THENCE N42°43'54"E, 169.06 feet to a point for a northeast corner of this tract;

THENCE S14°52'50"E, 1729.67 feet to a point for the southeast corner of this tract;

THENCE S80°07'10"W, 231.50 feet to a point for a southwest corner of this tract;

THENCE N14°52'50"W, 312.14 feet to a point for a southwest corner of this tract;

THENCE S80°54'59"W, 554.50 feet to a point for a southwest corner of this tract;

THENCE N13°15'36"W, 860.92 feet to a point in the south line of tract 2 for an interior corner of this tract;

THENCE S42°43'54"W, along the south line of tract 2 and 3, 1080.88 feet to a point for an interior corner of this tract;

THENCE S47°16'06"E, 102.45 feet to a point being the beginning of a non tangent curve to the right, having a radius of 350.00 feet, a central angle of 43°34'20" and a chord bearing S23°07'14"E – 259.80 feet;

THENCE along said curve to the right 266.17 feet to the end of said curve;

THENCE S02°58'16"E, 360.83 feet to a point in the north right of way of F.M. Highway 1094 for a southeast corner of this tract;

THENCE S86°15'26"W, along said right-of-way 80.00 feet to a point for a southwest corner of this tract;

THENCE N02°58'16"W, 360.83 feet to a point being the beginning of a non tangent curve to the left, having a radius of 250.00 feet, a central angle of 45°24'33" and a chord bearing N27°48'40"W – 192.99 feet;

THENCE along said curve 198.14 feet to the end of said curve;

THENCE N47°16'06"W, 102.45 feet to a point in the south line of tract 3, being an interior corner of this tract;

THENCE S42°43'55"W, along the south line of tract 3, 513.51 feet to a point being the southwest corner of tract 3 and a southwest corner of this tract;

THENCE N48°16'22"W, along the west line of tract 3, 5056.28 feet to a point in the south right of way of F.M. 2187, for the most westerly corner of this tract;

THENCE N41°09'25"E, along the south right-of-way of F.M. 2187, 91.25 feet to the beginning of a curve to the right having a radius of 1850.03 feet, a central angle of 38°25'10" and a chord bearing N60°22'00"E – 1217.42 feet.

THENCE along said curve and the south right-of-way of F.M. Highway 2187, 1240.53 feet to the end of said curve;

THENCE N79°32'40"E, along said right-of-way, 592.14 feet to a point in the east line of tract 3 and the west line of tract 2, for an interior corner of this tract;

THENCE N48°16'22"W, along the east line of tract 3 and the west line of tract 2, across F.M. Highway 2187, 151.90 feet to a point in the north right-of-way of F.M. Highway 2187, for a corner of this tract;

THENCE N79°32'32"E, along the north right-of-way of F.M. Highway 2187, 536.40 feet to an angle point;

THENCE continuing N79°31'27"E, along said right-of-way, 368.32 feet to the **POINT OF BEGINNING** and containing 315.584 acres of land more or less.

Exhibit B

