

ORDINANCE NO. 2014-13

AN ORDINANCE GRANTING THE CONSENT OF THE CITY OF SAN MARCOS, TEXAS, TO THE CREATION OF LASALLE MUNICIPAL UTILITY DISTRICT NO. 1 WITHIN THE CITY'S EXTRATERRITORIAL JURISDICITON; APPROVING A CONSENT AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSENT AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

RECITALS:

1. The City of San Marcos ("City") received a Petition for Consent to the Creation of one (1) MUNICIPAL UTILITY DISTRICT for 236.03 acres currently located in the City's extraterritorial jurisdiction, a copy of which petition is attached as Appendix A; and
2. SECTION 54.016 OF THE TEXAS WATER CODE AND SECTION 42.042 OF THE LOCAL GOVERNMENT CODE provide that land within a municipality's extraterritorial jurisdiction may not be included within a district without the municipality's written consent;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. That the City Council of the City of San Marcos, Texas, gives its written consent to the creation of the LaSalle Municipal Utility District No. 1 as described in the attached petition, provided, however, that said consent is expressly subject to the conditions set forth in the Consent Agreement which is hereby approved and attached hereto as Appendix B and incorporated herein to this Consent Ordinance.

SECTION 2. The City Council approves, and the City Manger is authorized to execute the Consent Agreement.

SECTION 3. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 4. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 5. This ordinance will take effect after its passage, approval and adoption on second reading.


PASSED AND APPROVED on first reading on February 18, 2014.

PASSED, APPROVED AND ADOPTED on second reading on March 4, 2014.




Daniel Guerrero
Mayor

Attest:



Jamie Lee Pettijohn
City Clerk

Approved:



Michael J. Cosentino
City Attorney

Appendix A – Petition

STATE OF TEXAS

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COUNTY OF HAYS

**PETITION REQUESTING CONSENT OF CITY OF SAN MARCOS TO THE
CREATION OF A MUNICIPAL UTILITY DISTRICT TO BE KNOWN AS
“LASALLE MUNICIPAL UTILITY DISTRICT NO 1”**

To the City of San Marcos:

The undersigned Petitioners (the “Petitioners”), being the persons who hold title to land which represents a majority in value of the land, as indicated by the tax rolls of Hays County, Texas, hereinafter described by metes & bounds, and acting pursuant to the provisions of Chapters 49 and 54 of the Texas Water Code, hereby petition the City of San Marcos (the “City”) to consent to the creation of a municipal utility district (“the District”) as described herein:

I. Requested Action

Petitioners request that the City consent to the creation of a municipal utility district to include approximately 236 acres of land, partially within the extraterritorial jurisdiction of the City of San Marcos, Texas. The District’s name is the LaSalle Municipal Utility District No. 1 (the “District”). There is no other conservation or reclamation district in Hays County, Texas, with the same name.

The District was created in the 83rd Legislative Session pursuant Texas Water Code Sections 49 and 54 by special act of the Texas legislature. The special act is codified in SUBTITLE F, TITLE 6, AND SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 8472.

II. Description of Land to be Included

The District contains an area of approximately 236 acres of land, situated wholly within Hays County, Texas, and are generally described by metes and bounds in **Exhibit A**, (the “Property”). The Property is within the extraterritorial jurisdiction of the City of San Marcos, Texas. Petitioners formally request the City’s consent to the creation of the District pursuant to Section 54.016 of the Texas Water Code and Section 42.042 of the Texas Local Government Code. The area comprising the District is contiguous, and is within one or more areas covered by a Certificate of Convenience and Necessity (CCN) for water service, and one area covered by a CCN for wastewater service.

III. Formation and Authority of District

The District was created in the 83rd Legislative Session pursuant Texas Water Code Sections 49 and 54 by special act of the Texas legislature. The special act is codified in SUBTITLE F, TITLE 6, SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 8472. The District shall be organized, created, and established, and shall exist under, and shall have the powers, rights, privileges, duties, authority and functions authorized by the terms and provisions of Article XVI, Section 59 of the Constitution of Texas, and Chapters 49 and 54 of the Texas Water Code.

IV. Ownership of Land to be Included

The Petitioners hold fee simple title to Property within the proposed District, and are the owners of more than fifty percent (50%) in value of the land therein as shown on the tax rolls of Hays County, Texas.

The Petitioners certify and agree that:

- (1) there are no lien holders on the Property.
- (2) there are no persons residing on the Property to be included in the District.

V. Nature of Work to be Done by District

The general nature of the work to be done by the District at the present time is the acquisition, construction, operation, and maintenance of water, wastewater, roads and drainage systems for domestic, industrial, and commercial purposes, and all other purchase, construction, acquisition, ownership, lease, operation, maintenance, repair, improvement, and extension of such additional improvements, facilities, plants, equipment, and appliances as shall be consonant with the purposes for which the District shall be organized, including powers to construct and/or maintain roads. The project, including the proposed improvements, is practicable and feasible, in that water supply is available and the terrain of the territory to be included in the District is of such a nature that a waterworks system, a drainage system, roadway systems and a wastewater system can be constructed at a reasonable cost. In addition, there is a public necessity for the project and the project would be a benefit to the land to be included in the District, in that such land will be developed for residential and commercial purposes, thereby furthering the public welfare.

VI. Estimate of Costs

It is now estimated by Petitioners, from such information as is available at this time, that the ultimate cost of the project described in paragraph V will be approximately as described in Exhibit B is \$12,656,844.00.

VII. Necessity of Work

The above-described work is necessary for the development of the Property. The area proposed to be within the District is located within the extraterritorial jurisdiction of the City of San Marcos, and is urban in nature. It is within the growing environs of Central Texas, in proximity to populous and developing sections of Hays County, Texas, and is expected to experience substantial and sustained residential and commercial growth within the immediate future. The area is currently without an adequate waterworks system, wastewater system, or drainage system. The health and welfare of the present and future inhabitants of the area within the District, and of territories adjacent thereto, require the acquisition, construction, maintenance and operation of an adequate waterworks system, wastewater system and drainage system. As such, a public necessity exists for the organization of the District to provide for the purchase, construction, extension, improvement, maintenance and operation of such waterworks system, wastewater system and drainage system, so as to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

WHEREFORE, Petitioners request that this Petition for Consent be properly considered and granted. Pursuant to Section 54.016 of the Texas Water Code and Section 42.042 of the Local Government Code, the City is required to act within 90 days of its receipt of this Petition.

RESPECTFULLY SUBMITTED this 27 day of November, 2013.

LaSalle Holdings, Ltd.
A Texas Limited Partnership

By: Michael A. Schroeder
Name: Michael A. Schroeder
Title: managing member

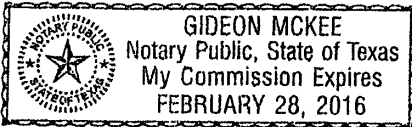
STATE OF TEXAS

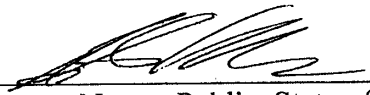
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COUNTY OF TRAVIS

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This instrument was executed by Michael Schroeder, as the in his capacity as an authorized representative of LaSalle Holdings, Ltd., before me on this, the 27th day of November, 2013.





Notary Public, State of Texas

Printed Name: GIDEON MCKEE
My Commission Expires: 28 FEB 2016

EXHIBIT A

DESCRIPTION of 236.03 acres out of the William Hemphill Survey, Abstract No. 221, Hays County, Texas, being a portion of that 765.035 acre tract, conveyed to LaSalle Holdings, Ltd. by deed recorded in Volume 2909, Page 684 of the Official Public Records of Hays County, Texas; the said 236.03 acre tract is more particularly described as follows:

BEGINNING at a calculated point for the most northerly corner of the herein described tract, being the most northerly corner of the aforesaid 765.035 acre tract;

THENCE, with the common northeast line of the said 736.035 acre tract, being along the centerline and southwest right-of-way line of County Road 158, for the following four (4) courses:

- 1) S46°59'19"E, 1823.83 feet to a calculated angle point;
- 2) S43°24'50"W, 19.98 feet to a calculated angle point;
- 3) S46°53'13"E, 1513.88 feet to a calculated angle point for the most easterly corner of the herein described tract;
- 4) S43°15'36"W, 9.13 feet to a calculated angle point for corner;

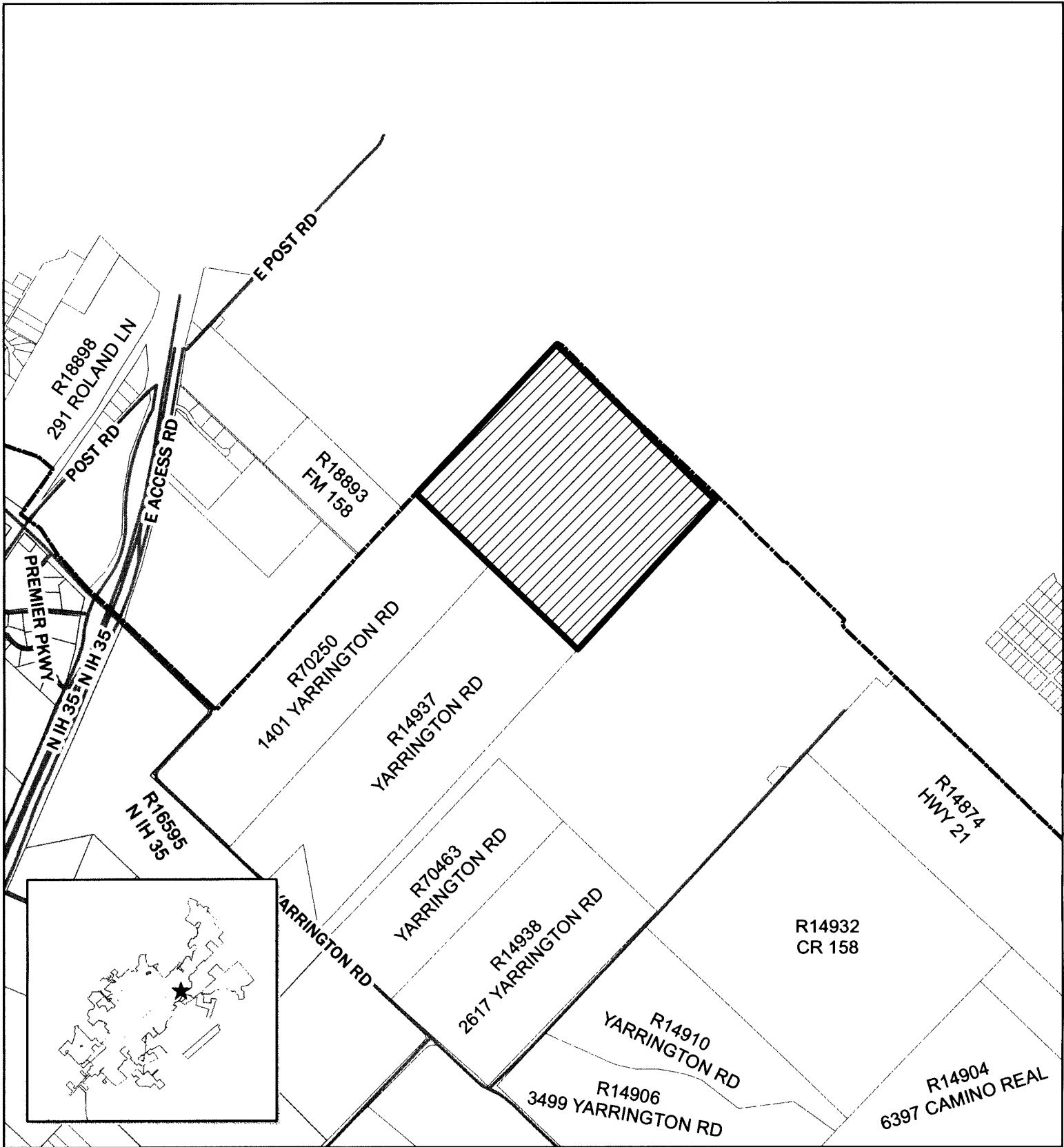
THENCE, S42°11'14"W, leaving the southwest right-of-way line of said County Road 158, across the said 765.035 acre tract, for a distance of 3046.20 feet to a calculated point on the westerly line of the said 765.035 acre tract, being the most easterly corner of that 468.288 acre tract, described as Parcel 1 – Tract 2, conveyed to FM 158 Land, Ltd. by deed recorded in Volume 2702, Page 613 of the said Official Public Records;

THENCE, with the common line between the said 765.035 acre tract and the 468.288 acre tract, for the following three (3) courses:

- 1) N46°30'07"W, 487.13 feet to a calculated angle point;
- 2) N47°10'05"W, 1456.13 feet to a calculated angle point;
- 3) N47°05'42"W, 1442.73 feet to a calculated point for the most westerly corner of the said 765.035 acre tract, being on the southeast line of Quail Ridge Subdivision, a subdivision recorded in Volume 2, Page 337 of the Plat Records of Hays County, Texas;

THENCE, N42°43'31"E, with the northwest line of the said 765.035 acre tract, for a distance of 3080.78 feet to the POINT OF BEGINNING, CONTAINING 236.03 acres of land area.





Appendix B – Consent Agreement



MUD-14-01

LaSalle #1

Map Date: 1/16/2014

-  Site Location
-  Notification Buffer (200 feet)
-  EJT
-  City Limits

0 1,200 2,400 4,800 Feet



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



3300 Bee Cave Road, Suite 650 #189 Austin, TX 78746

Phone: 512.600.3800 Fax: 512.600.3899

November 27, 2013

Mr. Jim Nuse
City Manager
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666

RE: Petition for Consent to the creation of Creation of the LaSalle MUD #1

Dear Mr. Nuse,

We wish to thank you and your staff for taking the time to work with us on the LaSalle Project. As you know, we have met on several occasions to discuss issues involved with obtaining the City of San Marcos' consent to creation of LaSalle Municipal Utility Districts in the City's ETJ.

This letter and the Petition for Consent for the Creation of LaSalle Municipal Utility District #1 is included so that we can be placed on the earliest possible calendar for Planning and Zoning. We have also attached a Preliminary Engineering Report which discusses more technical details of the Request for Consent.

Once again, thank you for your time and consideration in this matter. Please place us on a February calendar for Planning and Zoning. As stated, we will supplement this Petition as necessary. If you have any questions, please do not hesitate to contact me at 512-600-3800.

Very truly yours,



Andrew N. Barrett