



# Cover Memo

To:	City Council
From:	Planning & Development Services
Date:	October 20, 2017
Re:	LaSalle Municipal Utility Districts #1-5

Andrew N. Barret, Barrett & Associates, PLLC, on behalf of Michael Schroeder, LaSalle Holdings, LTD has requested an amendment to the approved Consent Agreements for LaSalle Municipal Utility Districts #1-5 to amend Section 2.04 – Expiration and Dissolution, Section 2.06 – Administrative Fee and Master Development Fee and Exhibit D – Assignment and Assumption.

## **History:**

On April 16, 2013 City Council approved a consent agreement for the creation of 4 Municipal Utility Districts (MUD) in accordance with Chapter 70 of the City's Code of Ordinances. LaSalle MUD #2-5.

At that time LaSalle MUD #1 was located in the City of Kyle Extraterritorial Jurisdiction (ETJ) and completed the City of Kyle process for approval.

Following an ETJ land swap in 2013, the land of LaSalle MUD #1 became part of the City of San Marcos ETJ and on March 4, 2014 City Council approved a consent agreement for this MUD in accordance with Chapter 70 of the City's Code of Ordinances.

On May 19, 2015 the City Council approved a request to amend the Consent Agreements to allow for a confirmation election to be held within four (4) years, rather than two (2) years, of the date of district creation by the Texas Legislature.

On December 20, 2016 the City Council approved a request to amend the Consent Agreements to allow for a confirmation election to be held within six (6) years, rather than four (4) years, of the date of the district creation by the Texas Legislature.

The current request by the applicant is to clarify the provisions for Expiration and Dissolution of the Districts, to extend the timeframe for payment of the Master Development Fee and to amend the provisions regarding Assignment of the Agreement.

### **Staff Analysis & Recommendation:**

Section 2.04 of the Consent Agreements discusses expiration of the City's consent for creation of Municipal Utility Districts. Staff noted that part one of Section 2.04 no longer applies to this agreement as the districts have already been created by the legislature. Part two of this section discusses a requirement for construction to commence: "*The City's consent shall be deemed withdrawn if: (b) developer fails to commence substantial construction improvements within the Districts within five (5) years after the date of the ordinance granting the City's consent...*" The ordinances granting consent were approved by City Council in April, 2013 and March 2014. The current language would require the commencement of construction by April 2018 and March 2019 and is vague about how this requirement may be met.

The proposed amendments remove part one of this Section 2.04 and base the milestone for progress on the confirmation election. This section now includes a measureable requirement for progress and a definition has been added to the agreement to further clarify the requirement.

Section 2.06 of the Consent Agreement outlines the fees to be paid by the Developer. The applicant has requested that the payment of the Master Development Fee timeframe be extended from 10 years to 15 years.

The proposed amendment would be consistent with the Council's 2015 and 2016 approvals to extend the timeframe for holding a confirmation election.

Exhibit D – Assignment and Assumption Agreement would be required when any portion of the property is sold to ensure the responsibilities within the consent agreements are upheld by the new owner. The applicant was concerned with the language regarding assignment to the City in #8 of the Exhibit.

The proposed amendment to Exhibit D clarifies that the City will receive the Master Development Fee as established in the Agreement, not the entire amount equal to the Engineer's Cost Estimate.

Section 7.02 provides a process for assignment of the Consent Agreement if the property is sold. The Applicant requested that this section be drastically reduced however staff felt that the terms of this section are consistent with previous MUD Consent discussions and is not recommending a change to this section.

No amendment is proposed to Section 7.02

In addition to the amendments listed above, staff has taken this opportunity to combine the Consent Agreement for MUD #1 with the Agreement for MUDs #2-5. Staff felt that the merging of the two documents will streamline administration and enforcement of the agreements in the future.

Staff finds this amendment request is consistent with Chapter 70 of the City's Code of Ordinances and **recommends approval of the request as presented.**

**Public Notification:**

*Published Notice appeared in the San Marcos Daily Record on October 22, 2017.*

**Correspondence:**

*There has been no correspondence in favor or opposition of this request as of the date of this memo.*

**Public Hearing:**

*This item was not required to be presented to the Planning & Zoning Commission. A public hearing is being held by the City Council.*