



INTEROFFICE MEMORANDUM

TO: Glenn Morrison, City Manager

VIA: KATHY DAVIS, CITY ATTORNEY
John Sutton, Assistant City Manager – External Services

FROM: Scott Osburn, Exec. Director of Public Works

DATE: FEBRUARY 26, 2015

SUBJECT: COUNCIL MEMBER HARRIS' FEBRUARY 22ND REQUEST FOR INFORMATION REGARDING MUTUAL AGREEMENTS BETWEEN THE CITY AND DEVELOPERS (PUDs AND MUD)

The purpose of this memorandum is to respond to Council Member Harris' request for a comprehensive update regarding mutual agreements between the City of Killeen and local developers, specifically including Planned Unit Development (PUD) agreements and the Bell County Municipal Utility District No. 2 (BCMUD2). As the Planning Department will provide information relating to PUD agreements, this memorandum will solely focus on BCMUD2.

Background/Discussion:

Throughout late 2012 and early 2013, the City explored its options regarding a development proposed to be located just outside the City limits bordering and spanning south from Chaparral Road, just east of State Highway (SH) 195. The development was originally presented as a master-planned community. As part of the City's exploration, the City first considered the development as a potential candidate for a planned unit development ("PUD"). In late 2012, City Council determined that the level of cost participation required of the City, and the risk associated with the same, relating to the annexation of the property and the development of a PUD was not in the City's best interest and terminated negotiations with W&B Development (Whitis).

Following this action, the City considered entering into a development and consent agreement with Whitis that would have been part of the creation of Bell County Municipal Utility District No. 2 ("MUD") through legislation enacted by the Texas Legislature. The catalyst to the commencement of those negotiations was the City's receipt of Whitis' "Notice of Intent to Introduce a Bill" and a copy of the draft MUD creation bill. The Notice of Intent letter included an explanation of the



intent to have a bill filed by the Texas Legislature to legislatively create the MUD. The language of the bill to create the MUD required the City's consent to the MUD's creation. On January 22, 2013, City Council passed Ordinance 13-012 conditionally consenting to the creation of the MUD, subject to successful negotiation of the consent and development agreement. Ultimately, however, these initial negotiations were terminated on March 5, 2013 due to a failure to reach a mutually beneficial development and consent agreement.

Following this action, Whitis abandoned the effort to create the MUD legislatively and began the process to establish the MUD administratively through the Texas Commission on Environmental Quality ("TCEQ"). As the first step in that process, Whitis submitted a Petition for Consent to the Creation of a Municipal Utility District (the "First Petition") to the City on May 9, 2013. City Council considered numerous options in response, but ultimately directed staff to reengage in negotiations with Whitis to attempt to come to mutually agreeable terms. These negotiations continued until July 30, 2013 when City Council approved the consent and development agreement via Ordinance 13-058 (attached).

Following this consent, the MUD was administratively released by the TCEQ and became official following a vote for confirmation held on November 4, 2014. The consent and development agreement was then ratified by the District's Board of Directors on November 17, 2014.

The consent and development agreement generally provides:

1) City consent to the creation of the MUD; 2) the MUD may divide into successor MUDs to facilitate build out and financing after City consent; 3) the City will not annex the MUD until certain conditions precedent are satisfied; 4) the City will provide retail water and sewer services at the same rates provided within the City and, further, that the City will acquire the necessary water CCN from WBCWSC or through a CCN decertification process at the TCEQ; 5) that Whitis will construct all water and sewer infrastructure necessary to serve the property at his expense; 6) that the City commits to providing adequate water and sewer service to the entire development, including a commitment to provide fire flow; 7) that all infrastructure will be built in accordance with the City's design standards and the City will be afforded inspection opportunities; 8) that, upon completion, all water and sewer infrastructure will be given to the City to provide services and accept the perpetual obligation for the infrastructure's operation and maintenance; 9) that the property will be built in accordance with an associated land and road plan, and also in accordance with stated design standards; 10) that, at a minimum, twenty-five percent (25%) of the land will be dedicated to open space and park land to be owned and operated by a Homeowner's Association; 11) that the land will be developed with an integrated storm water system and enhanced regional water quality system conforming to agreed to



drainage standards; 12) that the City may provide solid waste services to the area; 13) a commitment from Whitis to reimburse the City in the amount of \$4,100,000 for the cost of reconstructing Chaparral Road from SH 195 to the entrance of the subdivision and a commitment of a \$1,250,000 reimbursement for the construction of an elevated storage tank, and, further, that Whitis would dedicate necessary right-of-way from the property for these purposes; 14) that the extension of Trimmier Road south would consist of a four lane road (where deemed necessary by engineering standards) designed to a 40 m.p.h. roadway; and 15) various other terms relating to the relationship between the City, Whitis and, ultimately, the MUD.

At this time, the project is progressing.

A handwritten signature in blue ink, appearing to read 'S Osburn', with a long horizontal line extending to the right.

Scott Osburn
Exec. Director of Public Works