



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-1378  
**Type:** Procedural  
**In control:** City Council A Session  
**On agenda:** 1/30/2020  
**Title:** Approving the following two items related to the Clearwater Creek Special Improvement District; and associated Development Agreement: [Lori Houston, Assistant City Manager; Bridgett White, Director, Planning]  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. 1-30-2020 CC\_Agenda Item #36\_Clearwater Creek PID\_Final

Date	Ver.	Action By	Action	Result
1/30/2020	1	City Council A Session	approved	Pass

**DEPARTMENT:** Planning

**DEPARTMENT HEAD:** Bridgett White, AICP

**COUNCIL DISTRICTS IMPACTED:** City Council District 2

### SUBJECT:

A Resolution granting the City's consent to the creation by Bexar County of a Public Improvement District (PID) to be named the Clearwater Creek Special Improvement District; and an Ordinance authorizing a 30-year Development Agreement between the City of San Antonio and Fair Oaks Mosaic TBY, LLC, SA Kosta Browne, Ltd., and SA Love and Trust, LLC.

### SUMMARY:

A public hearing and consideration of the following items related to the Clearwater Creek Special Improvement District; and associated Development Agreement:

- A Resolution granting the City of San Antonio's consent to the creation by Bexar County of a Public Improvement District (PID) to be named the Clearwater Creek Special Improvement District (Clearwater Creek PID), generally located southwest of the intersection of Beyer Path and FM 2538 in the extraterritorial jurisdiction (ETJ) of the City San Antonio.
- An Ordinance authorizing a 30-year Development Agreement between the City of San Antonio and the land owners consisting of Fair Oaks Mosaic TBY, LLC, SA Kosta Browne, Ltd. and the developer, SA Love and Trust, LLC.

## BACKGROUND INFORMATION:

Texas Local Government Code Chapters 382 allows for the creation of Public Improvement Districts (PIDs) by a county. PIDs are considered to be economic development tools used to pay or finance public improvements and economic development within (and that benefit) a defined geographical area which will ultimately become the district. The general nature of the proposed public work may include, but is not limited to, the improvement and construction of roads, thoroughfares, collectors, arterial roads, utilities, water, waste water, sanitary sewer, drainage, trails, park and recreational facilities; which are located within the district boundaries. These districts may levy an assessment and impose an ad valorem tax, sales and use tax or hotel occupancy tax as sources of funding and costs are apportioned and paid by land owners within the district that benefit from public improvements and/or services.

In order to create a PID in a county, more than 50 percent of owners of taxable real property liable for assessment within the proposed PID area, must submit a petition to the governing body of the county.

The municipality has the option to object to the formation of the districts within its ETJ pursuant to state law. However, a PID being created with a purpose of supplying fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, may not be created in the ETJ of a municipality unless the City gives its written consent by ordinance or resolution.

In accordance with Section 212.172 of the Texas Local Government Code, a municipality and a land owner may enter into a written agreement by which the municipality will extend its planning authority, establish terms for annexation or non-annexation of land, extend the municipality's development regulations including land use and development standards, and provide for the infrastructure of the land..

On October 11, 2019, Fair Oaks Mosaic TBY, LLC and SA Kosta Browne Ltd. (Owners) and SA Love and Trust, LLC (Developer) filed a petition and application to Bexar County (County), to create a Public Improvement District to be named the Clearwater Creek Special Improvement District (the Clearwater Creek PID) pursuant to Chapter 382 of the Texas Local Government Code. The proposed PID Property consists of approximately 226.544 acres of land located southwest of the intersection of Beyer Path and FM 2538 in the City of San Antonio's ETJ. It is located to the east of the city limits of St. Hedwig, Texas. The subject property is located within the water and sewer Certificate of Convenience and Necessity (CCN) of the Green Valley Special Utility District.

The proposed Clearwater Creek PID development consists of a residential subdivision with 1,080 single-family dwelling units with a price averaging \$225,000 per unit. The proposed improvement of sewer, water, streets and drainage for the residential subdivision are estimated at \$49.5 million. The developer plans to also build an onsite sewer package plant.

On November 19, 2019, the Bexar County Commissioners Court approved a resolution stating their intent to create the PID with road district powers as well as the power to impose an ad valorem tax on future property owners within the PID's boundaries.

As required by law, the owners and developers must request the municipality's consent prior to the creation of a PID within the municipality's ETJ. On November 22, 2019, the Owners/Developer submitted such a request. In addition, the Owners/Developer agreed to enter into a 30-year Development Agreement with the City setting forth terms and conditions governing development standards and voluntary annexation for the PID property. The Owners/Developer indicated that the agreement would provide greater certainty in the

development of the project, which would help secure financing for the proposed project.

On December 11, 2019, the Planning Commission recommended that the City Council consent to the PID creation by Bexar County subject to the execution of a Development Agreement with the Owners and Developer.

#### **ISSUE:**

If approved, this Resolution would grant the City's consent to the creation of the PID by Bexar County and the Ordinance would authorize the execution of a 30-year Development Agreement between the City and the Owners and Developer. The written consent of the City by resolution or ordinance includes the delegation of road district powers along with the power to provide water, wastewater and drainage facilities. However, the City's consent will not include the following:

- The power to exercise eminent domain by the PID; and
- The power to annex, expand or exclude land into the PID's existing boundaries.

The proposed Development Agreement set forth the conditions of the City's consent as mentioned above and includes the following terms and obligations between the City and the Owners and Developer with respect to the development of the PID Property:

- The ad valorem tax rate of the proposed PID shall not exceed the City's tax rate.
- The City will guarantee the continuation of the extraterritorial status of the PID property for a period of 30 years except in the case of default by the Owners/Developer during the Agreement's term.
- The Owners/Developers agree that the City Agreement constitutes a petition for voluntary annexation at the City's discretion and that the Owner consents to annexation by the City at the end of the Agreement's term or upon default of the Agreement by the Owner.
- The Agreement includes a Written Agreement Regarding Services between the Owner, subsequent Owners and the City under Chapter 43 of the Local Government Code.
- The Owner/Developer agree to comply with all municipal regulations, ordinances and other laws applicable to all properties located within the City's ETJ during all of the phases of development and construction of the PID Project and during the term of the Agreement.

The proposed timeline for the formation of the District by the County and approval of the Development Agreement is as follows:

#### **Dates**

#### **Schedule of Action**

October 11, 2019	The Owners filed a petition with Bexar County to create the Clearwater Creek PID
November 19, 2019	Bexar County Commissioners Court consideration of a resolution expressing their intent to create the PID
November 22, 2019	The Owners submit a request for the City's consent and related development agreement
December 11, 2019	San Antonio Planning Commission Public Hearing and Recommendation
January 30, 2020	City Council's consideration and action
February 11, 2020	Commissioners Court consideration to create the PID and appoint a Board of Directors
February 2020	Clearwater Creek PID's Board of Directors organizational meeting
May 2, 2020	Commissioners Court consideration of PID's financing agreement

**ALTERNATIVES:**

A denial would result in the District not being created by Bexar County. In addition, a denial may require the Property Owner to seek a different financing mechanism for the development of the property and may delay the development and construction of the project.

City Council may require staff to re-negotiate the terms of the Development Agreement which would delay the activation of development in the District.

**FISCAL IMPACT:**

This item is to consider the resolution granting the City's consent to the creation by Bexar County of a PID located in the unincorporated area of the ETJ of the City of San Antonio, and an Ordinance authorizing the execution of a Development Agreement between the City of San Antonio and Fair Oaks Mosaic TBY, LLC, SA Kosta Browne, Ltd., and SA Love and Trust, LLC. There is no fiscal impact to the City of San Antonio associated with the passage of this resolution and ordinance.

**RECOMMENDATION:**

Staff recommends approval of A) a Resolution granting the City's consent to the creation by Bexar County of a PID to be named the Clearwater Creek Special Improvement District; and B) an Ordinance authorizing the execution of a 30-year Development Agreement between the City and Fair Oaks Mosaic TBY, LLC, SA Kosta Browne, Ltd., and SA Love and Trust, LLC.