



# City of San Antonio

## Agenda Memorandum

**File Number:**19-5192

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**Agenda Item Number:** 22.

**Agenda Date:** 8/15/2019

**In Control:** City Council A Session

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**DEPARTMENT:** Planning

**DEPARTMENT HEAD:** Bridgett White, AICP

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

### **SUBJECT:**

A Resolution granting the City of San Antonio's consent to the creation by Bexar County of a Public Improvement District to later be named the Gates Special Improvement District and an Ordinance authorizing a 30-year Development Agreement between the City of San Antonio and MEH Holding Company, Ltd.

### **SUMMARY:**

A public hearing and consideration of the following items related to the Gates Special Improvement District and associated development agreement:

- A) A Resolution granting the City Council's consent to the creation by Bexar County of a proposed Public Improvement District to later be named the Gates Special Improvement District, generally located along Highway 87, to the east of Real Drive in the extraterritorial jurisdiction (ETJ) of the City of San Antonio.
- B) An Ordinance authorizing the execution of a 30-year Development Agreement between the City of San Antonio and MEH Holding Company, Ltd.

### **BACKGROUND INFORMATION:**

Texas Local Government Code Chapter 382 allows for the creation of Public Improvement Districts (PIDs), by a city or 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 fifty percent (50%) of owners of taxable real property liable for assessment within the proposed District 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 the municipality's 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 May 16, 2019, MEH Holding Company, Ltd., the (Owner) filed a petition and application to Bexar County (County), to create a PID to be named the Gates Special Improvement District (the Gates PID) pursuant to Chapter 382 of the Texas Local Government Code. The proposed PID Property consists of the Gates Tracts (approximately 257.33 and 1.045 acres) totaling to approximately 258.375 acres of land located southwest of the intersection of Corrilla Drive and US Highway 87, to the east of Real Drive and to the west of Beck Road. It is located to the east of the city limits of China Grove, Texas. The subject property is located within the water Certificate of Convenience and Necessity (CCN) of East Central Special Utility District. There is no waste water service provider in this area.

The proposed Gate PID development consists of a residential subdivision with approximately 1,400 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 \$46.2 million. The construction of a quarter (0.25) mile of a collector road costs approximately \$1,172,424 million. The developer also plans to build an onsite sewer package plant which is estimated to cost \$8,461,530. The total cost of public improvements is estimated at \$55,833,954.

As required by State law, the Owner requested that the City grant its consent to the creation of the PID within its ETJ. In addition, the Owner has 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 Owner indicated that the agreement would provide greater certainty in the development of the project, which in turn would help secure financing for the proposed project.

On July 9, the Bexar County Commissioners Court approved a resolution stating their intent to create the PID with road district powers as well as power to impose ad valorem tax on future property owners located within the District's boundaries. On July 24, 2018 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 Owner.

## **ISSUE:**

If approved, this resolution grants 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 (Agreement) between the City and the Owner of PID property. The written consent of the City by resolution or ordinance, which includes the delegation of the road district powers along with the powers to construct water, wastewater and drainage facilities, is required by state law in order for this PID to exercise those powers. 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 Agreement sets forth the conditions of the City's consent, as mentioned above, and includes the following terms and obligations between the City and the Owner 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 Owner during the Agreement's term.
- The Owner agrees 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 agrees 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 establishment of the proposed PID is as follows:

#### **2019 Dates**

#### **Schedule of Action**

July 9	Bexar County Commissioners Court consideration of a resolution expressing their intent to create the PID
July 24	San Antonio Planning Commission public hearing and recommendation
August 15	City Council's consideration and action
August 20	Commissioners Court consideration to create the proposed PID and appoint a Board of Directors
August 20 - September 1	Gates PID's Board of Directors organizational meeting
September 10	Commissioners Court consideration of the PID's financing agreement

#### **ALTERNATIVES:**

A denial of the Resolution would result in the PID not being created by Bexar County. This action would require the Owner to seek a different financing mechanism for the development of the property. It may result in the development and construction of infrastructure occurring in a traditional method rather in the manner proposed by the developer.

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

#### **FISCAL IMPACT:**

This item is to consider the resolution granting the City's consent to the creation by Bexar County of a PID located within an

unincorporated area of the ETJ of the City San Antonio, Texas and an ordinance authorizing the execution of a Development Agreement between the City of San Antonio and MEH Holding Company, Ltd., owner of PID property. 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 later be named the Gates Special Improvement District; and B) an Ordinance authorizing the execution of a 30-year Development Agreement between the City and MEH Holding Company, Ltd.