

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Planning & Inspections Department

AGENDA DATE: Cosnent Agenda: February 24, 2015

CONTACT PERSON/PHONE: Mathew McElroy (915) 212-1550,
McElroyMX@elpasotexas.gov

DISTRICT(S) AFFECTED: District 8

SUBJECT:

A resolution that the City Council of the City of El Paso, Texas hereby consents to amend the Montecillo Municipal Maintenance District No. 1 conditions in Exhibit A, Section(d) to clarify platting requirements upon and prior to the sale of any lot or parcel of land within the District. (District 8)

BACKGROUND / DISCUSSION:

On February 22nd, 2011, the City of El Paso City Council approved a resolution supporting State legislation to create the Montecillo Municipal Maintenance District No. 1. State approval of House Bill No. 3831 during its 82nd Legislature (2011) created the District and provided authority to levy an assessment, impose a tax and issue bonds, codified at Chapter 3900, Texas Special District Local Laws Code.

Following District creation by the State, on August 14th, 2012, City Council approved five nominations to the District's Board of Directors. However, before the Board may take any action to exercise the authority granted under the Act or Chapter 375 of the Local Government Code, Article XVI, Section 59 of the Texas Constitution requires that the City consent to the creation of the district.

On December 30th, 2014, the El Paso City Council consented to the creation of the District, subject to a number of conditions to include various limitations on bond issuance and future District annexations, requirements for the construction of District public improvements, such as water, sanitary sewer, drainage and road facilities, and platting requirements prior to the sale of any lot or parcel of land within the District. The present resolution seeks to clarify one of those conditions.

Specifically, current consent condition language exceeds requirements of Title 19 (Subdivisions) of the El Paso Municipal Code by requiring that District land be platted and recorded prior to its sale. This condition may in some instances impede the sale of land ready for development; the proposed revision seeks to update condition language to reflect current Title 19 requirements.

Attachments:

- Resolution Consenting to the Amendment of District Conditions and Revised Conditions
- Resolution Consenting to MMD Creation and Original District Conditions as approved on December 30th, 2014

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

- 02/22/2011: City Council approves a resolution supporting State legislation to create the Montecillo MMD;
- 05/29/2011: The 82nd Texas State Legislature concludes with approval of House Bill No. 3831 creating the District;

- 08/14/2012: City Council approves five nominations to the District's Board of Directors
- 11/06/2012: Bond Election held where District voters approved issuance of bonds by the District in the aggregate principal amount of \$70 million for utility, road and recreational facilities;
- 12/30/2014: City Council consents to the creation of the District subject to a number of conditions; this consent allows the District to begin levying taxes.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD:

Mathew S. McElroy
Director, Planning & Inspections Department

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

RESOLUTION

WHEREAS, on December 30, 2014, the El Paso City Council, passed a resolution consenting to the creation of the Montecillo Municipal Management District No. 1 for certain land encompassing approximately 306.2 +/- acres located within the boundaries of the City of El Paso, Texas subject to identified conditions set forth in an "Exhibit A"; and

WHEREAS, it is necessary to amend the conditions in Exhibit A to properly clarify the obligations of the District; and

WHEREAS, the City Council and the Petitioners are in agreement that the City's consent to the creation of the Montecillo Municipal Management District No. 1 is subject to the conditions set forth in the revised Exhibit A.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

That City Council of the City of El Paso, Texas hereby consents to amend the conditions in Exhibit A, Section (d), to read as follows:

(d) That upon or prior to the sale of any lot or parcel of land within the District, the owner or the developer of such land included within the limits of the District shall be in compliance with all applicable provisions of Title 19, Subdivision.

APPROVED this ____ day of _____, 2015

THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:

Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew S. McElroy, Director
Planning and Inspections Department

REVISED ON FEBRUARY 24, 2015
EXHIBIT "A"

(a) To the extent authorized by law, the District will issue bonds only for the purpose of purchasing and constructing, or purchasing, or constructing under contract with the City of El Paso, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, drainage facilities, recreational facilities, or road facilities, or parts of such systems or facilities, and to make any and all necessary purchases, acquisitions, construction, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor, as well as for the purpose of paying or reimbursing for creation, organizational and operating expenses of the District. No bonds will be issued with a final maturity date more than 30 years from the date of issuance, and the first principal maturity must occur within three years of the date of issuance. Such bonds will expressly provide that the District reserves the right, at its option, to redeem the bonds on any date that is on or after the maturity date either immediately preceding or immediately following the tenth (10th) anniversary of the date of issuance, without premium, and will be sold only after the taking of public bids therefor (excepting refunding bonds), and none of such bonds, other than refunding bonds, will be sold for less than 95% of par; provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given.

(b) No land will be added or annexed to the District until the City of El Paso has given its written consent by resolution or ordinance of the City Council to such addition or annexation. Furthermore, in accordance with Texas Special District Local Laws Code Chapter 3900.115 the district may not exercise the power of eminent domain.

(c) (1) Before the commencement of any construction within the District, the District or its developers and landowners, as appropriate, will submit to the City or its Public Service Board, as applicable, all plans and specifications for the construction of water, sanitary sewer, drainage, and road facilities and related improvements to serve the District and obtain the approval of such plans and specifications therefrom. All water wells, water meters, flushing valves, valves, pipes, and appurtenances thereto, installed or used within the District, will conform exactly to the specifications of the City of El Paso. All water service lines and sewer service lines, lift stations, sewage treatment facilities, and road facilities, and appurtenances thereto, installed or used within the District will comply with the City of El Paso's standard plans and specifications as amended from time to time. Prior to the construction of any water, sanitary sewer, drainage or road facilities within or by the District, the District or its engineer will give written notice by facsimile, hand delivery, or registered or certified mail to the City or its Public Service Board as applicable, stating the date that such construction will be commenced. The construction of the District's water, sanitary sewer, drainage and road facilities will be in accordance with the approved plans and specifications, and with applicable standards and specifications of the City or Public Service Board, as applicable; and during the progress of the construction and installation of such facilities, the City of the Public Service Board,

as applicable, or an employee thereof, may make periodic on-the-ground inspections.

(2) The District shall submit to the City a copy of the “as built” plans and specifications for facilities constructed by the District.

(d) That upon or prior to the sale of any lot or parcel of land within the District, the owner or the developer of such land included within the limits of the District shall be in compliance with all applicable provisions of Title 19, Subdivision.

**MONTECILLO MUNICIPAL
MANAGEMENT DISTRICT NO. 1**

By: _____
President, Board of Directors

CITY CLERK DEPT.

2014 DEC 18 AM 11:55

RESOLUTION

WHEREAS, EPT Land Mesa Development, L.P.; EPT Montecillo Development West, L.P.; and EPT Montecillo Development East, L.P., being a majority of value of the holders to title of land within Montecillo Municipal Management District No. 1 ("Petitioners"), such entity being hereinafter referred to as the "District," have petitioned the City of El Paso for its consent to the creation of the District; and

WHEREAS, Texas House Bill No. 3831 creating the District and providing authority to levy an assessment, impose a tax, and issue bonds was signed into law on June 17, 2011 during the 82nd Texas State Legislature; and

WHEREAS, the Petitioners are in agreement with the terms and conditions of this consent by the City and certify they will comply with same;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

That the City Council of the City of El Paso, Texas hereby consents to the creation of the Montecillo Municipal Management District No. 1 for certain lands encompassing approximately 306.2 +/- acres located within the boundaries of the City of El Paso, Texas subject to the conditions set forth in **Exhibit "A."**

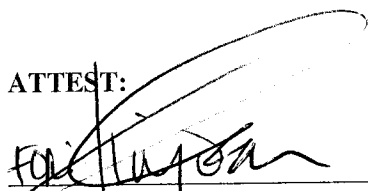
ADOPTED this 30th day of December, 2014.

THE CITY OF EL PASO

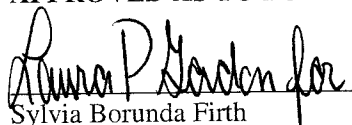


Oscar Leeser,
Mayor

ATTEST:


Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:


Sylvia Borunda Firth
City Attorney

APPROVED AS TO CONTENT:



Mathew S. McElroy, Director
Planning and Inspections Department

EXHIBIT "A"

(a) To the extent authorized by law, the District will issue bonds only for the purpose of purchasing and constructing, or purchasing, or constructing under contract with the City of El Paso, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, drainage facilities, recreational facilities, or road facilities, or parts of such systems or facilities, and to make any and all necessary purchases, acquisitions, construction, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor, as well as for the purpose of paying or reimbursing for creation, organizational and operating expenses of the District. No bonds will be issued with a final maturity date more than 30 years from the date of issuance, and the first principal maturity must occur within three years of the date of issuance. Such bonds will expressly provide that the District reserves the right, at its option, to redeem the bonds on any date that is on or after the maturity date either immediately preceding or immediately following the tenth (10th) anniversary of the date of issuance, without premium, and will be sold only after the taking of public bids therefor (excepting refunding bonds), and none of such bonds, other than refunding bonds, will be sold for less than 95% of par; provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given.

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Consent and Conditions Approved 12/30/2014

of the construction and installation of such facilities, the City of the Public Service Board, as applicable, or an employee thereof, may make periodic on-the-ground inspections.

(2) The District shall submit to the City a copy of the "as built" plans and specifications for facilities constructed by the District.

(d) Prior to the sale of any lot or parcel of land within the District, the owner or the developer of such land included within the limits of the District will obtain City approval of a plat of such land which will be duly recorded in the Real Property Records of El Paso County, Texas, in compliance with City rules and ordinances and with the provisions of Chapter 212, Texas Local Government Code, as amended, and otherwise comply with the rules and regulations of the City of El Paso.