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DRAFT Report on Petitions to Create
Pilot Knob Municipal Utility District Numbers 1-5 (MUDs 1-5)
as of January 17, 2011

Applicant Mr. Shaun Cranston, P Eng., General Manager
Carma Easton, Inc.

Engineer Peggy M. Carrasquillo, MS, PE
Jacobs Engineering Group, Inc.

Attorney Mr. Richard Suttle
Armbrust & Brown, PLLC

Land Use Summary

Total Acreage ~2,200 acres
Single-family 5,662 units
Townhome 2,418 units
Multi-family 6,729 units
Commercial 3,843,000 sq ft
Hotel Rooms 400 units
Retail 300,000 sq ft
Office 45,000 sq ft
Restaurant 120,000 sq ft
Civic 405,000 sq ft
Open Space 315 acres
School Sites (reserved) 2-3

Projected Population 39,131

Proposed Bonds Summary

Total bonds \$482,200,000
Proposed MUD tax rate \$0.95 per \$100 valuation

Review Process

Commission and Board Reviews

Water and Wastewater Commission Recommended January 11, 2012
Environmental Board January 18, 2012
Planning Commission January 24, 2012
Parks and Recreation Board January 24, 2012
Urban Transportation Commission February 7, 2012

City Council Schedule

January 26, 2012 Set public hearing on Consent Agreement
February 9, 2012 City Council Briefing
March 1, 2012 Conduct public hearing and consider adoption of
Consent Agreement

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- April 5, 2012..... Conduct public hearing on limited purpose annexation and the Strategic Partnership Agreement
- April 12, 2012..... Conduct second public hearing on limited purpose annexation and the Strategic Partnership Agreement take action on SPA and annexation
- late Fall 2012..... Approve PUD zoning

Affordable Housing

The developer is working with staff to address outstanding affordable housing issues. Under consideration is whether to provide affordable housing on site, via a fee in lieu, or some combination of both. There are also some issues with the standard fee in lieu of formula as stated in the city code due to the size of this development and the parties have been working together to find a mutually acceptable solution.

Developer's Market Analysis

The market analysis submitted by the developer with the MUD application in October 2010 indicates that market demand does not support the level of development proposed in the five MUDs. The analysis indicates that the amount of commercial, retail, and office development proposed in the petitions is more than the estimated amount that can be absorbed at build out. The analysis also indicates that the number of residential units proposed is significantly more than what can be absorbed at build-out.

Energy Efficiency

The proposed MUDs are located in the Bluebonnet electric service area, but have agreed to those items listed as recommended by Austin Energy staff. The MUDs will provide a two star or equivalent rating for single-family residences and a LEED certified rating on commercial structures.

Parkland and Open Space

The PUD ordinance requires a percentage of land to be established as open space. Pilot Knob is proposing six (6) times the amount of standard open space.

An HOA will be created and responsible for the ownership, operation, and maintenance of the recreational facilities that will be private (swimming pool and recreation centers). Because the Districts will not bond the facilities, private dollars, not tax dollars will be used to build them. Thus, the developers do not want those facilities to be required to be open to the public.

Planning Considerations

These MUDs are located in a preferred growth area on the Draft Imagine Austin Growth Concept Plan Map and are adjacent to the current city limits. This is an area where Council has indicated that development should be encouraged. The recently adopted MUD policy states that the City's objective in creating a MUD should be to promote superior development. Further, the policy requires that the MUD proposal must

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demonstrate that the City would benefit more from creation of a MUD than from use of the standard City development process or other types of districts.

Creation of MUDs will establish a long term delay to the ability of the City to annex the area. The developer is proposing \$482.2 million in bonds to finance water, wastewater, drainage, and parks facilities in the five MUDs. The City would review and approve each MUD's debt issues. If the City annexes any of the districts before its bonds are paid off, the City would have to assume the balance of the debt for that MUD and reimburse the developer for any unbonded facilities. If full purpose annexation is deferred until the MUD bonds are paid in full, this development would be excluded from the City's tax base for that period of time.

Public Safety

The developer has agreed to donate a fire station site to the City.

Schools

The developer has agreed to reserve some elementary school sites for Del Valle ISD within the MUDs and has indicated that Del Valle ISD would be required to purchase the sites. Del Valle ISD projects there will be a need for additional schools in Pilot Knob at full build-out. There is yet no agreement between the parties upon the number or size of the sites. Del Valle ISD and the developer are currently negotiating the school site issues.

Solid Waste/Recycling

The City will be the retail provider of service and charge all of its standard fees.

Transportation

The MUDs will provide extensive trails.

The MUDs will improve regional arterials including extensions of Slaughter Lane, William Cannon, and FM 1625.

The development provides internal connectivity between each MUD and will reserve land for a future transit center.

The MUDs are not in Capital Metro's service area. Capital Metro service will not be available within these MUDs until the MUDs are annexed for full purposes. Per the Draft Imagine Austin Plan, Slaughter Lane is designated as a high capacity transit corridor.

Water and Wastewater

City Code Chapter 25-9 establishes the City's reimbursement and cost participation program. If that program were applied to this project, the City would reimburse and cost participate over \$23 million in infrastructure that it now will not be required to provide.

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In addition, the City has requested additional oversizing of certain infrastructure in order to serve areas adjacent to the MUDs. The Pilot Knob developers have agreed to pay those costs (approximately \$3.5 million) without reimbursement by the City.

Watershed Protection

In terms of drainage, the MUDs will provide acceptable mechanisms to control runoff.

The developer is performing additional engineering modeling to provide staff information for making decisions related to setbacks, water quality, and other environmental criteria. The developer is working with staff, but has requested more time to consider and respond to staff recommendations regarding requested headwater setbacks, floodplain modification criteria, and superior water quality treatment.

Zoning

The MUDs intend to request PUD zoning and have agreed to limited purpose annexation after execution of the MUD consent agreement.

Through the MUD process, the City has obtained some commitments for superior development. The PUD process will continue that process and further define requirements for each development.

Given the requirement to complete the district creation process prior to the MUDs otherwise being dissolved on September 1st, and the amount of time it takes to complete the PUD process, the negotiation of PUD zoning will not be finished prior to the City Council considering the approval of the MUD agreements.

Staff Recommendation

There were competing City priorities identified in this process in which staff needed to balance, but overall, staff recommends City Council approve a Consent Agreement and Strategic Partnership Agreement with each MUD because the City gains extraordinary benefits in:

- infrastructure extension
- open space
- transportation
- City retail utility and solid waste services
- future PUD zoning

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RESOLUTION NO. 20110217-030

WHEREAS, a municipal utility district ("MUD") created by the TCEQ or the Legislature with the City's express consent and approval can be used to meet community needs by funding public improvements or services; and

WHEREAS, the creation of MUDs may affect the City's ability to implement the City's Comprehensive Plan; and

WHEREAS, the City can benefit if the owners of property in the MUD pay their fair share for improvements and services funded through a MUD; and

WHEREAS, a MUD that finances public infrastructure benefits developers by allowing them to reduce their debt to private lenders by using public financing to pay the cost of infrastructure for development; and

WHEREAS, those requesting creation of such a MUD should demonstrate that it confers an extraordinary benefit not only to the properties within the MUD, but also to the community in general and to the City; and

WHEREAS, in 1984 the City Council adopted Resolution No. 840202-37 setting out the City's policy with respect to petitions for the City's consent to the creation of MUDs; and

WHEREAS, this Resolution No. 20110217-030 outlines current issues for the City Council to consider in determining whether to establish a MUD and is not intended to limit the authority of the City Council to consider or approve any particular request; **NOW, THEREFORE,**

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council resolves that the following are established as its policy and criteria for considering requests to create MUDs to fund public infrastructure, municipal services, or both in association with development projects:

1. The MUD must demonstrate that the City would benefit more from creation of a MUD than from use of the standard City development process or other types of districts.
2. The City's objective in creating the MUD should be to promote superior development, with attention to the Comprehensive Plan.
3. The City's basic requirements for creation of a MUD should be that:
 - All developments supported by a MUD must comply with the City's Planned Unit Development ("PUD") Green Building Program, regardless of whether the development receives PUD zoning;
 - The development supported by the MUD provides extraordinary public benefits (such as extension or enhancement of infrastructure, affordable housing, environmental improvement, public transportation facilities, and open space);
 - It is in the City's preferred growth area (currently designated as "Desired Development Zone");
 - It is accompanied by consent and other applicable agreements;

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- The development that it supports meets or exceeds the intent of the development standards of the City Code;
 - It is financially self-sustaining and its ad valorem tax rate will approximate or be greater than the City's rate;
 - It will use City design criteria for water, wastewater, drainage, and public safety infrastructure;
 - It will be created only if the water, wastewater, and reclaimed water provider is the City.
 - It will require the developer(s) to contribute a portion of infrastructure without reimbursement by the MUD or the City;
 - It will not impair the City's future annexation of the MUD or adjacent property, or impose costs not mutually agreed upon; and
 - It must be located entirely within the City's extraterritorial jurisdiction.
4. Whether development supported by the MUD provides sufficient public benefits should be determined by weighing the value of the benefits to the community, and to property in the MUD, against the costs to the City, including delayed annexation.
5. In considering whether a MUD provides sufficient public benefits, Council will consider benefits including but not limited to:

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- Land use controls (including land plans) that otherwise would not be available in the City's ETJ;
- Amenities that would not typically accompany a development with conventional financing;
- Connectivity with other existing City infrastructure;
- The potential for City capital improvement program funds to be redirected to other high priority needs by financing capital infrastructure with alternative MUD financing and by the application of post-annexation surcharges;
- School and public safety sites, and transportation infrastructure, sufficient to meet development needs; and
- A MUD organizational structure, and policies and procedures, that promote timely dissolution of the MUD and which fully meets the basic requirements for the City for creation of a MUD.

6. As a basis for approving the issuance of MUD bonds, Council should consider criteria including but not limited to the following:

- Evidence that the value of the property within the MUD will be significantly increased by construction of the public improvements by the MUD, as determined by the City.
- If development occurs in phases, development must be sustainable by the proposed bonding capacity, bond phasing, and development approvals.

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- The MUD must be in compliance with all terms and conditions of development and consent agreements.
 - The term of the MUD bonds should be limited to 25 years.
7. If an applicant for consent to creation of a MUD chooses to challenge either the City's determination of whether to consent to a MUD, or the lawfulness of the conditions imposed by the City in consenting to a MUD, the City will pursue the following course of action:
- The applicant's request before the Texas Commission on Environmental Quality (TCEQ) for the creation of the MUD shall be challenged.
 - If the City is not successful before the TCEQ, the City will pursue all available legal remedies to enforce its decision, including appeal of the decision of the TCEQ.
8. City Resolution No. 840202-37 is superseded by this Resolution No. 20110217-030.

APPROVED: February 17, 2011 **ATTEST:** Shirley A. Gentry
Shirley A. Gentry
City Clerk