



## MEMORANDUM

**TO:** Mayor and Council

**FROM:** Gregory I. Guernsey, AICP, Director  
Planning and Zoning Department

**DATE:** March 1, 2017

**SUBJECT:** Moore's Crossing Municipal Utility District – Item #15  
March 2, 2017 Council Agenda

On December 5, 2016, Moore's Crossing Municipal Utility District ("MUD"), located in southeast Travis County near the Austin-Bergstrom International Airport, submitted an application to amend the current Consent Agreement ("Agreement") between the City and the MUD. The request includes:

1. Developer Reimbursements: increasing the amount of reimbursement to the developer for internal water, wastewater, drainage, and water quality facilities (from 70% reimbursement to 100% reimbursement); and
2. Transportation: modifying the Developer's obligations for right-of-way dedication and roadway improvements.

At the Developer's request, City Council considered this item on first reading only on February 9, 2017. City Council approved the staff recommendation to amend the transportation portions of the Agreement and provided the Developer additional time to clarify the developer reimbursement request. In a letter dated February 24, 2017, the Developer requested that the Council approve on second and third readings the amendment to the transportation requirements and allow additional time to further discuss the request to increase developer reimbursement. Staff continues to evaluate the information provided by the Developer. Staff's recommendation on the proposal as it currently stands is detailed below.

### **Overall Staff Recommendation on Current Proposal**

There are two requests from the Developer to be included in an amendment to the Agreement. Staff's recommendations are as follows:

#### **Request No. 1: Developer Reimbursements**

The applicant's proposed amendment is to increase the allowed reimbursement to the Developer from MUD bonds from 70% to 100% of the actual cost of the design, engineering, and construction of internal water, wastewater, drainage, and water quality facilities: **Staff does not recommend approval of an**

**amendment to increase the developer reimbursement based on the information received to date. If further amendments are recommended after further discussion and full evaluation of the Developer's proposal dated February 24, 2017 Staff will bring back a recommendation for City Council consideration.**

For development within a municipal utility district, generally developers obtain a loan for their project in order to finance the construction of infrastructure. When the Texas Commission on Environmental Quality determines there is sufficient growth within the district to adequately sustain the payment of bonds with ad valorem taxes on the property within the district, the district is then authorized to issue bonds and a portion of the proceeds is used to reimburse the developer. The district's debt is thereby paid by the district's residents and businesses through property taxes. The Texas Administrative Code states that developers are to receive 70% reimbursement for contributed infrastructure, but that code also allows an administrative waiver to increase the reimbursement to 100%. By law, if a municipality annexes a district, any outstanding debt would be assumed by the annexing municipality.

To date the MUD has issued bonds in the aggregate principal amount of \$12,420,000 of which \$9,495,000 is currently outstanding. The MUD also currently has remaining \$19,580,000 authorized but unissued in bonds for water, wastewater, and drainage facilities.

On February 24, 2017, the Developer provided clarification regarding his proposal to offer 5% of the amount reimbursed to the Developer, a total of approximately \$979,000, to fund a donation of approximately \$580,000 to be used for affordable housing and \$391,600 for MUD park and other facilities. The Developer is also proposing deed restrictions on new homes related to affordability requirements and energy and conservation issues.

#### *Affordable Housing and Parks*

The current Agreement requires 7 acres of land within the MUD be transferred to the City for the development of affordable housing. Because City funds cannot be spent in limited purpose jurisdiction, NHCD is requesting the Developer transfer an equivalent of 7 acres of fully developed and buildable lots to the Austin Housing Finance Corporation ("AHFC"). This transfer will bring the Developer into compliance with the Agreement.

For the increased percentage of reimbursement to the Developer, the Developer has offered 3% of bond proceeds to the AHFC that can be used to assist with the construction of the units on the lots or can be available to other affordable housing developments elsewhere in the community. Without receiving the above buildable lots, raw land would require a significant amount of the bond proceeds to develop the raw land. Staff's acceptance of the 3% proposal would be conditioned upon the City's receipt of the buildable lots.

The developer is obligated by the current Agreement, as amended, to develop park facilities or pay a fee to the City for such park facilities. According to the Parks and Recreation Department the Developer is currently in arrears on those expenditures and Stony Ridge Park was not built to City standards. The City has informed the developer that no more plats can be approved until the outstanding park fee is paid or facility improvements are constructed to City standards. The Parks and Recreation Department does not support the Developer's latest proposal.

### **Request No. 2: Transportation**

The applicant's proposed amendment to update provisions found in Section 8.10 (f) of the Agreement regarding to the Developer's obligations for right-of-way dedication and roadway improvements: **Staff concurs with this request and recommends authorization to negotiate and execute an amendment to the Agreement that ensures any right-of-way dedication or roadway improvements constructed by the Developer meet the City of Austin's Drainage Criteria Manual and current code, and are consistent with other adopted roadway plans and agreements. Additionally, Section 8.10 (7) related to traffic impact analysis in the Agreement should be retained without modification.**

A significant portion of the transportation infrastructure originally proposed to be constructed by the MUD per the Agreement has been completed (Elroy Road and Ross Road within the MUD are complete). Two remaining sections of roadway affected by the Agreement are Elroy Road from Heine Farm Rd to Kellam Road and Kellam Road from Elroy Rd to SH 71. Elroy Road is a 2 lane roadway without curb and gutter and is planned to be constructed as a 4 lane divided roadway. Kellam has been completed as a 2-lane divided roadway, but is ultimately planned to be constructed as a 4 lane divided roadway. Properties within the MUD propose to take access to both Elroy Road and Kellam Road. The Transportation Impact Analysis requirements per the Agreement are being carried forward with the proposed amendment. The amendment to the Agreement for transportation is simplifying language and updating references to relevant transportation plans.

### Attachment

cc: Sue Edwards, Assistant City Manager  
Robert Goode, P.E., Assistant City Manager  
Bert Lumbreras, Assistant City Manager  
Sara Hensley, Interim Assistant City Manager  
Greg Meszaros, Director, Austin Water  
Rosie Truelove, Interim Director, Neighborhood Housing and Community Development  
Robert Spillar, P.E., Director, Austin Transportation Department  
Joe Pantalione, P.E., Director, Watershed Protection  
Kimberly McNeeley, Acting Director, Parks and Recreation Department

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February 24, 2017

**VIA EMAIL AND U.S. MAIL**

Ms. Virginia Collier, Senior Planner  
City of Austin  
Planning and Zoning Department  
P.O. Box 1088  
Austin, TX 78767-1088

Re: Fourth Amendment to the Moore's Crossing Municipal Utility District

Dear Virginia:

Thanks so much for meeting with me and my client this week. I think we have made great progress in distilling the purpose and intent of this fourth amendment to the above referenced consent agreement. By way of clarification, my client, the Developer, is requesting that the City of Austin consider increasing the developer reimbursement level from 70% to 100% as it relates to the issuance of future tax-exempt unlimited tax bonds by the District and seeks to clarify the Developer's transportation obligations.

The City of Austin consented to the creation of the District on March 13, 1986, when a Consent Agreement was authorized and executed by the City, the District, and the Developer. The Consent Agreement included a variety of stipulations including, among other things, that the maximum reimbursement to the Developer would equal 100% of all eligible reimbursements included in the TCEQ rules. However, the thrust of the Consent Agreement required that at least 20% of all homes constructed within the District would consist of affordable housing purchased by owners with a qualifying income of less than 80% median family income ("MFI"). Amendment No. 2 to the Consent Agreement changed the maximum reimbursement to the Developer to 70%.

Development within the District began in 1997, and since that time, a total of 955 homes have been constructed, 94 homes are currently under construction, and another 589 home sites have been submitted for approval. Consistent with the Consent Agreement, 20% all new homes will be sold to owners with 80% MFI.

Since 1986, construction prices have continued to increase, and in order to continue to be in a position to offer affordable homes, as well as public parks, sidewalks, street lighting and

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other public safety facilities, the Developer is requesting an increase in the amount of eligible reimbursements as included in the TCEQ rules.

At the initial hearing before the City Council a question was asked as to the impact of the increase in reimbursement and future bond issues on the effective tax rate within the District. Based upon an analysis prepared by the District's Financial Advisor (the "Finance Plan"), the increase in the reimbursement is **not** estimated to result in a tax rate increase as shown in the charts below. I have attached a letter from the financial advisor to the District, Cheryl Allen, President, Public Finance Group, for your convenience.

	2016 Adopted Tax Rates	Projected Tax Rate for Final Bond Issue
Debt Service	\$0.4695	\$0.4503
Maintenance Tax	\$0.4375	\$0.4567
Total	\$0.9070	\$0.9070

The Council also queried as to the amount of bonding authority remaining and the resulting contributions to the NHCD and park facilities. It is now estimated that the remaining unissued bonding authority for the District, and consequently reimbursement, at 100%, to the Developer, is \$19,580,000. However, in consideration of the Council approving this fourth amendment, the Developer is offering to use 5% of the amount reimbursed to the Developer, approximately \$979,000, to fund the following items:

- 3% of future reimbursements, for a total of approximately \$580,000, will be donated to NHCD for affordable housing
- 2% of future reimbursements, for a total of approximately \$391,600, will be invested in District park facilities, including trails and connectivity throughout the District, as well as:
  - park gateway and parking facilities on land donated by Developer
  - repair of existing parking facility
  - soccer field
  - refurbishing of existing basketball court

The District or HOA will maintain all park facilities.

The Developer will agree to the following Deed Restrictions being placed on all new affordable homes constructed:

- homes must be owner occupied for two (2) years prior to being rented
- homes cannot be sold during the initial five (5) years to anyone who does not qualify at 80% MFI or less
- after two (2) years from date of closing, all rentals must be to families that qualify at 80% MFI or less

Additionally, the Developer will agree to Deed Restrictions as they relate to Energy and Conservation, requiring all future homes meet the City of Austin 2-star Green Builder program and that new homes allow for renewable energy options suitable for rainwater collection and solar power installation. Further, the Developer will work with the District to ensure there is a recycling program within the District.

In return for these community benefits, the Developer asks that the City increase, subject to the execution and delivery to the City of Austin of restrictive covenants and other documentation evidencing the community benefits, the level of developer reimbursements to 100% of all eligible reimbursements under TCEQ rules and approve the requested clarification of the Developer's transportation obligations.

As a further expression of good will, the Developer will, immediately upon the Council approval of this fourth amendment, seek the District's Board of Directors' support for establishing a Fire Station in the District, as well as a Public Library and Day Care.

Although I feel that we have made great progress and am confident that the transportation clarification portion of the consent agreement amendment is ready for second and third reading, I do not feel that we will have adequate opportunity to meet with various departments of the City to fully and completely explore the additional benefits offered for the change in the Consent Agreement to allow for 100% reimbursement to the Developer. For this reason I am requesting that the transportation clarification amendment request be approved on second and third reading and that the amendment request to allow 100% reimbursement be postponed for a month to allow further discussion with Staff.

Please let me know if you have any questions. We look forward to working with you toward the successful completion of this fourth amendment to the Consent Agreement.

Sincerely,



John M. Joseph

Enclosure

cc: Mayor and City Council Members  
Asst. City Attorney, Maria Sanchez  
SR Development, Inc.



February 21, 2017

Moore's Crossing Municipal Utility District  
Board of Directors  
c/o Armbrust & Brown, PLLC  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701

Re: Tax Rate of Moore's Crossing Municipal Utility District

Dear Board of Directors:

Moore's Crossing Municipal Utility District (the "District") requested a determination on the tax rate impact, if any, would result from the District issuing bonds to acquire facilities from the developer based upon a total developer reimbursement of 100 percent of eligible developer projects consistent with the rules of the Texas Commission on Environmental Quality. The following information is a Summary of the Financing Plan prepared for the District.

The District's voters authorized the issuance of up to \$32,000,000 in bonds, of which, the District has issued \$12,420,000 to date. Attached is a summary of potential future financings of the District that details the issuance of the remaining \$19,580,000 in voter-authorized bonds in five potential future installments (see Attachment "A"). The summary shows that issuing the remaining voter-authorized bonds and funding developer costs/projects at 100 percent is not projected to require changes to the District's current tax rate. The District's total tax rate is shown to be constant at \$0.9070 after the issuance of each potential installment of bonds.

Please note that the information contained in Attachment "A" is based on construction and build-out information provided by the developer. Should you have any questions or need any additional information, please feel free to give me a call at (512) 382-5420. I can also be reached via email at [jtaack@publicfinancegrp.com](mailto:jtaack@publicfinancegrp.com).

Sincerely,

**Public Finance Group LLC**  
*Financial Advisor to the District*

A handwritten signature in blue ink, appearing to read "Cheryl Allen", is written over the typed name and title.

Cheryl Allen  
President

# Attachment "A"

## Moore's Crossing MUD

### Revised Finance Plan

February 21, 2017

### Executive Summary

#### Land Use

Type of Development	Acreage	#Lots/Sq. Ft.
Single-Family	452.82	2,073
Commercial/Industrial	295.17	
Del Valle ISD	17.10	
Water Tank Site	5.00	
Undevelopable	147.70	
<b>Total</b>	<b>917.79</b>	

#### Estimated Construction Costs

	100%	70%
<b>Developer Contribution Items</b>		
Estimated Internal Utilities (\$10,000 per lot)	\$ 20,730,000	\$ 14,511,000
Estimated Engineering Fees (at 20%)	3,109,500	2,902,200
Contingencies (at 10%)	2,383,950	1,741,320
Estimated Costs for Comm/Industrial Acreage	4,427,550	3,099,285
<b>Subtotal Internals</b>	<b>\$ 30,651,000</b>	<b>\$ 22,253,805</b>
<b>District Items</b>		
Lift Station WW Interceptor and FM 973 WW Line	\$ 1,315,630	\$ 1,315,630
Drainage	810,765	810,765
<b>Subtotal District Items</b>	<b>\$ 2,126,395</b>	<b>\$ 2,126,395</b>
<b>Total Construction Costs</b>	<b>\$ 32,777,395</b>	<b>\$ 24,380,200</b>
Creation Costs/Operating Expenses	\$ 280,000	\$ 280,000
<b>Total Construction, Creation, Operation Costs</b>	<b>\$ 280,000</b>	<b>\$ 280,000</b>
<b>Total Costs</b>	<b>\$ 33,057,395</b>	<b>\$ 24,660,200</b>

#### Projected Assessed Valuation

	Acreage	House	Lot	Total	Number of Lots	Total Value
Phase A, Section 1	28.70	\$ 77,759	\$ 19,440	\$ 97,199	115	\$ 11,177,885
Phase A, Section 2	11.30	77,759	19,440	97,199	43	4,179,557
Phase A, Section 3A	12.10	77,759	19,440	97,199	54	5,248,746
Phase A, Section 3B	12.20	77,759	19,440	97,199	50	4,859,950
Phase A, Section 3C	9.90	77,759	19,440	97,199	40	3,887,960
Phase A, Section 5A	12.40	77,759	19,440	97,199	62	6,026,338
Phase A, Section 5B	14.20	77,759	19,440	97,199	72	6,998,328
Phase A, Section 6	12.50	77,759	19,440	97,199	58	5,637,542
Phase B, Section 1	35.40	77,759	19,440	97,199	175	17,009,825
Phase B, Section 2	28.60	77,759	19,440	97,199	148	14,385,452
Phase C, Section 1	15.90	156,000	39,000	195,000	71	13,845,000
Phase C, Section 2	11.70	156,000	39,000	195,000	71	13,845,000
Phase C, Section 3	21.49	160,000	40,000	200,000	94	18,800,000
Phase C, Section 4	14.63	160,000	40,000	200,000	64	12,800,000
Phase C, Section 5	10.29	156,000	39,000	195,000	45	8,775,000
Phase D, Section 1	53.96	156,000	39,000	195,000	236	46,020,000
Phase D, Section 2	67.45	156,000	39,000	195,000	295	57,525,000
Kellum, Section 1	24.44	156,000	39,000	195,000	125	24,375,000
Kellum, Section 2	49.86	156,000	39,000	195,000	255	49,725,000
<b>Totals</b>	<b>447.02</b>				<b>2,073</b>	<b>\$ 275,396,583</b>
		<b>Type Dev</b>		<b>Value Per Unit/SqFt</b>		
Remaining AV:	\$ 26,000,000	Commercial		\$ 100		
	107,250,000	Industrial		75		
<b>Projected Ultimate Assessed Value</b>	<b>\$ 408,646,583</b>					

#### Bond Issues

Year	Bond Issue Size	Developer Reimbursement
Prior Bond Issues	\$ 12,420,000	\$ 10,892,753
2017	3,000,000	2,431,000
2018	4,000,000	3,267,500
2019	4,500,000	3,685,750
2020	5,500,000	4,522,250
2021	2,580,000	1,891,891
2022	-	-
2023	-	-
2024	-	-
2025	-	-
	<b>\$ 32,000,000</b>	<b>\$ 26,891,144</b>

#### Taxes

	2015	2016	2017	2018	2019
Debt Service	\$ 0.5446	\$ 0.4695	\$ 0.3930	\$ 0.3940	\$ 0.3864
Maintenance & Operation	0.3878	0.4375	0.5140	0.5130	0.5206
<b>Total</b>	<b>\$ 0.9324</b>	<b>\$ 0.9070</b>	<b>\$ 0.9070</b>	<b>\$ 0.9070</b>	<b>\$ 0.9070</b>
	2020	2021	2022	2023	2024
Debt Service	\$ 0.4165	\$ 0.4463	\$ 0.4463	\$ 0.4463	\$ 0.4463
Maintenance & Operation	0.4905	0.4607	0.4607	0.4607	0.4607
<b>Total</b>	<b>\$ 0.9070</b>	<b>\$ 0.9070</b>	<b>\$ 0.9070</b>	<b>\$ 0.9070</b>	<b>\$ 0.9070</b>
	2025				
Debt Service	\$ 0.4463				
Maintenance & Operation	0.4607				
<b>Total</b>	<b>\$ 0.9070</b>				

Public Finance Group has prepared the following analysis utilizing the Developer's existing Land Plan as well as estimated costs, values and lot absorptions as provided by the Developer, and Public Finance Group makes no assurances that the property within the District will be developed in the manner herein described.