

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF PFLUGERVILLE ADOPTING SPECIAL PURPOSE DISTRICT CREATION CONSENT POLICIES

WHEREAS, pursuant to Texas Local Government Code, Chapter 42, Texas Water Code, Chapter 54 and the Texas Constitution, Article XVI, Section 59, the City is empowered to condition or deny its consent to the creation of a political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, including a municipal utility district (MUD) or water control and improvement district (WCID) within the corporate limits of the City and the City's Extra-Territorial Jurisdiction (ETJ); and

WHEREAS, pursuant to Texas Local Government Code, Chapter 372, the City is empowered to create a public improvement district (PID) if the governing body of a municipality finds that a public improvement project promotes the interests of the municipality, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or the municipality's extraterritorial jurisdiction; and

WHEREAS, pursuant to Texas Tax Code, Chapter 311, the City is empowered to create tax increment reinvestment zones (TIRZ) wherein the City may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the City, in the extraterritorial jurisdiction of the municipality, or in both to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future; and

WHEREAS, each type of district and zone identified above, collectively referred to herein as "Special Purpose Districts," have been demonstrated to be effective economic development tools throughout the State of Texas that will, under appropriate conditions, promote investment by facilitating the expansion of critical infrastructure and services to previously unserved areas; and

WHEREAS, in accordance with the City's comprehensive planning documents and State law, the City will continue to exercise its authority to regulate land development and growth to ensure the public health, safety and welfare of the citizens within the City limits and within the ETJ is preserved by establishing comprehensive policies to promote efficient, sustainable compact development growth patterns that will benefit the current and future residents and stakeholders of the City; and

WHEREAS, the City of Pflugerville holds the Certificate of Convenience and Necessity (CCN) in accordance with Texas Water Code, Chapter 13 providing the City the exclusive right to provide retail wastewater utility service to an extensive portion of land located within the City's ETJ and, therefore, has a substantial interest in managing land development and growth within the City's ETJ; and

WHEREAS, the City has further determined that it is necessary to establish a policy providing for consideration of City consent for the creation of in-City and ETJ MUDs and WCIDs, to the extent that the proposed district complies with the general criteria and guidelines established herein and the specific guidelines to be developed in accordance with this policy, as both may be amended from time to time, and subject to City Council's ultimate discretion on a case-by-case basis; and

WHEREAS, the City also finds it necessary to establish a policy detailing circumstances under which the City will consider the creation and dissolution of PIDs and TIRZ or the expansion of existing TIRZ areas; and

WHEREAS, Section 3.14 of the City of Pflugerville City Charter requires general legislative acts to be adopted by Resolution or Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE:

Section 1.

That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2.

MUNICIPAL UTILITY DISTRICT CREATION CONSENT DENIAL

That the City Council of the City of Pflugerville, Texas hereby adopts this policy establishing the conditions under which the City Council will deny the City's consent to a petition received under Texas Local Government Code, Chapter 42 for the creation of a municipal utility district (MUD) or water control and improvement district (WCID) within the City's ETJ, as follows.

The City Council will deny the City's consent to a petition proposing the creation of an ETJ MUD or WCID if:

1. The City is able to provide water or wastewater services necessary to serve the property in accordance with the Texas Local Government Code, the Texas Water Code, and other applicable law, and in accordance with the City's water and wastewater extension policies; or
2. The proposed MUD or WCID does not meet the criteria for consent to a Special Purpose District, provided in Section 3 of this policy, below.
3. The proposed MUD or WCID provides a Strategic Partnership Agreement (SPA) in a form agreeable to the City that outlines the provisions for annexation at such time the outstanding debt of the MUD or WCID is at a level that is acceptable to the City Council.

Section 3.

SPECIAL PURPOSE DISTRICT CONSENT CRITERIA

That the City Council hereby establishes the following policy providing the criteria under which a Special Purpose District may be authorized within the corporate limits of the City following City Council's discretionary consent to the same.

The City Council may consider granting City consent for the creation or expansion of a MUD or facilitate the creation or expansion of a WCID, PID or TIRZ if such request is consistent with

comprehensive planning policies of the City and satisfies the following general criteria and any specific criteria administratively established pursuant to this policy, as both are amended from time to time:

1. The proposed Special Purpose District petition acknowledges the obligation to enter into a development agreement that will include, but not be limited to, the following provisions, as the same may be applicable to the type of Special Purpose District proposed:
 - a. A land plan that outlines, at a minimum, land use and thoroughfare connections and is consistent with the City's Comprehensive Plan, as amended;
 - b. The proposed development will substantially contribute to funding the expansion of arterial streets, major collector roadways, and trunk line utility infrastructure, as applicable when necessary to address the projected demand for services and impacts of the development;
 - c. The development will be located within the City's existing Water and Wastewater CCNs or expanded CCNs facilitated by the developer if, in the City's discretion, such expansion is feasible;
 - d. All public infrastructure built to serve the development shall be owned, operated and maintained by the City following construction and dedication of public improvements to the City, and all applicable standards and fees, impact or otherwise, shall apply to the development;
 - e. The development demonstrates that it will be a superior development that exceeds the minimum requirements established by the City's Code of Ordinances, including without limitation, enhanced:
 - i. Mix of land uses (i.e. mix of land uses that attract and support the concentration of major commercial and employment uses as well as complimentary residential uses);
 - ii. Architectural design;
 - iii. Public parkland dedication and development;
 - iv. Public facilities (e.g. school sites, fire stations); and
 - v. Streetscaping, public art, or other amenities accessible by the public.
 - f. The development proposal will be subject to specific criteria in order to establish strict limitations relating to issuance and repayment of infrastructure bonds (i.e., maximum amount of debt issued, term limits, net effective interest rates, minimum par, etc.), which will be established administratively;
 - g. The development promotes "green practices" for environmental preservation and betterment;
 - h. If an in-City municipal utility district is proposed:
 - i. A Public Improvement District (PID) and Tax Increment Reinvestment Zone (TIRZ), as alternative funding sources for the construction of public infrastructure, shall be demonstrated by the petitioner to not be economically feasible for the subject property; and
 - ii. The development proposal will contain provisions limiting eminent domain powers of the in-City municipal utility district and further provide provisions governing annexation of additional property into

the in-City municipal utility district, which shall be subject to City consent, in its sole discretion.

2. The request provides a commitment to reimburse the actual costs incurred by the City for legal, engineering, administrative and financial advisory services and fees in connection with vetting the petition and negotiating any associated development, strategic partnership or allocation agreements associated with the in-City municipal utility district.
3. The proposed Special Purpose District shall demonstrate compliance and economic feasibility in accordance with State law.

Section 4.

Notwithstanding any provision herein to the contrary, consent to or advancement of a Special Purpose District is within and will remain within the ultimate discretion of the City Council and no provision herein shall be construed to obligate City Council to grant or deny its consent to any specific petition or to take any other action in regards to the same.

Section 5.

That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND APPROVED this 12th day of March, 2019.

CITY OF PFLUGERVILLE, TEXAS

By: _____
VICTOR GONZALES, Mayor

ATTEST:

KAREN THOMPSON, City Secretary

APPROVED AS TO FORM:

CHARLES ZECH, City Attorney
Denton Navarro Rocha Bernal & Zech, PC