

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF PFLUGERVILLE ADOPTING MUNICIPAL UTILITY DISTRICT CREATION CONSENT POLICIES

WHEREAS, pursuant to Texas Local Government Code, Chapter 42, Texas Water Code, Chapters 49 and 54 and the Texas Constitution, Article XVI, Section 59, the City is empowered to condition or deny its consent to the creation of a municipal utility district (MUD) within the corporate limits of the City and the City's Extra-Territorial Jurisdiction (ETJ); 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, in accordance with the City's 2030 Comprehensive Plan 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 policies to encourage cost-effective, sustainable compact development growth patterns that will benefit the current and future residents and stakeholders of the City; and

WHEREAS, the City has determined that it is necessary to establish a policy providing for denial of City consent to discourage the creation of municipal utility districts that are proposed within the City's ETJ as the City finds that the creation of such districts is not in the best interest of the City's current and future residents and stakeholders; and

WHEREAS, the City has further determined that it is necessary to establish a policy providing for denial of City consent for the creation of in-City municipal utility districts, unless 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, 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.

MUNICIPAL UTILITY DISTRICT CREATION CONSENT DENIAL

The City Council of the City of Pflugerville, Texas hereby adopts this policy and plan 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 within the corporate limits of the City or the City's ETJ, as follows.

The City Council will deny the City's consent to a petition proposing the creation of a municipal utility district if:

1. The proposed municipal utility district meets City criteria for annexation set out in the City's Annexation policy and is within the City's projected ultimate City limit boundary;
2. The City is able to provide water and/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
3. The proposed municipal utility district does not meet the criteria for consent to an In-City Municipal Utility District provided in Section 2 of this policy.

Section 2.

IN-CITY MUNICIPAL UTILITY DISTRICT CONSENT CRITERIA

That the City Council hereby establishes the following policy providing the criteria under which a municipal utility district may be allowed to be formed 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 of an in-City municipal utility district if such petition satisfies the following general criteria and any specific criteria administratively established pursuant to this policy, as both are amended from time to time:

1. A Public Improvement District (PID) and Tax Increment Reinvestment Zone (TIRZ), as alternative funding sources for the construction of public infrastructure, are demonstrated by the petitioner to not be economically feasible for the subject property.
2. The proposed in-City municipal utility district is geographically situated within a preferred development area, to be determined in City Council's discretion, to minimize non-contiguous and disjointed development patterns necessary to improve the growth efficiency of the City and minimize City costs associated with providing rate-based and tax-based services.
3. The proposed in-City municipal utility district petition acknowledges the obligation to enter into a Development Agreement that will include, but not be limited to, the following provisions:
 - a. The proposed development will be advanced under a Planned Unit Development (PUD) zoning classification and include a Land Plan that is consistent with the City's Comprehensive Plan, as amended;
 - b. The proposed development will substantially contribute to funding the expansion of perimeter arterial streets as necessary to address the projected impacts of the development;
 - c. The development will be located within the City's Water and Wastewater CCN, if feasible;
 - d. Following construction and dedication to the City, all public infrastructure shall be owned, operated and maintained by the City;
 - 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. Architectural design;
 - ii. Public parkland dedication and development;
 - iii. Streetscaping;
 - iv. Public Art; and
 - v. Other amenities.
- f. The development proposal will be subject to specific criteria 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 will promote water quality, conservation and environmental preservation and betterment;
 - h. 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;
 - i. The development agreement will contain provisions establishing an allocation agreement for ad valorem tax purposes in accordance with State law that adequately covers the cost of tax-based services to be provided by the City within and/or for the benefit of the in-City municipal utility district; and
 - j. The development agreement will contain strategic partnership agreement provisions relating to the ultimate dissolution of the in-City municipal utility district upon or near build out.
- 4. The petition 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 agreement associated with the in-City municipal utility district.
 - 5. The proposed in-City municipal utility district shall demonstrate economic feasibility in accordance with State law and the rules established by the Texas Commission on Environmental Quality or successor agency.

Section 3.

Notwithstanding any provision herein to the contrary, consent to an ETJ municipal utility district or an in-City municipal utility 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.

Section 4.

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

PASSED AND APPROVED this 13th day of June, 2017.

CITY OF PFLUGERVILLE, TEXAS

By: _____
VICTOR GONZALES, Mayor

ATTEST:

KAREN THOMPSON, City Secretary

APPROVED AS TO FORM:

GEORGE HYDE, City Attorney
Denton Navarro Rocha Bernal Hyde & Zech, PC