

**CITY OF BLANCO**

**RESOLUTION NO. 2021-R-003**

A RESOLUTION OF THE CITY OF BLANCO, TEXAS, ADOPTING A MUNICIPAL UTILITY DISTRICT CONSENT POLICY; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS AND A SEVERABILITY CLAUSE.

**WHEREAS**, Chapters 49 and 54 of the Texas Water Code and Article XVI, section 59 of the Texas Constitution provides for the creation of Municipal Utility Districts; and

**WHEREAS**, a municipal utility district (MUD) created by the Texas Commission on Environmental Quality (TCEQ) or the Legislature functions as an independent, limited government and can be used to meet community needs by funding public improvements or services; and

**WHEREAS**, state law authorizes the City to place certain conditions on the City’s consent to the creation of a MUD wholly or partially located in the City’s extraterritorial jurisdiction (“ETJ”);, and

**WHEREAS**, the creation of any MUD may affect the City’s ability to implement its Comprehensive Plan and has the potential to adversely affect City and County finances and the environment; and

**WHEREAS**, the City can benefit if the owners of property in a MUD pay their fair share for improvements and services funded through the 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**, petitioner for creation of 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 before the City will provide its consent to the creation of a MUD; and

**WHEREAS**, the City of Blanco desires to establish a policy for the consideration of providing consent to the creation of proposed MUDs that are located wholly or partially within the City’s territorial limits or its ETJ and no provision herein shall be construed to obligate the City Council to grant or deny its consent, conditional or otherwise, to any particular petition;

**NOW, THEREFORE, BE IT RESOLVED** by the City of Blanco City Council:

1. The City Council establishes the following guidelines for considering whether to give or withhold its consent related to the creation of MUDs located within the corporate limits of the City or within its ETJ as set forth by §54.016 of the Water Code.

2. For proposed districts that may be designated as “city service districts,” as defined by §54.016:

a. The petitioner should 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.

b. The petitioner’s objective in creating the MUD should be to promote superior development, maintain the character of Blanco, and preserve the City’s natural resources, with attention to the Comprehensive Plan.

c. The petitioner should also show that the MUD will:

i. To the maximum extent feasible, cluster development, roadways, and other improvements funded away from critical environmental features and provide buffer zones to preserve significant natural areas along creeks and rivers; create or enhance parks, trails, recreational facilities, and open space that exceed requirements applicable to other development in the City and bring community benefit;

ii. Improve environmental protection, storm water quality, drainage, and flood control benefits that exceed requirements applicable to other development in the City, particularly to preserve the quantity and quality of streamflow in the Blanco River, its watershed tributaries, and groundwater features and aquifers, through rainwater harvesting, beneficial reuse, and decentralized wastewater to ensure no harmful discharge;

iii. Improve the public roadway and pedestrian pathway network in the portions of the MUD located within the City or the City’s ETJ, as applicable;

iv. Provide enhanced water and wastewater infrastructure in the portions of the MUD located within the City or the City’s ETJ, which meet reasonable long-term planning needs through sustainable practices and financing;

v. For projects that seek water and/or wastewater service from the City and if the city, at its sole discretion, cannot or will not provide such service, then provide viable alternatives for meeting the MUD’s water and/or wastewater requirements that do not place at risk the short or long-term reliability of the City’s water/wastewater supply or its effective management thereof;

vi. Place limits on light and noise pollution emanating from capital improvements within the MUD that exceed requirements applicable to other development in the City through appropriate screening, buffering, and building design requirements;

vii. Establish regulations to protect native trees and preserve and enhance the tree canopy and protect scenic views along roadways, which exceed requirements applicable to other development in the City; and

3. For proposed districts that are to be designated as “noncity service districts,” as defined by Water Code §54.016, the City’s consent should be conditioned on all applicable limitations or conditions on consent as set forth in §54.016 applicable to such proposed districts, and to the maximum extent allowed by law, should also include all conditions the City may impose on “city service districts.”



4. Because the City and MUD may agree to annexation in the future, all water, wastewater, drainage, pathways, and road infrastructure constructed by the MUD will become City-owned and operated infrastructure unless the City and MUD agree otherwise. Therefore, public infrastructure plans for capital improvements located in the MUD should be prepared and reviewed by the City for compliance with the City's requirements for land use, infrastructure design, permitting, and inspections. Prior to the commencement of any construction of public water, wastewater, drainage, and road infrastructure, especially if it will be integrated with City facilities and services or owned and operated by the City within the MUD, or both, pursuant to Water Code §54.016(e) Petitioner shall permit the City to inspect such plans and facilities to ensure compliance with City-standards.

5. Before the City may act on a petition to consider granting consent, conditional or otherwise, petitioners for a MUD must make a pre-petition presentation to the City Council at least 30 days before filing a Water Code Chapter 54 compliant petition with the City. Petitioner will include a sufficient fee to reimburse costs by the City for legal, engineering, administrative financial advisory services, and costs incurred by the City in connection with vetting the petition and negotiating any associated agreements for the MUD, which shall be established by City staff prior to a pre-petition presentation. The pre-petition presentation must include the following:

- a. Boundaries of the proposed MUD as described by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;
- b. General nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by the petitioner; and
- c. Name of the district which shall be generally descriptive of the locale of the district followed by the words Municipal Utility District, or if a district is located within one county, it may be designated "Blanco County Municipal Utility District No. \_\_." The proposed MUD shall not have the same name as any other district in the same county.

6. Thereafter, upon presentation of a Water Code Chapter 54 compliant petition, a public hearing on the MUD petition should be held by City Council before the expiration of the period established by state law for, and prior to acting on consent to, the petition. The City must publish official public notice in a newspaper of general circulation in Blanco County at least two weeks prior to the date of the public hearing and the petitioner shall reimburse the City for the cost of publication. In order for the public hearing to proceed and before any Council action on the petition, Petitioner must present evidence that all property owners adjacent to the proposed MUD boundaries have been identified and provided mail notice of the public hearing not less than 30 days before the hearing. Petitioner shall be present for the public hearing at which the following information must also be presented:

- a. Evidence of the number of acres that the proposed MUD contains and that filing is on behalf of the majority in value of landowners within the proposed MUD;
- b. Preliminary report—a land use plan—describing the MUD and proposed use of the land within the MUD showing that the proposed MUD and land use are feasible;



- c. Estimate of assessed valuation of the MUD showing the value of the property as it exists on date of the petition; a build-out schedule showing the projected value of the property when 50 percent of the projected vertical improvements for the MUD, exclusive of wastewater, water, sewer drainage, roads, and park improvements, have been completed; and showing the projected value of the improvements upon completion of the development within the MUD;
  - d. Agreement of a majority in value of landowners within the proposed MUD that development of the property shall be for purposes substantially described in the preliminary report; and
7. No resolution should be adopted consenting to the creation of a MUD, conditional or otherwise, until the City Council finds that the proposed MUD:
- a. Will not adversely affect the existing City water, sewer, water quality, and storm facilities or other City utilities or City functions,
  - b. Will improve environmental protection, drainage, and flood control, and preserve the quantity and quality of streamflow in the Blanco River, its watershed tributaries, and groundwater features and aquifers, emphasizing rainwater harvesting, beneficial reuse, and decentralized wastewater to ensure no harmful discharge.
  - c. Will not increase the City's taxes or utility rates or adversely impact the City's financing or bond rating, and that
  - d. All of the conditions imposed by this policy have been agreed to by the majority on value of landowners within the proposed MUD.
8. Financial limitations and performance standards conditions should be included in the City's consent to MUD creation:
- a. The MUD must certify compliance with the City's consent to the MUD's creation, prior to the sale or offer to sell any bonds of the MUD. Any costs incurred by the City in connection with review of the issuance of bonds shall be paid by the MUD.
  - b. If development occurs in phases, development must be sustainable by the proposed bonding capacity, bond phasing, and development approvals. Each phase of the development included in a bond issue must meet the applicable economic feasibility rules of the TCEQ which require that each phase proposed to be financed includes in the bond application the water, sewer, drainage, and other facilities to serve the development and has the requisite governmental approvals.
  - c. The City may add conditions or restrictions on the terms, provision, or sale of a bond of the MUD consistent with the authority granted to cities under Water Code §54.016(e). A condition or restrictions so imposed may not cause the bond or note to be unmarketable.

d. The City acknowledges that a MUD has authority to assess an unlimited tax for payment of debt service. However, prior to implementation of any increase in tax rate above its initial rate, the MUD shall present to City Council an explanation of the need for the increase, at which time residents of the MUD shall be given an opportunity to be heard in a public hearing. This provision shall be in addition to any requirements of the Texas Water Code and the Texas Tax Code which apply to the MUD.

9. All Resolutions and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith.

10. It is hereby declared that the sections, paragraphs, sentences, clauses and phrases of this resolution are severable and if any section, paragraph, sentence, clause, or phrase in this resolution is considered unconstitutional or invalid under state or other law, it shall be regarded as stricken while the remainder of this resolution shall continue to be in full effect and the validity of the remaining sections, paragraphs, sentences, clauses or phrases remains intact because the same would have been enacted by the City Council without the incorporation of any such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

11. This Resolution shall take effect immediately from and after its adoption and it is accordingly so resolved.

Signed this 13 day of July 2021.

Rachel Lumpee  
Rachel Lumpee  
Mayor, City of Blanco

ATTEST:

Laurie A. Cassidy  
Laurie A. Cassidy  
City Secretary, City of Blanco

