

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**,

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;

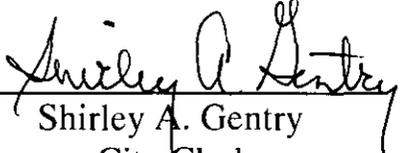
- The development that it supports meets or exceeds the intent of the development standards of the City Code;
 - It is financially self-sustaining and its ad valorem tax rate will approximate or be greater than the City's rate;
 - It will use City design criteria for water, wastewater, drainage, and 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:

- 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.

- 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
City Clerk