



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-2178

**Type:** Resolution

**In control:** City Council A Session

**On agenda:** 3/18/2021

**Title:** Resolution granting the City Council’s consent to the creation by Medina County of a Fresh Water Supply District to be named the Medina County FWSD No.4, the subsequent conversion of the district to a Water Control Improvement District; the assignment of the ownership, and the expansion of the Water Control Improvement District.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. CC Resolution FINAL (02252021), 2. Ord Approving Dev Agmt - Final Draft (02252021), 3. Petition to COSA Att A, 4. Final Map of District Property - Att D to Resolution, 5. Agreement, 6. Draft Resolution, 7. Draft Ordinance, 8. Resolution 2021-03-18-0022R

| Date      | Ver. | Action By              | Action | Result |
|-----------|------|------------------------|--------|--------|
| 3/18/2021 | 1    | City Council A Session |        |        |

**DEPARTMENT:** Planning

**DEPARTMENT HEAD:** Bridgett White, AICP

**COUNCIL DISTRICTS IMPACTED:** Extraterritorial Jurisdiction (ETJ) near City Council District 6

**SUBJECT:**

Consent to the creation by Medina County of a Fresh Water Supply District (FWSD), the subsequent conversion from a FWSD to a Water Control Improvement District (WCID), the one-time assignment of the ownership, the expansion of the converted WCID, and an associated Development Agreement.

**SUMMARY:**

A public hearing and consideration of the following: 1) A Resolution granting the City Council’s consent to the creation by Medina County of a Fresh Water Supply District (FWSD), to be named the Medina County FWSD No. 4; the one-time assignment of the ownership, the subsequent conversion of the FWSD to a Water Control Improvement District (WCID); and, the expansion of the converted WCID, and 2) An Ordinance approving the execution of a Development Agreement between the City of San Antonio and Gallagher Concourse, LP, Ltd., D-W 381 Partners, LLC, and Goldfinch Farms, LLC, the owners of land generally located southwest of the intersection of Tamaron Valley and Legend Falls, in the Extraterritorial Jurisdiction (ETJ) of

the City of San Antonio in Bexar County and Medina County.

## **BACKGROUND INFORMATION:**

On October 27, 2020, Gallagher Concourse, LP, Ltd., a Texas limited partnership, D-W 381 Partners, LLC, a Texas limited liability company and Goldfinch Farms, LLC., a Texas limited liability company (the Owners) petitioned Medina County (County) to create a Fresh Water Supply District (FWSD), to be named the Medina County FWSD No. 4. The proposed FWSD will be created under Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 53 of the Texas Water Code, which allows counties or the Texas Commission of Environmental Quality (TCEQ) to create FWSDs.

The Owners own approximately 625.348 acres of land in Medina County and approximately 42.442 acres in Bexar County, totaling approximately 667.79 acres. These tracts of land are referred to as the Gallagher Tracts, generally located southwest of Tamaron Valley and Legend Falls, in the City of San Antonio's Extraterritorial Jurisdiction (ETJ).

The Owner's FWSD petition to Medina County consists only of the 625.348 acres located in Medina County. The Owners also petitioned Medina County to create the proposed FWSD with road districts powers, for the district to provide, operate and maintain road improvements and supply fresh water, wastewater, drainage, and storm sewer system infrastructure. However, under State law, a FWSD being created with road district powers in the ETJ of a municipality requires that municipality to provide its written consent, by resolution, in accordance to the terms and provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49, 51, and 53 of the Texas Water Code. In addition, Medina County would allow the FWSD to impose operation and maintenance (ad valorem) taxes and issue revenue bonds in accordance with State law.

On November 9, 2020, the Owners petitioned the City of San Antonio to consent to the creation by Medina County of the initial 625.348-acre FWSD with road district powers, **the one-time assignment of the ownership**, and the subsequent conversion to a Water Control Improvement District (WCID) within the city's ETJ. The petition also requested the City's consent to allow the converted WCID to incorporate the 42.442 acres situated in Bexar County, thus expanding its boundaries to 667.79 acres.

The proposed WCID will be organized under Chapter 51 of the Texas Water Code which allows counties or TCEQ to create them. WCIDs have the power to supply water, sewer, drainage, flood-storm water control, street lighting, irrigation, navigation, recreation, firefighting, waste disposal and security services. WCIDs also may impose ad valorem (operation and maintenance) taxes and issue revenue bonds. In addition, WCIDs have the authority to annex land into their boundaries. However, WCIDs do not have road district powers to improve roads. State law allows the conversion of a FWSD to a WCID and allows the converted WCID to maintain the FWSD's road district powers and gain the powers of a WCID.

The Owner and Daphne Development, LLC, the Developer, will develop a residential subdivision consisting of 2,554 single-family residential units and will construct public infrastructure on the Gallagher Tracts. The Owner and Developer project the costs of streets, sewer, water, and electrical improvements at \$95.5 million and the development's revenue at \$82.7 million. The proposed development is in both the Yancey and the SAWS water Certificates of Convenience and Necessity (CCN) and the SAWS sewer CCN.

The Owners have agreed to enter into a 30-year Development Agreement (Agreement) with the city, setting forth terms and conditions governing land use, development standards, provision of services and infrastructure in the proposed District, as well as voluntary annexation and a municipal service agreement upon annexation by the city, in accordance with Chapter 43 and Section 212.172 of the Texas Local Government Code. The Agreement will include the framework of a proposed Strategic Partnership Agreement (SPA), which will consist of a written contract between the city and the proposed District. The proposed SPA will allow the city to annex land and collect sales and use taxes in the annexed commercial areas of the proposed District.

## ISSUE:

If approved, this Resolution states the city consent to the creation by Medina County of the proposed Medina County FWSD No. 4, the subsequent conversion from a FWSD to a WCID, the one-time assignment of the ownership, and the one-time expansion of the converted WCID; and this Ordinance authorizes the execution of a 30-year Development Agreement between the city and the Owners. State law requires the written consent by the municipality for the county to create the FWSD with road district powers and for the District to exercise annexation power.

The Agreement sets forth the conditions of the city's consent, which will not include the following provisions:

- The power to exercise eminent domain by the FWSD.
- The power to divide, annex, divide or exclude land from the FWSD's boundaries.
- The power to divide, exclude, expand, or annex land into the WCID's boundaries, except for the annexation of the 42.442 acres located in Bexar County.

The Agreement includes the following terms and obligations between the city and the Owner with respect to the development of the FWSD property:

- The Owner will pay a \$7,500.00 Special District Application Fee to the city.
- The Owner will pay a Special District Operations Assessment of \$175 per residential unit. The proposed 2,554 residential units total \$446,950.00.
- The District will reimburse the city for the recording of the Agreement with the Medina County and Bexar County Real Property Records.
- The proposed District's ad valorem tax rate will not exceed the city's tax rate.
- The city will guarantee the continuation of the extraterritorial status of the proposed District for a period of 30 years or termination of the Agreement.
- The Owner agrees that the Agreement constitutes a petition for voluntary annexation at the city's discretion and that the Owner consents to annexation by the city at the end of the Agreement's term.
- The Agreement will include a written municipal services agreement between the Owner, subsequent Owners, and the city under Chapters 43 and 212 of the Texas Local Government Code.
- The Owner will comply with all municipal regulations, ordinances, and other laws applicable to all properties located within the city's ETJ during all the phases of development and construction of the project and the term of the Agreement.

- The Agreement will include a framework of a proposed Strategic Partnership Agreement (SPA) between the city and the proposed District, which will include the following provisions:
  - The District will consent to the Limited Purpose Annexation of the commercial property in the District for the purpose of assessment and collection of sales and use taxes by the city.
  - The city will remit to the District an amount equal to 25% of the sales tax revenues collected within the annexed commercial property.
  - The District will reimburse the city for the recording of the SPA with the Medina County and Bexar County Real Property Records.
  - The District will reimburse the city for future costs related to Limited Purpose Annexation.

The proposed timeline for the establishment of the proposed FWSD is as follows:

- March 10, 2021 - San Antonio Planning Commission public hearing and recommendation
- March 18, 2021 - San Antonio City Council consideration and action
- April 8, 2021 - Medina County Commissioners' Court consideration of creation of the proposed FWSD, appointment of a Board of Directors, and calling an election

#### **ALTERNATIVES:**

A denial of the Resolution would result in Medina County not creating the proposed District and would require the Owner to seek a different financing mechanism for the development of the property. It may result in the developer having to finance the development and construction of infrastructure in a traditional method instead of the accelerated manner they are proposing.

City Council may require staff to re-negotiate the terms of the Agreement, which would delay the activation of development in the District.

#### **FISCAL IMPACT:**

This item is to consider the resolution granting the city's consent to the creation by Medina County of a FWSD located within an unincorporated area of the ETJ of the City of San Antonio, the subsequent conversion to a WCID, and then the expansion of the converted WCID; and an ordinance authorizing the execution of a Development Agreement between the city and Gallagher Concourse, LP, Ltd., D-W 381 Partners, LLC, and Goldfinch Farms, LLC, the Owners. This ordinance enables the developer to pay a \$7,500.00 Special District Application Fee, and a Special District Operations Assessment totaling \$446,950.00 (for 2,554 residential units at \$175 per residential unit) to the city. The city will pay to the converted WCID an amount equal to 25% of the sales and use tax revenues collected within the Limited Purpose Annexation Property, commencing on the effective date of the Limited Purpose Annexation of the commercial land.

#### **RECOMMENDATION:**

Staff recommends approval of A) resolution granting the City's consent to the creation by Medina County of

the Medina County FWSD No. 4, the subsequent conversion from a FWSD to a WCID, the one-time assignment of the ownership, and then the one-time expansion of the converted WCID; and B) An Ordinance authorizing the execution of a 30-year Development Agreement between the City and the Owners, Gallagher Concourse, LP, Ltd., D-W 381 Partners, LLC, and Goldfinch Farms, LLC.

On March 10, 2021, the Planning Commission recommended City Council's consent to the FWSD creation by Medina County, the subsequent conversion to a WCID and the expansion of the WCID, subject to the execution of a Development Agreement between the City and the Owners.