

# CITY OF BURLESON

## PUBLIC IMPROVEMENT DISTRICT POLICY

### OVERVIEW

Pursuant to the Texas Local Government Code Chapter 372 (the “PID Act”), Public Improvement Districts (“PIDs”) provide the City of Burleson (the “City”) an economic development tool that permits the financing of qualified public improvement costs that confer a special benefit on a definable part of the City, including both its corporate limits and its extra-territorial jurisdiction (ETJ). A PID can finance capital costs and fund supplemental services to meet community needs which could not otherwise be constructed or provided. The costs of the capital improvements and/or supplemental services are paid entirely by property owners within the Public Improvement District that receive special benefits from the capital improvements or services. A PID may only be used to pay for qualified public improvements under the PID Act.

A PID is a defined area of properties, whose owners have petitioned the City to form a PID. The City Council establishes a PID by adoption of a resolution after a public hearing. The public hearing is publicized per the PID Act and written notification of the hearing is mailed to all property owners in the proposed PID. By petition, the owners pledge to pay an assessment in order to receive a special benefit, enhanced services and/or improvements within the PID.

### PURPOSE AND INTENT

The purpose and intent of this Policy is to provide the policy guidelines parameters for establishment and use of PIDs within the City or its ETJ ~~and to outline the issues to be addressed before the City Council can support the establishment of a PID.~~ The City Council supports the use of PIDs to create sustainable developments with a higher level of public amenities and improvements ~~(and maintenance of those improvements)~~ than exists in a development that meets the City’s minimum standards. ~~PIDs are a viable alternative for enhanced public open space and maintenance of enhanced public parks and trails.~~ Within the City, PIDs should be self-supporting, should not place administrative burdens on the City nor involve management or oversight by the City for their daily activities. This Policy is intended to provide guidance to developers and City Staff in the creation of a PID and outline pertinent matters including but not limited to petition requirements, qualified costs, financing criteria, information disclosures to property owners, and the determination of annual plans of services, budgets and assessments. The City Council, upon City Staff recommendation, shall have the authority to establish PIDs that vary from this policy as long as they are in accordance with State law.

### PID OBJECTIVES

The Texas Local Government Code allows for PID funds to be used, among others, in the construction of roadways, water, wastewater, drainage, landscaping, parks, and expenses incurred in the establishment, administration and operation of the PID. Generally, PID amenities are public in nature, however PIDs can potentially be used to offset the cost of public infrastructure if it results in development that meets one or more of the component below~~consideration may be granted for projects that:~~

1. Meet or preferably enhance the City’s master plan, thoroughfare plan, water and wastewater plans;
2. Advance the City’s trail and park plans;

3. ~~Exceed~~ Meet the City's requirements for design, building standards, amenities and landscaping;
4. ~~Are~~ May be of mixed residential and commercial use;
5. Accomplish a particular housing objective or goal established by City Council;
6. Are master-planned residential communities;
7. Are within the ETJ that meet the above qualifications provided the property owners agree to submit a petition for voluntary annexation into the City, if the City desires such annexation; or
8. ~~Require public participation to materialize.~~

The City Council, upon City Staff recommendation, shall have the authority to consider other projects that may be different from those listed above in accordance with the applicable State law.

**TYPES OF PIDS:**

1. ~~Capital PIDs are those that are established to construct infrastructure within a development. There are two types of Capital PIDs:~~
  - ~~Reimbursement PID: The developer pays for the infrastructure up front and is reimbursed from assessments collected over time.~~
  - ~~Bonded PID: The City issues special revenue bonds for the construction of improvements and/or reimbursement to the Developer and such bonds are repaid from assessments collected annually.~~

~~Capital PIDs have a termination date of either the maturity of the bonds for Bonded PID, or full repayment of the developer for Reimbursement PID.~~

~~The principal amount for a Capital PID may be paid in full or in part by the property owner at any time without any prepayment penalty.~~

2. ~~Operation and Maintenance PIDs (O&M PIDs) are used to fund ongoing enhanced operation and maintenance for public improvements such as parks, public open space, trails and other public improvements:~~
  - ~~There may be no termination date with an O&M PID until City Council decides otherwise.~~
  - ~~The assessment is determined annually based on a budget to maintain and operate the PID.~~
  - ~~Payment of the assessment is on an annual basis, and no pre-payment can occur since there is no principal amount.~~
  - ~~The City may create advisory boards for Maintenance PIDs.~~

~~Projects may include both Capital PIDs and Maintenance PIDs.~~

**GENERAL**

1. A PID may be created and utilized to construct qualified public improvements and/or reimburse a developer's actual, documented costs above and beyond the costs for standard infrastructure required to serve the development. Such incremental costs shall be associated with the construction of qualified public improvements.

2. PIDs must be self-sufficient and not require the City to incur any costs associated with the formation of the PID, bond issuance costs, PID administration or the construction of PID improvements.
3. PID petition signatures should reflect that a reasonable attempt was made to obtain the full support of the PID by the majority of the property owners located within the proposed PID. Priority will be given to PIDs with the support of 100% of the landowners within a PID.
4. Priority will be given to PID improvements:
  - a. In support of development that will generate greater economic development benefits to the City beyond the project;
  - b. That provide enhanced aesthetic features (e.g., entryways, landscaping, fountains, specialty lighting, art, decorative and landscaped streets and sidewalks, bike lanes, multi-use trails, signage); and,
  - c. That provide enhanced amenities for the public and/or residents of the development meet specific community needs.
5. A PID's budget shall include sufficient funds to pay for all additional costs incurred by the City above its normal operational costs, including additional administrative and/or operational costs.
6. If it is proposed that debt obligations secured by and payable from assessments are to be issued to reimburse for authorized improvements that a developer would ordinarily fund at its own costs, the petition must demonstrate how creation of the PID and financing of the infrastructure provides a special benefit to the property that, but for the PID, would not occur. Examples of "special benefits" under which the City is willing to consider a PID include, but are not limited to, the following: accelerated development of neighborhood amenities, high quality development (i.e. amenities, sustainability, etc.) or furtherance of a major City Policy objective. A Landowner's Agreement must be recorded in the Official Public Records of the County in which the PID is located which, among other things, will notify any prospective owner of the existence or proposal of assessments on the property. All closing statements and sales contracts for lots must specify who is responsible for payment of any existing assessment or a pro rata share thereof.
- ~~7. The City Council reserves the right, on a case-by-case basis, to waive specific requirements listed in this Policy. Such waived requirements shall be noted in the approval of any petition together with a finding that the deviation from the Policy is in the best interest of the City. Additionally, the City Council maintains discretion to approve or disapprove the PID application.~~
- ~~8. No PIDs will be allowed to be created that overlap the boundaries of another PID.~~
- ~~9. The boundaries of existing PIDs can be modified during a renewal process (with updated map as part of the petition). However, a boundary change during the existing term of a PID may only be considered if a re-petition of the entire PID area (both current boundary and proposed modified areas) meets the minimum criteria for creation/renewal and application fee as described below is submitted.~~

## **ESTABLISHMENT OF PID**

Following is a summary of the major steps involved in the establishment of a PID. Detailed steps are included in Attachment A.

## Professional Services Reimbursement Agreement

If the City determines it is in its best interest to establish a PID, a Professional Services Agreement (PSA) will be entered into with the developer (template attached as Attachment B). The PSA will require the developer to initially deposit funds to pay for third-party consultants including, but not limited to, Bond Counsel, Financial Advisor, PID Administrator, Appraiser, and Market Study Analysis. Additional deposits will be required when the deposit balance meets a minimum threshold as described below. Funds that have been expended for payment to the City's consultants are non-refundable. The unused balance will be rolled into the PID admin costs for the creation of the PID, or refunded to Developer depending on circumstances.

- ~~Capital PIDs:—Initial Amount is \$7,500 with additional \$10,000 increments when deposit balance reaches \$2,500.~~
- ~~Maintenance PIDs:—Initial Amount is \$7,500 with additional \$5,000 increments if deposit balance reaches \$1,500~~
- ~~Combined Capital/Maintenance PIDs will follow the Capital PID funding requirements.~~

~~A City Council briefing on the PID Petition is recommended prior to filing.~~

### ~~PID Petition~~

~~Once it has been determined by the City Staff and City Council that a PID is appropriate for the project, a petition for the creation of the PID shall be submitted in accordance with the following:~~

- ~~1.—The submittal of a petition letter that is signed by:
  - ~~a.—Owners of taxable real property representing more than 50% of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and,~~
  - ~~b.—Record owners of real property liable for assessment under the proposal who:
    - ~~i.—Constitute more than 50% of all record owners of property that is liable for assessment under the proposal; or~~
    - ~~ii.—Own taxable real property that constitutes more than 50% of the area of all taxable real property that is liable for assessment under the proposal.~~~~~~
- ~~2.—The petition must be submitted using the form included as Attachment C. See the Petition Requirements attached herein for additional specific requirements.~~

### ~~Service and Assessment Plan~~

~~The City will cause to be prepared a Preliminary Service and Assessment Plan (“SAP”) based on an Engineer’s opinion of probable costs of the public improvements to construct and complete the project. The parameters of the SAP will be based on the City Staff’s direction regarding the amount to be reimbursed relative to the type of PID, the Policy objectives, and the recommendation of the City’s consultants.~~

### ~~Maximum Assessment~~

The maximum assessment per \$100 valuation, when added to the total (City, County, School, etc.) tax rate, may not exceed the highest total tax rate in effect for any property in the City. For example, in 2021, the highest total tax rate is \$2.7928 per \$100 valuation. See table below:

-	Johnson			Tarrant	
	BISD	JISD	AISD	BISD	CISD
City	\$0.6859	\$0.6859	\$0.6859	\$0.6859	\$0.6859
ISD	\$1.4946	\$1.2900	\$1.3720	\$1.4946	\$1.2658
County	\$0.3797	\$0.3797	\$0.3797	\$0.2290	\$0.2290
JC Lateral Rd	\$0.0403	\$0.0403	\$0.0403	-	-
Hill College	-	\$0.0499	\$0.0500	-	-
Tarrant College	-	-	-	\$0.1302	\$0.1302
Tarrant Hospital	-	-	-	\$0.2244	\$0.2244
TC Regional Water	-	-	-	\$0.0287	\$0.0287
<b>Total</b>	<b>\$2.6005</b>	<b>\$2.4458</b>	<b>\$2.5279</b>	<b>\$2.7928</b>	<b>\$2.5640</b>

The above tax rates are from 2021 and are subject to change annually. City staff may update the applicable maximum tax rates each year and such annual updates may not require formal amendment to this policy.

**Assessment**

The Council should weigh the cost of the proposed assessment against the amenities being provided to the residents of the development and the City overall.

**Disclosure to Homeowners**

To satisfy disclosure to homeowners, the City will require the petitioner to comply with the following:

- Landowner’s Agreement to be recorded in the Official Public Records of the applicable County.
- Signage at major entryways and exits as approved by City Staff. All signage shall be clearly visible to all motorists entering and exiting the PID.
- Signage and information flyers for use at sales offices and model homes as provided by City’s PID Administrator.
- Homebuyer disclosure documents in accordance with Section 5.014 of the Texas Property Code to be signed both at contract signing and at closing with such agreements maintained on file by each homebuilder and available for inspection by the City.
- Requirement to provide notice of the PID to builders in addendum to contracts and to disclose the PID on any MLS listing.

## PID Administration

1. The City may contract with a qualified third-party company to manage and administer the PID, subject to oversight by City Staff.
2. The PID Administrator will coordinate the annual development of the budget, which will be submitted to the City Council for consideration in accordance with the PID Act.

## Collection of Assessments

The City will enter into an agreement, as applicable, with the appropriate tax collecting entity (i.e. the entity collecting the City ad valorem taxes) to include the annual assessments on the appropriate property tax bill. If such agreement is not feasible, the City will pursue other available alternatives for collecting the assessments and annual installments.

## **CAPITAL PIDS**

~~If it is proposed that debt obligations secured by and payable from assessments are to be issued to reimburse for authorized improvements that a developer would ordinarily fund at its own costs, the petition must demonstrate how creation of the PID and financing of the infrastructure provides a special benefit to the property that, but for the PID, would not occur. Examples of "special benefits" under which the City is willing to consider a PID include, but are not limited to, the following: accelerated development of neighborhood amenities, high quality development (i.e. amenities, sustainability, etc.) or furtherance of a major City Policy objective.~~

## **Specifics of Bonded PID**

~~If the PID issues bonds for the developer to construct the improvements and the debt is repaid through the collected property assessments, the following must be met:~~

- ~~• Minimum value to lien ratio of 3:1 based on third party appraisals approved by the City.~~
- ~~• To the extent feasible, preliminary design and engineering work for public improvements to be funded with PID Bonds shall be undertaken prior to the levy of assessment.~~
- ~~• Developer is required to demonstrate committed capital in the form of cash deposit, proof of bank financing and/or equity capital, or letter of credit, which represents the difference between budgeted cost to complete the public improvements assumed to be complete in the appraisal and the net proceeds of the PID Bonds. The form of committed capital (cash deposit or letter of credit) will be determined by the City (in consultation with its financial advisors, consultants and participating underwriters) on a case-by-case basis. Terms of the letter of credit will include: (i) an irrevocable and unconditional letter of credit issued by one or more banks satisfactory to the City and on terms and conditions satisfactory to the City to provide a funding source for the agreed upon cost of infrastructure improvements that will be constructed with funds other than bond proceeds, or (ii) any such letter of credit must name the City as the beneficiary and must be able to be drawn upon by the City to fund any obligation of the Developer to pay for a portion of the costs to the infrastructure improvements that are not being funded with the proceeds of any bonds issued by the City upon the presentation to the letter of credit provider of a properly executed draft request. An acceptable letter~~

~~of credit provider will need to have a long term rating by a nationally recognized ratings service of at least the City's credit rating or better.~~

### **Other Financing Considerations**

1. PID Bonds may be issued in advance of construction as a whole or on a phase-by-phase basis subject to compliance with the applicable standards.
2. General Obligation or Certificates of Obligation will not be utilized by the City to fund or support the PID Bonds.
3. All proposed initial and subsequent PID Bond issues for a project, if any, will be subject to approval by the City Council.
4. The City shall not be obligated to provide funds for any improvement except from the proceeds of the PID Bonds and assessments.
5. Each PID Bond Indenture will contain language explicitly precluding the City from making any debt service payments for the PID Bonds other than from available assessment revenues. There will be no tax pledge from the City to support PID Bonds.

### **Developer Reimbursement**

1. The Developer will submit expenses for reimbursements in accordance with the requirements of the applicable financing agreement.
2. The City's appointed designee(s) will verify the eligibility and validity of such reimbursement requests in accordance with the applicable agreements and/or PID documents.
3. Once expenses have been verified, payment will be processed within the timeframe stipulated in the applicable agreements and/or PID documents.

### **Assessment Term/Bond Term**

The maximum term of a ~~Capital~~ PID assessment is not to exceed 30 years and the assessment term must equal the bond term. ~~This does not apply to O&M PIDs.~~

### **Miscellaneous**

1. Severability: If any section, subsection, sentence, clause, phrase, or word of this Policy is declared unconstitutional or invalid for any purpose, the remainder of this Policy shall not be affected.
2. Any exceptions or waivers to this Policy must be approved by the City Council.
3. The City shall, upon reasonable prior written notice to the Developer and during normal business hours, have the right to audit and inspect the Developer's records, books, and all other relevant records related to reimbursements through the PID. All parties agree to maintain the appropriate confidentiality of such records, unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, State Law, municipal ordinance, or at the direction of the Office of the Texas Attorney General.

4. The City Manager or designee may make minor revisions to the attachments from time to time as the process is refined. No changes to the policy or significant changes to the attachments will be made without Council consideration.