

Attachment B

City of Dripping Springs, Texas

Policy and Procedures for Public Improvement Districts

PURPOSE

The purpose of the Public Improvement District, (“PID”), policy is to outline the issues to be addressed before the City Council can support the establishment and continuation of a PID as allowed by Chapter 372 of the Texas Local Government Code. The policy outlines such things as petition requirements, information to property owners, and determination of annual plan of services, budget and assessments. It addresses City administration issues, which are in addition to the requirements of state law.

GENERAL

PIDs must be self-sufficient and not adversely impact the ordinary service delivery of the City, except where City Council elects to participate in the project's costs.

PIDs must be established carefully and only when related to a public purpose to avoid a proliferation of special districts.

PID petition signatures should reflect that a reasonable attempt was made to obtain full support of the PID by the majority of the property owners.

COMMUNITY BENEFITS

Subject to the requirements of Chapter 372 of the Texas Local Government Code, the City Council will prioritize approval of PID petitions for land in the City and / or Extraterritorial Jurisdiction, (“ETJ”) that provide for the following public benefits to a degree that is superior to the benefits typically generated by real estate development projects not involving PID financing.

- (a) For proposed PIDs within the city limits, the petitioners shall be responsible for notice and coordination with and between the City and Dripping Springs ISD, (“DSISD”), at the earliest possible date to assess municipal and school service plans, the maximum PID assessment relative to municipal taxation, relative responsibilities for acceptance and maintenance of PID improvements to be financed by the PID and related matters.

- (b) Projects that will generate primary employment or other long-term economic development benefits to the City, above and beyond the economic development benefits generated by typical residential developments.
- (c) Improvements or services that advance or exceed the City's **conservation design standards**.
- (d) Projects that create or enhance parks, hike and bike trails, recreational facilities, open space benefits, etc. that exceed what is required by applicable development regulations. (Link to City of Dripping Springs Comprehensive Plan 2010)
- (e) Projects that improve environmental protection, storm water quality, and flood control benefits in ways that exceed what is required by applicable development regulations.
- (f) Projects that increase or enhance multimodal transportation options.
- (g) Projects that improve public educational programs and/or facilities.
- (h) Projects that provide exceptional benefits to improve the public roadway network in the City.
- (i) Projects that provide water and wastewater infrastructure in the City.

ADDITIONAL REQUIREMENTS FOR PIDS WITHIN THE ETJ

- (a) For proposed PIDs in the ETJ, the petitioners shall be responsible for notice and coordination with and between the City, County and **DSISD** at the earliest possible date to assess municipal annexation plans, the maximum PID assessment rate relative to municipal taxation, relative responsibilities for acceptance and maintenance of PID improvements to be financed by the PID, and related matters.
- (b) Generally, the City will consider PID petitions for property in ETJ only if a development agreement has been approved that requires that the whole project is voluntarily annexed into the City and the project will enhance the City tax base;
- (c) Petitioner will dissolve, or agree to not create any other special district vehicles that may overlay the PID; including, but not limited to Municipal Utility Districts, Water Control & Improvement Districts.

MINIMUM REQUIREMENTS FOR A PID

To be considered by the City Council, the real estate development project supported by the PID must meet the following minimum requirements:

- (a) The PID must be designed to achieve at least one of the priorities listed for Community Benefits or for PIDs in the ETJ.

(b) Petitioner will be required to pay fees for administrative or operational costs incurred by the City. The payment of such fees is not a guarantee that the City will approve the PID. The fees will pay for such as costs as:

- (1) Reviewing the PID petition;
- (2) Publishing related notices;
- (3) Reviewing the appraisal, the initial Service and Assessment Plan, and the Market Feasibility Study, including the cost of services provided by City consultants, bond counsel, and financial advisors;
- (4) Bond issuance;
- (5) Review and approval of plans for and inspection of construction of PID improvements;
- (6) Procurement of contracts for PID administration and operation, collection of assessments, foreclosures, etc.
- (7) The City's ongoing administrative and operational costs related to an approved PID, such as collection of PID assessments, review and approval of Service and Assessment Plan updates, and other costs shall be reimbursed from PID assessments. The City's costs will be determined on an annual basis.
- (8) Administration and management of ongoing PID responsibilities, such as preparation and updating of the Service and Assessment Plan, issuance of notices for annual City Council action on the Service and Assessment Plan, operation and maintenance of PID improvements, and other related matters shall be paid by PID assessments and performed by a third party firm under contract with the City.

(c) The City will use PID bond proceeds only to pay or reimburse the costs of PID improvements that have been designed and constructed to the applicable standards of, and accepted for maintenance or otherwise approved by, the government entity responsible for them.

(d) In the event of default under the terms of the PID petition or the PID agreement, the City shall, after providing notice and an opportunity to cure, have the right to recapture reimbursements if the PID Financing Agreement established a Cash Flow PID.

(e) Before a PID petition may be approved, the PID petitioners and the City must enter into a PID Agreement that establishes:

- (1) The basic terms and conditions for creation of the PID, including the provision of community benefits;

(2) Payment or reimbursement to the **City of the City's** ongoing administrative and operational costs, including the cost of outside consultants to assist with PID formation and financing, including but not limited to: city attorney, financial advisor, bond counsel, underwriter and PID administrator;

3) The financing of the PID improvements and the payment of assessment revenues or PID Bond proceeds to pay for the costs of the PID Improvements; and

(4) The planning, development, construction, management, and maintenance of the PID improvements, including review and approval by the government entities ultimately responsible for the PID improvements;

(f) Property in the PID owned by the City shall not be subject to PID assessments. Property in the PID owned by another governmental entity may be assessed only pursuant to an inter-local agreement between the entity and the City.

(g) The PID may not finance improvements or services that would not be accessible to the general public.

Preferential Requirements.

PIDs in which the cost of public improvements are financed without City financial participation are preferred. Except for public improvements specifically approved in a City bond proposition, the City will not expend or pledge a tax increment, general fund revenue, general obligation or certificate of obligation bond proceeds, etc. to support the costs of PID improvements unless is explicitly approved by City Council as advancing a City purpose. In addition:

(a) PID petitions signed by 100% of the owners in the PID boundaries are preferred;

(b) PIDs that have a value to lien that exceed 3:1 are preferred;

(c) Petitioners that can demonstrate indication of demand (builder contracts with earnest money) are preferred;

(d) PIDs that will exceed City development standards are preferred; and

(e) PIDs that have a Market Feasibility Study are preferred.

(f) A PID's budget shall include sufficient funds to pay for all costs above and beyond the City's ordinary costs, including additional administrative and/or operational costs as well as additional maintenance costs resulting from the PID.

(g) Use of assessments for partial recovery of a developer's capital costs will be allowed only in special cases where extraordinary public benefit is shown. Only those capital costs associated with continuing PID services will be considered for partial recovery.

REQUIREMENTS OF PETITION

(a) The petitioners shall notify in writing the Mayor, the Councilmember of any district in which a proposed PID is located, and the City Administrator at least 30 days in advance of their intent to file a PID petition. The petitioners must attend one or more pre-filing meetings scheduled by the City.

(b) The petition or PID Finance Agreement must include the following:

(1) A legal description of the boundaries of the PID and a black and white map of the PID boundaries suitable for publication;

(2) The general nature of the proposed improvements;

(3) The estimated cost of the improvements;

(4) The petitioner's qualifications and previous experience with real estate development, financing of that development, prior PIDs, etc;

(5) The proposed method of assessment, including a preliminary Service and Assessment Plan, including a comparison of the combined PID assessment and ad valorem tax burden on owners in the PID with comparable combined burdens on owners in nearby developments;

(6) Any plan for phasing of both the real estate development supported by the PID and construction of public improvements in the development;

(7) The proposed apportionment of costs between the PID and governmental entities;

(8) A statement that the petitioners request or concur with the establishment of the PID; and

(9) A current tax roll of the owners in the PID;

(10) A plan for ensuring dissolution of the PID will not impose unintended costs on the City or other governmental entities, and that addresses the maintenance or disposition of PID improvements if a PID is dissolved;

(c) The petitioners must include with the PID petition a certified check for the required filing fee, which will be used to defer the City's approximate internal staffing and overhead costs of processing and reviewing the PID petition. Petitioners must pay all direct costs of processing the PID petition, such as newspaper advertisements, postage, and contractors pursuant to Ordinance No. 1070.63, Fee Schedule Ordinance section 13.19.

(d) A notification that anyone selling land in a public improvement district must include a "title encumbrance" which notifies any prospective property owner of the existence or proposal of special assessments on the property. All closing statements must specify who is responsible for payment of the PID assessment on a pro rata share thereof.

NOTICE, PUBLIC HEARING AND APPROVAL OF THE PETITION

(a) City staff and consultants will assess the adequacy of the PID petition and the PID agreement and their compliance with this chapter and Ch. 372 and recommend to the City Council whether to proceed with a public hearing on the PID petition.

(b) The PID agreement must be executed on or before the date the PID assessments are levied.

(c) If the City Council approves setting a public hearing on the PID petition, City staff will publish the newspaper notice and mail the notice to property owners required by Ch. 372.

(d) The hearing may be continued from time to time. After the final adjournment of the public hearing, the City Council has six months to adopt a resolution making the findings required by Ch. 372 to approve the PID petition.

FINANCIAL LIMITATIONS AND PERFORMANCE STANDARDS

(a) Before authorizing issuance of PID bonds, the City Council shall:

- (1) Determine the total cost of PID improvements;
- (2) Approve a final Service and Assessment Plan and appraisal roll;
- (3) Levy an assessment; and
- (4) Establish a separate PID fund for the payment of the assessment.

(b) The following limitations and performance standards shall apply to PID bonds.

- (1) The minimum appraised value-to-lien ratio at date of each bond issue shall be 3:1.
- (2) The maximum maturity for each series of bonds shall be 30 years.
- (3) The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund:
 - a. The actual costs of the qualified PID improvements;
 - b. Required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of

construction and in no event for a period greater than 3 years from the date of the initial delivery of the bonds; and

c. Any costs of issuance.

d. The PID bond reserve fund may be the lesser of:

(i) The maximum annual debt service on the bonds,

(ii) 10 percent of the par amount of the bonds, or

(iii) 125 percent of the average annual debt service. The reserve fund will be funded from bond proceeds at the time bonds are issue.

e. And any other reserves required at the time of sale in accordance with the law.

PID ADMINISTRATION AND MANAGEMENT

The City will contract with an outside consultant to administer the PID and to bill, collect, and track PID assessments. This cost will be considered a reimbursable project cost and should be included in the PID Service and Assessment Plan.