

CITY OF LOCKHART
PUBLIC IMPROVEMENT DISTRICT (PID) POLICY

OVERVIEW

Public Improvement Districts ("PIDs"), per the Texas Local Government Code Chapter 372 ("the code" or "PID Act"), provide the City of Lockhart ("the City") an economic development tool that permits the financing of qualified public improvement costs which confer a special benefit on a definable part of the City. Proceeds from bonds issued by a PID can finance capital costs and fund supplemental services to meet the community needs which could not otherwise be constructed or provided. The bonds issued by the City to fund the costs of eligible capital improvements and/or supplemental services are paid entirely by property owners within the PID who receive special benefits from the capital improvements or services. **A PID may only be used to pay for public improvements.**

A PID is comprised 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 and filing of the resolution with the County within 7 days of adoption. Written notification of the public hearing is published and mailed to all property owners in the proposed PID. By petition, the owners pledge to pay an assessment in order to receive enhanced services and/or improvements within the District. The PID must demonstrate that it confers a benefit, not only to the properties within the district, but also to the "public" which includes the City.

The purpose of this PID policy is to outline the issues to be addressed by the owner of the taxable real property liable for assessment petitioning for creation of a PID ("Petitioner") before the City Council can support the establishment of a PID. The PID policy outlines such things as petition requirements, qualified costs, financing criteria, information disclosures to property owners, and the determination of annual plans, budgets, and assessments.

GENERAL

1. A PID may be created and utilized to construct qualified public improvements and/or reimburse a portion of the Developer's actual and documented costs required for public improvements 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. The Petition shall include a statement that the Petitioners shall arrange for any financing needed for the development of the PID.
3. The PID must be created so the annual assessment does not exceed the maximum equivalent tax rate: The Maximum Equivalent Tax Rate to property owners within a PID shall be no more than the equivalent of a \$0.95 per \$100 tax rate on the assessed value of

their property. If a developer is requesting that the City financially contribute through the creation of a Tax Increment Reinvestment Zone (TIRZ), the TIRZ increment cannot be used in the calculation of the equivalent tax rate, and must instead lower that rate below \$0.95 per \$100 tax rate on the assessed value of their property. Except for public improvements specifically listed in a voter-approved City bond proposition, the City will not expend or pledge a tax increment, general fund revenue, general obligation or certificate of obligation debt proceeds, etc. to support the costs of PID improvements, unless explicitly approved by City Council as advancing a City purpose.

4. PID petition signatures should reflect that a reasonable attempt was made to obtain the full support of the proposed PID by the majority of the property owners located within the proposed PID. Priority will be given to proposed PIDs with the support of 100% of the landowners within a PID.
5. PID petitions will be more likely to be approved if the project includes one or more aspects of the following types of improvements:
 - a. Which generate economic development benefits to the City;
 - b. Which provide for improvements in the public right of way (e.g., entryways, landscaping, fountains, specialty lighting, art, decorative and landscaped streets and sidewalks, bike lanes, multi-use trails, signage);
 - c. Which meet community needs (e.g., enhanced drainage improvements, land and infrastructure for re-irrigation of treated wastewater, off-street public parking facilities, pedestrian connectivity, wastewater and/or water system improvements, which create new or enhanced public roads and streets and which enhance and create opportunities to redevelop older or underutilized areas of the City);
 - d. Which exceed development requirements of the City; in particular enhanced architectural standards, enhanced landscaping, lighting which preserves dark skies, and which provide for a superior design of lots or buildings;
 - e. Which provide for increased recreation and open space opportunities for public use;
 - f. Which protect and preserve natural amenities and environmental assets such as the lakes, trees, creeks, ponds, floodplains, slopes, hills, viewscapes, and wildlife habitats;
 - g. Which protect and preserve existing historical buildings, structures, features or places and preserve the rural and community amenities or features that further reflect the City's character would otherwise be of special benefit to the property users or community; and
 - h. Which are associated with property located within the city limits of the City of Lockhart.

6. A PID's budget shall include sufficient funds to pay for all costs, including the cost of establishing the PID, issuance of PID bonds, if any, as well as including funds for additional administrative and/or operational costs and management costs.
7. 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 special assessments on the property. All closing statements and sales contracts for lots must specify who is responsible for payment of any existing PID assessment or *a pro rata* share thereof until such time as the PID assessment is paid in full.
8. Any requested adjustments or deviations from the terms of this Policy for a PID shall be clearly requested and explained (including a detailed description of the basis for such a request under Chapter 372 of the Texas Local Government Code) in the PID petition for that PID. Any adjustments or deviations granted are at the sole discretion of the City Council.
9. A PID must be identified as a PID with use of signage along the main entry/exits located at the boundaries of the PID. All signage shall be clearly visible to all motorists entering and exiting the PID.
10. Property owned by the City of Lockhart or that is intended to be conveyed or dedicated to the City and that is located in the boundaries of the PID shall not be subject to any assessment by the PID.
11. No PIDs will be allowed to be created that overlap the boundaries of another PID.
12. Annual Service and Assessment Plan updates, as required by Chapter 372 of the PID Act, shall be provided for if a PID is created in response to a petition.

PETITION REQUIREMENTS

1. In addition to the requirements of Texas Local Government Code §372.005(a) the petition must include the following: PID petitions shall include this additional note: "With respect to community property, the City may accept the signature of a spouse as a representation of both spouses that they support the creation or renewal of the PID absent a separate property agreement. *However, if City staff is made aware of any disagreement among owners of community property, those petitions will not be counted.*
2. Signatures for PID petitions must be gathered not more than six months preceding submittal of the PID Application, unless otherwise approved by the City.
3. PID petitions shall include this language: 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 amounts that may be reimbursed by the proceeds of any PID bonds. The 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. All PID Agreements shall include Indemnification language for construction of public improvements as follows:

DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, CITY (AND THEIR ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES), INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE BROUGHT BY ANY THIRD PARTY AND RELATING TO DEVELOPER'S CONSTRUCTION OF THE PUBLIC IMPROVEMENTS INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON CITY OR DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER OR DEVELOPER'S CONTRACTORS' NEGLIGENCE, WILLFUL MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES, INCLUDING ANY SUCH ACTS OR OMISSIONS OF DEVELOPER OR DEVELOPER'S CONTRACTORS, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF DEVELOPER OR DEVELOPER'S CONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE CITY AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST CITY, RELATED TO OR ARISING OUT OF DEVELOPER OR DEVELOPER'S CONTRACTORS ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT THE DEVELOPER'S COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT THEIR OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE CITY AND THE DEVELOPER SHALL SURVIVE THE TERMINATION AND / OR EXPIRATION OF THIS AGREEMENT AND

SHALL BE BROADLY INTERPRETED AT ALL TIMES TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY AND / OR THEIR OFFICERS, EMPLOYEES, REPRESENTATIVES AND ELECTED OFFICIALS PERMITTED BY LAW.

5. For a district to be established, a petition shall include the following:
 - a. Evidence that the petition's signatures meet the state law requirements, or the petition must be accompanied by a reasonable fee to cover the City's costs of signature verification. If the proposed district is an expansion of an existing district, a petition for the new portion of the district must identify each subdivision, or portion thereof, within the proposed boundaries of the new district, and each subdivision or portion thereof that is not currently in an existing PID shall individually satisfy the requirements for a petition under Section 372.005 of the Texas Local Government Code. Subdivision has the meaning assigned by Section 232.021 of the Texas Local Government Code.
 - b. Map of the area, a legal description of the boundaries of the district for the legal notices and a "commonly known" description of the area to be included in the district.
 - c. Statement that the petitioners understand that the annual Service and Assessment Plan for the district is subject to review by City staff with final approval by the City Council.
 - d. A narrative description of the project and how it meets or exceeds the types of public improvements discussed in General (4).

DOCUMENTS AND INFORMATION REQUIRED IN CONJUNCTION WITH THE PETITION

The following issues must be addressed before the City Council will take action on a petition. A non-refundable application fee of \$20,000.00, or as otherwise set out in the City's Master Fee Schedule, or as set out in a Professional Services Reimbursement Agreement between the City and Developer will be required with the filing of a petition to create a PID. This fee is regulatory in character and approximates the costs of evaluating the PID petition. The petitioner must agree to reimburse the City for the City's administrative costs and consultant costs for reviewing the PID petition, publishing related notices, reviewing the Market Feasibility Study and Service Assessment Plan, including the cost of services provided by the City's third party PID Administrator, bond counsel, city attorney, financial advisors and any other consultant selected by the City to assist the City in a PID-related matter. A copy of the executed Professional Services Agreement shall be submitted with the PID Petition, if not already agreed to prior to the Petition submittal. If City costs exceed the initial fee, the developer shall replenish the account with an additional deposit. In addition to the application fee, any other related City-required cost, limited to actual costs as are documented by the City, is the responsibility of the Developer.

1. A petition must include a current tax roll and a statement indicating the owners' support for the petition.

2. A copy of the Preliminary PID Finance Plan shall be submitted with the petition. This Finance Plan shall include at a minimum:
 - a. Targeted gross bond amount;
 - b. Estimated *ad valorem* revenue generated;
 - c. Annual assessment per unit;
 - d. Estimated number of bond issuances;
 - e. Proposed maturity dates for PID Bonds; and
 - f. Any other such supporting information related to the success of the PID.
3. A copy of a Project Feasibility Study which demonstrates the economic feasibility of the project and includes the following information:
 - a. An Assessment Revenue Pro forma for the proposed development costs of the PID;
 - b. A financial review of the development projections and absorption schedule;
 - c. Analysis of above describing the timing and amount PID assessment revenue which will be generated based upon varying levels of assessments; and
 - d. Comparison of the PID as built-out with other similar projects in the area that will not have an assessment.
4. The Petition shall identify and summarize any City PID policy requirements with which the PID will not comply and any additional measures undertaken by the Developer to offset or mitigate the non-compliance.
5. If it is proposed that PID Bonds are to be issued to reimburse a developer for infrastructure 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 an extraordinary benefit to the City as a whole and to the property in the PID, such as accelerated development or demonstrable furtherance of a major City policy objective. The City will not create, nor consider, a PID to solely finance the costs of constructing infrastructure that only meets minimum City development standards.
6. The property owner/developer must demonstrate its financial capability to initially fund improvements prior to reimbursement and to fund improvements not being reimbursed by the PID. Such parties must be willing to share confidential financial information with the City and its advisors.

DOCUMENTS AND INFORMATION REQUIRED PRIOR TO THE PUBLIC HEARING

In addition to the requirements of Section 372.009 of the Texas Local Government Code the following information shall be submitted for review by the City prior to the public hearing:

1. PID Financing Agreement between the City and the Developer. The PID Financing Agreement shall contain a section which clearly identifies the benefit of the PID to the affected property owners and to the City as a whole (i.e., public purpose) and also evidence of insurance;
2. Service and Assessment Plan. The Developer shall prepare and present an ongoing service plan which shall include an assessment plan (Service and Assessment Plan) to the City Council for review and approval. The plan must cover a period of at least five years and must define the annual indebtedness and projected costs of the PID improvements and the proposed assessments on the various classes of covered property under the plan. The Service and Assessment Plan shall include but is not limited to:
 - a. A description of the proposed method of assessment including the classes of covered property;
 - b. An apportionment of the costs between the PID and the City, if any;
 - c. A description of the management of the PID; and
 - d. If applicable, all City-owned land within the district.
7. Appraisal.
8. Proof that any liens on the Properties to be included in the District will be subordinated to creation of the PID;
9. Consent Agreement to Dissolution of the PID if Project is not developed.
10. Any additional information required by the City to evaluate the Feasibility Report.

PID ADMINISTRATION

1. The City may contract with a qualified third-party company to manage and administer the PID, subject to appropriate oversight by City staff.
2. The City's contract with a qualified third party to manage and administer the PID for the City shall provide for the contractor to:
 - a. Prepare and submit a Budget and Five Year Service Plan to the City Council for consideration and adoption. The budget shall provide for sufficient funding 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.

- b. Provide for the calculation of the assessment and allocation to the respective parcels in the PID and shall provide for the billing of the assessments to the property owners or provide information to the County Tax Assessor if the City has contracted with that entity to collect the assessments.
 - c. Prepare annual updates and reports for the Service and Assessment Plan as required by Chapter 372 of the Texas Local Government Code and submit an annual Service and Assessment Plan in a form appropriate for consideration and adoption by the City Council each year and assist the City Council and staff in adopting the annual Service and Assessment Plan updates.
 - d. Prepare annual reports reflecting the expenditure of Bond Proceeds or the reimbursement of Developer expenditures as appropriate.
 - e. Prepare annual reports reflecting the imposition and collection of the assessments and the balances in the various accounts related to the PID to be provided to City Council on a monthly or other periodic basis as may be required by the City.
 - f. Prepare and provide any other reports or information required of the City or the Project under Chapter 372 of the Texas Local Government Code.
3. The contract with a third party to manage the PID shall not preclude the City from entering into a contract with another taxing unit for the collection of the assessments levied for the PID.
 4. The City may alternatively provide for the administration of the PID through in-house resources.
 5. Provision for the costs associated with the provision of the administrative services, whether the services are provided by third parties or the City, shall be included in any budget proposed by the Developer and may include but is not limited to allocation of interest on the assessment to the extent authorized under Chapter 372 of the Texas Local Government Code.
 6. Any management firm for a PID shall be required to submit quarterly reports of all activities and expenditures to the City until the project is 80% built out.
 7. The City may request an independent audit at any time.

ADDITIONAL PROJECT CRITERIA

In agreeing to form a PID for which debt will be issued to fund the costs of constructing qualified public improvements, the City will require the following:

1. The property owner must demonstrate to the City that it has the expertise to complete the new development that the PID will support.

2. The property owner must provide the City with its sources of funding the public improvements not being funded by the PID unless such improvements have already been constructed by the property owner prior to the PID funding.
3. The proposed development must be consistent with the entitlements on the property. All required zoning must be in place for the development of the portion or phase of the Property to be assessed by the PID Bond issue prior to the issuance of any PID bonds for that portion of the property.
4. The property owner must provide evidence to the City that the utility service provider has or will have sufficient capacity to provide all necessary utility services for the development of the portion or phase of the Property to be assessed by the PID Bond issue prior to the issuance of any PID bonds for that portion of the property.
5. All reasonable estimated costs must be identified before a decision is reached on a request to issue bonds for a PID. Costs to be identified include costs related to establishing the district, costs for design and construction and/or the acquisition of improvements, the maintenance and operation of improvements (if any) and PID administrative costs.
6. If the City elects to hire a qualified third party PID administrator to administer the PID, the costs for such administration shall be paid for with PID funds.

BOND SIZE LIMITATIONS AND CONDITIONS

The following limitations and performance standards shall apply to a PID debt issue approved by the City:

1. Minimum appraised value to lien ratio at date of each bond issue: 3:1. The City requires such values to be supported by an appraisal of the applicable parcels prepared by an appraiser selected by the City with all reasonable appraisal fees to be paid by the developer.
2. Minimum annual permitted increase for the debt service component of the annual assessment installment: 0-2%.
3. Maximum maturity for each series of bonds (to extent allowed by law): 30 years
4. City, in its sole discretion, will determine the credit criteria/quality, market suitability, debt structure, continuing disclosure requirements and investor suitability requirements of all PID Bonds.
5. The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund: (i) the actual costs of the qualified public improvements; (ii) 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 three (3) years from the date of the initial delivery of the bonds; and (iii) any costs of issuance.

Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future bond issuances. Additional terms may be considered by the City if the public improvements are constructed in phases or multiple bond sales are contemplated for the project.

FINANCING CRITERIA

1. The PID may seek bond issues in advance of construction of an individual phase of a project subject to compliance with these standards, although the City's preference is to reimburse through PID Bonds for costs already incurred at the developer's expense ("reimbursement bonds.") If a developer is requesting "construction bonds" they must demonstrate why the project cannot work without upfront financing, and the benefit to the City and its tax and rate payers should be even greater.
2. No City backing or moral obligations will be utilized to fund or support the PID bonds.
3. All proposed subsequent PID bond issues for a project, if any, will be subject to approval by the City Council.
4. Special assessments on any given portion of the property may be adjusted in connection with subsequent bond issues as long as an agreed-upon maximum annual assessment rate is not exceeded for a project or phase, and the special assessments are determined in accordance with the Service and Assessment Plan and the PID Act. Special assessments on any portion of the property will bear a direct proportionate relationship to the special benefit of the public improvements to that improvement area. In no case will assessments be increased for any parcel unless the property owner of the parcel consents to the increased assessment.
5. The City shall not be obligated but may choose to do so at its sole discretion, to provide funds for construction of any improvement except from the proceeds of the PID bonds and PID assessments.
6. Each PID Bond Indenture will contain language precluding the City from making any debt service payments for the PID bonds other than from available special assessment revenues.
7. A PID will be responsible for payment of all the City's reasonable and customary costs and expenses including the cost of any appraisal.
8. Any PID bond issued will include a Reserve Fund in an amount equal to the lesser of: (i) the maximum annual debt service on the bonds; (ii) 10 percent of the Bond Par Amount; or (iii) 125 percent of the average annual debt service and that such Reserve Fund will be funded from bond proceeds at the time bonds are issued.
9. All public infrastructure within the PID that is to be reimbursed must include a minimum of three (3) bidders approved by the City and the Developer.

10. All Developers and significant landowners will provide any required continuing disclosure obligations associated with the issuance of PID bonds as required under the Indenture or any other regulatory agreement or regulatory agency.
11. All construction of improvements is subject to City review and provision shall be made for dedication to City or to another appropriate entity.
12. The City will work in good faith to issue PID bonds within 12 months from the date of the resolution creating the PID.
13. Qualified Tax-Exempt Status. In any calendar year in which PID Bonds are issued, the Developer agrees to pay the City additional costs ("Additional Costs") the City may incur in the issuance of City obligations (the "City Obligations") as described in subsequent Financing Agreements if the City Obligations are deemed not to qualify for the designation of "qualified tax-exempt obligations" ("QTEO") as defined in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, as a result of the issuance of PID Bonds by the City in any given year.
14. The Developer must agree to pay bond closing costs out of bond proceeds upon closing. Bond closing costs are those Closing costs set out in the Professional Services Agreement, or costs that include City's PID Administrator, bond counsel, city attorney, underwriter, the trustee, financial advisors and other parties as needed.

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. No Liability of City or Public Officials. Neither the City, a public official, employee, or representative shall be responsible for any liability arising under or growing out of any approved PID. Any obligation or liability of the Developer whatsoever that may arise at any time under the approved PID or any obligation or liability which may be incurred by the Developer pursuant to any other instrument transaction or undertaking as a result of the PID shall be satisfied out of the assets of the Developer only and the City shall have no liability.