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Adoption of Public Improvement District Policies

Author Contact Information:

Dorothy Palumbo

Partner

Bojorquez Law Firm, PC

11675 Jollyville Road, Suite 300

Austin, Texas 78759

dottie@texasmunicipallawyers.com

512.250.041

Introduction

Public Improvement Districts (PIDs), per the Texas Local Government Code Chapter 372, (“PID Act”) provide cities and counties an economic development tool that permits the financing of qualified public improvements which provide a special benefit on a definable part of the City, including both within the city limits and the 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 PID who receive special benefits from the capital improvements or services. This paper will focus on PID Policies and guidelines within the policies that promote the interests of the city or county and that confer a special benefit on a definable part of the city or county.

What is a PID Policy?

PID Policies provide guidance for the creation of a PID. PID Policies generally include a statement of purpose, general requirements, PID Petition requirements, Development Agreement requirements, benefits to the community, Extraterritorial Jurisdiction (“ETJ”) requirements, preferential requirements, petition processing requirements, notice, public hearing, and PID Petition approval procedures, financial limitations, and performance standards, qualified tax-exempt requirements, PID administration and management and miscellaneous requirements for auditing, indemnification, and insurance.

Policies reflect the city or county’s mission and vision and comply with federal and state laws. If there is a discrepancy between a policy or administrative process or procedure and the code of ordinances of a city, the Ordinances will take precedence.

Statements of Purpose or Overview

Statements of Purpose or Overview paragraphs in a PID Policy generally are tied to the legal requirement that the PID promotes the interests of the city or county and that confers a special benefit on a definable part of the city or county. A sample statement of purpose is below:

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 (“Chapter 372”).

If the City Council finds that the PID promotes the interests of the municipality, the City Council may undertake an improvement project that confers a special benefit on a definable part of the municipality or the municipality’s Extraterritorial Jurisdiction, (“ETJ”).¹

¹ Tex.Loc.Gov’t.Code § 372.003.

General Requirements

PID Policies may have a provision for general requirements as follows:

1. A PID may be created and utilized to construct qualified public improvements and/or reimburse a developer's actual and documented costs of standard infrastructure. A PID shall be structured with a strong preference for promoting enhanced infrastructure and improvements to serve the development.
Comment: May want to use the term, Authorized Improvements.²
2. A PID 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.
Comment: PID Authorized Improvements with CIP Project, Impact Fee projects.
3. A PID must be established carefully and only when related to a public purpose to avoid a proliferation of special districts.
Comment: Coordinate with other special districts, for example: Use of PID/TIRZ instead of MUD.
4. Priority will be given to PID developments. See, **Preferential Requirements**, Below.
5. A proposed PID shall be located entirely within the City limits or in the City's Extraterritorial Jurisdiction ("ETJ") before consideration will be given to establishing the PID. The City will only consider the creation of a PID that consists of or includes land in the City's ETJ if such property is subject to a development agreement or other binding plan for the voluntary annexation of all land within the PID with a schedule for annexation agreed to by the City.
6. PID petition signatures shall reflect that a reasonable attempt was made to obtain the full support of the PID by the taxable property owners located within the proposed PID. See also, **Petition Requirements**, below.
7. The proposed PID budget shall include sufficient funds to pay for all costs, including but not limited to all administrative, legal, and/or operational costs associated with the administration, management, audit, disclosure, and reporting of the PID.
8. Any requested adjustments and/or deviations from the terms and conditions of the Policy shall be clearly requested and explained in, or submitted prior to or with, the PID petition for that PID. Any adjustments or deviations to be granted shall be at the sole discretion of the City Council.
9. Property owned by the City, applicable school district, and/or the County that are in the boundaries of the PID shall not be subject to a PID assessment.
10. The City reserves the right and shall select and retain the services of any professionals and/or consultants in association with the creation and administering of the PID including but not limited to legal advisor, financial advisor, bond counsel, underwriter, trustee, PID administrator, and appraiser.
11. A landowner's agreement shall be recorded in the Official Public Records of the County which, among other things, notifies any prospective owner of the existence of PID assessments on the property.

² Tex.Loc.Gov't.Code § 372.003(b)(1)-(15)

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