



# Policy and Guidelines for Reimbursement Public Improvement Districts

## I. OVERVIEW

Public Improvement Districts (PIDs) provide a development tool that allocates costs according to the benefits received. A PID can provide a means to fund improvements to meet community needs which could not otherwise be constructed or provided and be paid by those who most benefit from them.

Reimbursement PIDs are development financing tools authorized pursuant to Chapter 372 of the Texas Local Government Code, which the developer funds infrastructure and the issuer agreement to provide reimbursements to the developer, including through the issuance of debt obligations secured by and payable from PID assessments ("PID Bonds"), after key benchmarks are met.

Under current State Law, a PID is a defined area of properties, whose owners have petitioned the City to form a PID. City Council establishes a PID by adoption of a resolution after a public hearing. The public hearing is publicized 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 enhanced services and/or improvements within the PID. The PID must demonstrate that it confers an extraordinary benefit, not only to the properties within the PID, but also to the "public" which includes the entire City. The benefit should be above and beyond typical improvements and amenities to justify the City's involvement.

The purpose of the PID policy is to outline the issues to be addressed before the City Council

can support the establishment and continuation of a PID. 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.

Before consenting to the creation of a PID, the City Council will consider whether the creation of the PID is feasible, practicable, and necessary for the provision of the proposed services and would be a benefit to the land by producing a development that exceeds minimum development standards, and therefore warrants the City's consent, consistent with the other considerations in this policy.

## II. **COMMUNITY BENEFITS**

Subject to the requirements of this policy, the City Council will prioritize approval of petitions for PIDs supporting real estate development projects that provide for the following public benefits to a degree that is superior to the level of community benefits typically generated by real estate development projects not involving PID financing. Such benefits include, but are not limited to, the following.

1. **Quality Development.** The development meets or exceeds the intent of the development, infrastructure, and design standards of City codes;
2. **Extraordinary Benefits.** The development provides extraordinary public benefits that advance the vision and goals of the Comprehensive Plan, such as, but not limited to, extension, financial contribution, and/or enhancement of master planned infrastructure, diversity of housing, and enhanced parks, trails, open space, and recreational amenities that are available to the public;
3. **Enhance Public Service and Safety.** The development enhances public services and optimizes service delivery through its design, dedication of sites, connectivity, and other features.
4. **Fiscally Responsible.** The development is financially feasible, doesn't impair the City's ability to provide municipal services, and would not impose an undue financial burden on the citizens;
5. **Finance Plan.** The developer(s) contributes financially to cover a portion of infrastructure expenses without reimbursement by the PID or the City and as reflected in conditions placed on the issuance of PID Bonds;
6. **Annexation.** A proposed PID must be located within the City Limits. The City will not consider the creation of a PID where any portion of the property is located in the City's extra-territorial jurisdiction.

It is not necessary that all community benefits be funded by PID assessments. If a community benefit is not eligible for PID financing based on section 372.003, Local

Government Code, the petitioner must demonstrate sufficient funding of the benefit from other sources.

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.

### III. GENERAL

#### 1. PID Services and Improvements:

- a. PID assessments may only be used to serve or improve public property and may not be used to benefit or enhance private property. Listed below are services and improvements which Georgetown's PIDs may provide or maintain. Other improvements allowed by statutes will be reviewed and considered individually by the City.
  - i. Improved landscaping and irrigation;
  - ii. Enhanced entry features;
  - iii. Installation of fountains, distinctive lighting, and signs;
  - iv. Installation of art or decorations;
  - v. Construction or improvement of pedestrian trails and sidewalks;
  - vi. Establishment or improvement of parks and recreational amenities;
  - vii. Enhanced regional infrastructure improvements; and
  - viii. Construction of off-street parking facilities
- b. Listed below are services and improvements which Georgetown PIDs may not provide or maintain:
  - i. Swimming pools;
  - ii. Travel expenses;
  - iii. Perimeter fencing;
  - iv. Acquisition; construction, improvement or maintenance of privately owned facilities or land; and
  - v. Any trails, parks, streets, or other public amenities that are located within a gated community or otherwise inaccessible location may not be funded or reimbursed by the PID.
- c. 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.
2. PIDs must be established carefully and only when related to a public purpose to avoid a proliferation of special districts.
  3. 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.
  4. 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.
  5. 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.
  6. Anyone selling land in a PID 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.
  7. A PID may not overlap the boundaries of another PID.
  8. Development of property within the PID may not require variances from applicable development regulations that result in a significantly lower standard of development.
  9. The City will authorize PID Bond proceeds only to reimburse the costs of PID improvements that have been designed and constructed to the City standards.
  10. For a residential PID, the City Council will look more favorably on a petition where the developer of a new subdivision has put in place an active homeowner's organization.
  11. If multi-family rental units are included within the proposed assessments, all of the multi-family assessments must be prepaid by either the developer or builder, and such assessments and prepayment amounts thereof shall be excluded any reimbursements to the developer, including from PID Bonds.
  12. The annual assessment to property owners within the PID shall be no more than the equivalent of a \$0.55 per \$100 tax rate on the assessed value of their property.
  13. The proposed development must be consistent with the entitlements on the property. All required zoning, other required land use approvals or other required permits must be in place for the development prior to the levy of PID assessments.
  14. PID Administration is addressed in a separate policy.
  15. All PID agreements between the City and the developer shall include language satisfactory to the City indemnifying the City and its officials, employees and representative.
  16. 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.
17. 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.
  18. The developer shall not have the right under any PID related agreement with the City to transfer or assign its reimbursement rights such that they may be pledged to the payment of debt service on public securities issued by any state of the United States or any political subdivision thereof without the approval of the City.
  19. 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. The PID administrator will be required to review and comment on the budget and to attend the annual public hearing regarding the Service and Assessment Plan. Contracting with a third party PID administrator 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.

#### **IV. PID APPLICATION REQUIREMENTS**

In accordance with Texas Local Government Code Section 372, a PID Petition must state:

1. The general nature of the proposed amendments;
2. The estimated cost of the improvements;
3. The boundaries of the proposed PID;
4. The proposed method of assessment, which may specify included or excluded classes of assessable property;
5. The proposed apportionment of cost between the PID and the municipality or county as a whole;
6. How the PID will be managed;
7. That the persons signing the petition request or concur with the establishment of the PID;
8. That an advisory body may be established to develop and recommend and improvement plan to the governing body; and
9. Evidence that the petition's signatures meet the state law requirements or the petition will be accompanied by a reasonable fee (as determined by the City and in addition to the required application fee) to cover the city costs of signature verification. If the proposed PID is an expansion of an existing PID, a petition for the new portion of the PID must identify each subdivision, or portion thereof, within the

proposed boundaries of the new PID, 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.

Before the City will consider a PID, the petitioners must provide the following for evaluation:

1. Identification of the benefit of the PID to the affected property owners and to the city as a whole (i.e., public purpose).
2. Map of the area, description of the boundaries of the PID for the legal notices and a "commonly known" description of the area to be included in the PID.
3. Description of all city-owned land within the PID. 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 interlocal agreement between the entity and the City.
4. "Market Feasibility Study" - The petitioner must provide evidence of the feasibility of the real estate development project and the PID, taking into account both the market for the proposed product types and the petitioner's capacity to deliver the project. The feasibility study should also include a comparison of the combined PID assessment and ad valorem tax burden on owners in nearby developments. The feasibility study must be prepared externally by a third party that is approved by the City.
5. Assurance of long-term backing and support, which will include the financial plan and build out/phasing forecasts. If proposing reimbursements through PID Bonds, the value to lien ratio should be a minimum of 4:1.
6. Contingency Plan to address the maintenance or disposition of PID improvements and or property that has not been dedicated to the public if a PID is dissolved.
7. Sunset clause or procedures outlined for public review of the success of the PID and a determination of property owners whether to continue with the PID or dissolve it; provided that if dissolved the PID must remain in effect for the purpose of meeting obligations of indebtedness for improvements as required by state law.
8. Specified assurances to the City that the construction of improvements in the public right-of-way will be maintained by the PID and in no way obligates the City to future maintenance or operational costs, unless otherwise stated in a subsequent agreement.

In addition, the following must be addressed before the City Council will take action on a petition:

1. A non-refundable "application fee" of \$20,000 will be paid by the applicant to reimburse the City for the cost of evaluating the petition. If City costs exceed the initial fee, the developer shall replenish the account with an additional deposit.
2. A Professional Services Agreement will be entered into that outlines the responsibilities of the City and the developer.
3. The petitioner must agree to reimburse the City or directly pay for the City's administrative 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, disclosure counsel, financial advisors and any other consultant selected by the City to assist the City in a PID-related matter.

#### **V. BOND SIZE LIMITATIONS AND FINANCING CRITERIA**

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

1. The minimum appraised value to lien ratio at date of each PID Bond issue shall be 4:1. The City in its sole discretion may require 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. Maximum maturity for each series of PID Bonds (to extent allowed by law): 25 years from their date of issuance
3. The last PID Bond issuance for a PID shall be not later than the date that is ten (10) years after the date of the first PID Bond issuance for that PID.
4. The aggregate principal amount of PID Bonds required to be issued shall not exceed an amount sufficient to:
  - a. reimburse the actual costs of the qualified PID improvements;
  - b. fund required reserves;
  - c. capitalized interest to the extent determined by the City in its sole discretion to be appropriate, if any, but not more than 12 months after the completion of construction; and
  - d. pay any costs of issuance, arbitrage, administrative fees, third party fees, or other costs related to issuance.
5. Any PID Bonds issued must include a reserve fund funded from proceeds of such PID Bonds at the time of issuance. Refunding PID Bonds may satisfy this requirement in cases where an existing reserve fund is transferred to the refunding PID Bonds. All PID Bond reserve funds at the time of issuance shall be in an amount equal to the lesser of:
  - a. The maximum annual debt service on the PID Bonds;
  - b. 10 percent of the PID Bond proceeds; or

- c. 125 percent of the average annual debt service on the PID Bonds.
6. The City will apply to PID Bonds the same post-issuance compliance requirements the City applies to its general obligation and certificate of obligation debt.
7. Failure by the developer to timely submit required continuing disclosure filings will be deemed a breach under any PID development, reimbursement or financing agreement with the City.
8. Before the City will levy a PID assessment or authorize issuance of PID Bonds, the petitioners and the City must enter into a PID Development Agreement that establishes:
  - a. the basic terms and conditions for creation of the PID, including the provision of community benefits and compliance with the requirements of this policy;
  - b. payment or reimbursement to the City of both the City's one-time and ongoing administrative and operational costs;
  - c. the financing of the PID improvements and the payment of assessment revenue or PID Bond proceeds to reimburse the costs of the PID improvements;
  - d. the planning, development, construction, management, and maintenance of the PID improvements;
  - e. terms and conditions for ongoing PID administration, operation, and management, including collection of PID assessments; and
  - f. any services to be funded by the PID.
9. Prior to levy of special assessments and issuance of PID Bonds the developer must be current on all taxes, assessments, fees and obligations to the City (i.e., City required improvements, utility agreements, including information required for timely disclosures as required by the applicable continuing disclosure agreements, etc.).
10. Prior to the issuance of PID Bonds, the City must have (1) confirmed the PID improvements to be reimbursed have been completed in accordance with all applicable design and construction requirements, including City codes and any PID related agreements between the City and the developer (2) accepted such improvements. As a condition to the City's acceptance of a PID improvement, the developer shall provide the City with an assignment of the warranties and guaranties, if applicable, to those improvements and a two year maintenance bond, all in a form reasonably acceptable to the City. The developer must also submit to the City for verification all invoices and other supporting documentation clearly evidencing the actual costs of the PID improvements to be reimbursed.
11. The City, in its sole discretion, will select the members of the financing team for the issuance of PID Bonds, including the underwriter(s) for the PID Bonds.

12. The 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.
13. In the event that issuance of PID Bonds in a calendar year causes other City debt issuances not to qualify as "qualified tax-exempt obligations" under section 265(b)(3) of the Internal Revenue Code of 1986, as amended, the developer will be required to pay the additional costs of the City incurred as a result thereof.

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

1. The property owner/developer must demonstrate to the City that it has the expertise to complete the new development that the PID will support.
2. 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.
3. The PID Financing Agreement (or other application PID documentation) 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).
4. PID Bonds will only be issued to reimburse the property owner/developer for costs already incurred.