

TCAA Best Practices Workshop: PID Basics

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Overview

- What is a PID?
- What is the difference between a PID and a MUD?
- What are the steps to create a PID?
- What types of projects are allowed in a PID?
- Who are the participants in a PID?
- What issues should be considered?
- What are the advantages/disadvantages?

What is a PID?

- A PID is a special purpose district created under TLGC Chapter 372.
- Contiguous area of land created by Petition of land owner to a City or County.
- Within the area of land, property owners pay a special assessment for improvements in the area.
- A PID is not a political subdivision

Difference between a PID and a MUD

- A PID is created by the City or County and is governed exclusively by the City or County
- The City or County has no legal liability to pay the assessments
- Bonds are sold on a negotiated basis; are not voted; may be sold prior to any development; and are issued by the City or County
- An election is not required to approve PID Bonds

MUDs

- Created by petition to TCEQ;
- If in ETJ of a City, must have consent
- Political subdivision
- May issue debt for water, sewer, drainage or roads
- May levy a maintenance and unlimited debt tax
- MUD may issue bonds backed by revenues or ad valorem taxes
- Must receive approval from TCEQ to sell debt; bonds sold at competitive sale; voted by residents of MUD; sold as property develops (first issue once value created)

Steps to Create a PID

- Petition
- City Council May Make Findings
- Advisory Body
- Feasibility Report
- Mailed Notice to Property Owners
- Public Hearing to Create the PID
- Resolution Authorizing the PID

Steps to Create PID, Continued

- Five Year Service Plan
- Determination of Assessment
- Published Notice on Assessment Role
- Public Hearing on Assessment Role
- Levy of Assessments
- Additional Issues Regarding Assessments
- PID Bonds
- Construction of Improvements

Projects allowed in a PID

- Landscaping;
- Erection of fountains, distinctive lighting, and signs;
- Acquiring, constructing, improving, widening, narrowing, closing or rerouting of sidewalks or of streets or other roadways or rights of way;
- Construction or improvement of pedestrian malls;
- Acquisition and installation of pieces of Art;
- Acquisition, construction or improvement of libraries, off-street parking facilities, mass transit facilities, water, wastewater, or drainage;
- The establishment or improvement of parks;
- Projects that are similar to those listed above;

Authorized projects, Continued

- Acquisition by purchase or otherwise of real property in connection with authorized improvements;
- Special supplemental services for improvement and promotion of the district; including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation and cultural enhancement;
- Payment of expenses incurred in the establishment, administration and operation of the district; and
- Development, rehabilitation or expansion of affordable housing. TLGC 372.003(b)(1)-(14).

Steps to create a PID

- Petition filed with the City Secretary signed by owners of 50% of the taxable real property of the area proposed for the PID.
- Record owners of real property who:
 - Constitute more than 50% of all record owners with property that will be liable for the assessments; or
 - Own taxable real property that constitutes more than 50% of the area of all taxable real property liable for the assessment. TLGC 372.002.

Petition Requirements

- General nature of the proposed improvement;
- Estimated cost of the improvement;
- Boundaries of the proposed assessment district;
- Proposed method of assessment, specify included or excluded classes of assessable property;
- Proposed apportionment of cost between the PID and city or county;
- Proposed management of the district;
- Person signing concurs with the creation of the district; and
- Advisory body may be established to develop and recommend an improvement plan to the city or county. [TLGC § 372.005(a)(1)-(8)]

City Council may make findings

If Petition meets the statutory requirements, City Council may make findings by resolution:

- The advisability of the proposed improvement;
- Estimated cost, method of assessment; and
- The apportionment of cost between the PID and the City. TLGC 372.010(a).

Feasibility Report

- The City Council may *but is not required* to use the services of municipal employees or consultants to prepare a feasibility report to determine whether the improvement should be made as proposed in the Petition or whether the improvement may be made in combination with other authorized improvements.
- City Council may require a preliminary estimate of the cost of the improvement or combination.
- Allows the City Council to take steps before the public hearing before creating a PID or entering into a contract.
[TLGC § 372.007]

Advisory Body

- City Council may *but is not required* to create advisory body.
- If the City Council creates an Advisory Body, it must include the Record owners of real property determined by the current roll of the appraisal district where the property is located who:
 - Constitute more than 50% of all record owners with property that will be liable for the assessments; or
 - Own taxable real property that constitutes more than 50% of the area of all taxable real property liable for the assessment. [TLGC § 372.009(c)]

Notice of Public Hearing to Create the PID

- Must be published in a newspaper of general circulation in the city and must be published at least 15 days before the date of the public hearing.
- If located in the extraterritorial jurisdiction (ETJ) or if any part of the improvement are to be undertaken in the ETJ, the notice must also be published in a newspaper of general circulation in the part of the ETJ in which the district is to be located or in which the improvements are to be undertaken. [TLGC § 372.009(c)]

Notice of Public Hearing to Create the PID

The published notice must contain the following:

- the time and place of the hearing;
- the general nature of the proposed improvement;
- the estimated cost of the improvement; the boundaries of the proposed assessment district; the proposed method of assessment; and
- the proposed apportionment of cost between the public improvement district, and the City as a whole. [TLGC § 373.009(c)]

Mailed Notice to Property Owners to create the PID

Written notice of the public hearing on the proposed public improvement district must also be mailed before the 15th day before the date of the public hearing. The notice must be addressed to “Property Owner” and mailed to the current address of the owner, as reflected on tax rolls, of property subject to assessment under the proposed public improvement district. [TLGC § 372.009(d)]

Public Hearing to Create the PID

- The City must conduct a public hearing on the proposed public improvement district.
- The public hearing may be adjourned from time to time until the City Council (or county commissioners court where the PID is created by the county) makes findings by resolution as to the advisability of the improvement; the nature of the improvement; the estimated cost of the improvement; the boundaries of the public improvement district; the method of assessment; and the apportionment of costs between the district and the municipality or county as a whole. [TLGC § 372.009(a) and (b)]

Resolution Authorizing the PID

Within six months after the conclusion of the public hearing, the City Council may authorize the public improvement district provided a majority vote of all members of the City Council approves a resolution authorizing the district in accordance with its finding as to the advisability of the improvement. [TLGC § 372.010(a)]

Note: The authorization takes effect when it has been published one time in a newspaper of general circulation in the City. If any part of the public improvement district is located in the City's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the City's extraterritorial jurisdiction, the authorization does not take effect until the notice is also given one time in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the public improvement district is located or in which the improvements are to be undertaken. [TLGC § 372.010(b)]

Five-Year Service Plan

- Advisory body shall prepare an ongoing service plan and present the plan to the City Council for review and approval.
- The City Council may assign responsibility for the plan to another entity in the absence of an advisory body.
- The service plan must cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements.
- The service plan is required to be reviewed and updated annually for the purpose of determining the annual budget for improvements.
[TLGC § 372.013]
- An assessment plan must be included in the annual service plan.
[TLGC § 372.014]

Determination of Assessment

The City Council shall apportion the cost of an improvement against property within a PID. The apportionment shall be made on the basis of special benefits accruing to the property because of the improvement.

State statute provides that the cost of the improvements may be assessed in the following manner:

- equally per front foot;
- equally per square foot;
- according to the value of the property as determined by City Council, with or without regard to any improvements to the property; or
- any other manner that results in imposing equal shares of the cost on property similarly benefitted. [TLGC § 372.015(b)(1)-(3)]

Published Notice on Assessment Roll

- After the total cost of an improvement is determined, the City Council is required to prepare a proposed assessment roll.
- The roll must state the assessment against each parcel of land in the PID, as determined by the method of assessment chosen by the City.
- The City Council is required to file the proposed assessment roll with the City Secretary.
- The proposed assessment roll is subject to public inspection.
- The City Council shall require the City Secretary to publish notice of City Council's intention to consider the proposed assessments at a public hearing. The notice must be published in a newspaper of general circulation in the City before the 10th day before the date of the hearing. The notice must state: (1) the date, time, and place of the hearing; (2) the general nature of the improvement; (3) the cost of the improvement; (4) the boundaries of the assessment district; and (5) that written or oral objections will be considered at the hearing. [TLGC § 372.016]

Public Hearing on Proposed Assessment Roll

- The City Council is required to consider the proposed assessment roll at a public hearing. At or on the adjournment of the public hearing on the proposed assessments, the City Council must hear and pass on any objection to a proposed assessment. The City Council may amend a proposed assessment on any parcel.
- After all objections have been heard, the City Council by ordinance can levy the assessment as a special assessment on the property, and is required to specify the method of payment of the assessment.
- The City Council may provide that assessments be paid in periodic installments; however, the installments must be in amounts necessary to meet annual costs for improvements and must continue for a period necessary to retire the indebtedness on the improvements. [TLGC § 372.017(b)]. The assessments remain in place until there is no longer outstanding PID Bonds.

Construction of Improvements

- Actual construction of the public improvements may not begin until after the 20th day following the date the resolution takes effect.
- Construction of the public improvements may not begin if during the 20-day period a written protest is signed by at least two-thirds of the owners of record of property within the improvement district or by the owners of record of property comprising at least two-thirds of the total area of the district.
[TLGC § 372.010(c)]

: ISSUES TO CONSIDER

1. An assessment bond creates a lien upon the land that requires payment by the landowner
2. Assessments will need to be explained to end users, pass-through payor (ongoing disclosure)
3. Debt MAY be deemed on balance sheet by auditors
4. Since the bonds are non-rated, interest rate will most likely exceed political subdivision's rated bond
5. Relatively new to the State of Texas and there are challenges with on-going administration of the PID
6. Scrutiny by the Underwriter and prospective bondholders during the due diligence process
7. Ongoing, continuing disclosure requirements for large land owners
8. Forces a continued "partnership" between the City and developer or subsequent owners
9. Formation, execution, and on-going administration will require time and resources
10. Perception in the financing community – the political subdivision actually issues the bonds and approves construction fund draws, which may establish additional scrutiny on the political subdivision
11. Political risk – perception of providing bond financing to a project without voter approval
12. No direct financial obligation to the political subdivision, but still an obligation
 - Creation
 - Administration
 - Enforcement – Collection & Foreclosure
 - Overlapping debt burden
 - Oversight and scrutiny by municipal regulatory agencies

PID Policies

- Limitation on the size
- Limitations on the PID assessment
- Limitations on tax assessment terms
- PID administration
- Financing guidelines
- Bond size and Developer interest
- Criteria for Projects
- Application and Review Process
- Requirements of TLGC Chapter 372

Examples of PIDs

- Town of Trophy Club PID No. 1
- Town of Flower Mound – River Walk PID
- Waterman PID – Galveston
- City of Celina – Texas Lakes at Mustang Ranch PID

Questions



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