

RESOLUTION NO.R24-10

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TAYLOR,
TEXAS, ADOPTING A PUBLIC IMPROVEMENT DISTRICT POLICY;
AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Chapter 372 of the Texas Local Government Code allows for the creation of public improvement districts; and

WHEREAS, the City Council desires to adopt a Public Improvement District ("PID") policy outlining the issues to be addressed before the City Council can authorize the creation of a PID;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAYLOR, TEXAS, THAT:

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Taylor, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Section 2. The Public Improvement District Policy, attached hereto as **Exhibit A**, is hereby adopted and approved.


Section 3. Should any portion or part of this Resolution be held for any reason invalid or unenforceable by a court of competent jurisdiction, the same shall not be construed to affect any other valid portion hereof, but all valid portions hereof shall remain in full force and effect.

Section 4. This Resolution shall be in full force and effect from and after its passage.

Section 5. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

PASSED THIS THE 14 DAY OF March, 2024.

CITY OF TAYLOR, TEXAS


By: Brandt Rydell
Its: Mayor

ATTEST:

By: 
Dianna McLean, City Clerk

APPROVED AS TO FORM:

By: 
Mark J. Schroeder, City Attorney

Exhibit "A"

Policy and Guidelines for 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.

The City's policy is to allow the use of Reimbursement PIDs which are development financing tools authorized pursuant to Chapter 372 of the Texas Local Government Code, through which the developer funds infrastructure and the issuer agrees 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, development of Employment Centers as identified in the Comprehensive Plan, 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 at the time the PID is created. 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 at the time the PID is created.

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 Taylor'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 and bicycle 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
- ix. Thoroughfares on the City's transportation plan.
- x. Public improvements as identified in City Master Plans providing community benefit(s) beyond the boundaries of the applicant's development.

b. Listed below are services and improvements which the City 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.
- vi. Any improvements and costs associated therewith solely benefiting the applicant's development.

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. The annual assessment to property owners within the PID shall be no more than the equivalent of a \$0.90 per \$100 tax rate on the assessed value of their property, without consideration of another financing vehicle like a Tax Increment Reinvestment Zone (a "TIRZ." The City discourages the use of ad valorem tax dollars to support a PID, and as such, will not consider a TIRZ overlay.

11. 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.

12. All PID agreements between the City and the developer shall include language satisfactory to the City indemnifying the City and its officials, employees and representatives.

13. 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.

14. 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.

15. 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.

16. 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, as may be amended from time to time, 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 an 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.
10. Any other items or information that may be required by Texas law at the time a PID Petition is presented to the City for consideration.

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 similar 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 3:1. The City Council may consider lowering the value to lien ratio, but in no case can it be below 2:1 based on an appraisal provided by a City-approved appraiser.
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 PID-funded 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", the amount of which is established in the City's adopted fee schedule, 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 make additional payments to the City as needed to cover the City's costs associated with the review and creation of the PID.
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 and 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 issue approved by the City:

1. The minimum appraised value to lien ratio at date of each PID Bond issue shall be 3:1. 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): 20 years from their date of issuance. The City may consider a longer maturity, but in no case shall the maturity exceed 30 years.
3. The last PID Bond issuance for a PID shall be not later than the date that is five (5) 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 if applicable. 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. Exceptions to this requirement may be considered for applicants that have demonstrated the ability to successfully fulfill their obligations under prior PID agreements within the City of Taylor.