



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 55
AGENDA DATE: Thu 12/01/2005
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SUBJECT: Conduct a public hearing and approve an ordinance on the Downtown Austin Public Improvement District (PID) 2006 assessments, adopting the assessment roll and levying assessments

AMOUNT & SOURCE OF FUNDING: Funding at the approved 2006 assessment rate of \$0 10/\$100 valuation is estimated to produce \$1,287,980 at a 96 24% collection rate

FISCAL NOTE: There is no unanticipated fiscal impact A fiscal note is not required

REQUESTING Economic Growth and **DIRECTOR'S**
DEPARTMENT:Redevelopment Services **AUTHORIZATION:** Sue Edwards

FOR MORE INFORMATION CONTACT: Michael Knox, Downtown Officer / 974-6415, David Lloyd, City Attorney / 974-2918

PRIOR COUNCIL ACTION: Approved 2006-07 Downtown Austin PID Service Plan and Budget and approved the 2006 PID assessment rate (\$0 10 / \$100 valuation) and proposed assessment roll on November 3, 2005

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

On November 3, 2005, the City Council approved the 2006 assessment rate for the District (at the current rate of \$0 10 per \$100 valuation), and approved the proposed 2006 assessment roll Assessments on real property fund the PID services

State law requires a public hearing by Council to consider the proposed assessments Approval of the assessment rate and proposed roll on November 3, 2005 allowed notices to be sent to property owners, giving them an opportunity to review the property valuations prior to the public hearing Property owners have a right to challenge their assessment at the hearing At the hearing, the Council must hear and pass on any objection, made orally or in writing, to any proposed assessment, prior to approval of the ordinance levying assessments and setting the method of collection and the rate of interest for late payments Approval of the assessment roll ordinance is the final Council action required in the annual process of approving PID assessments

ORDINANCE NO.

AN ORDINANCE LEVYING ASSESSMENTS FOR CALENDAR YEAR 2006 FOR PROPERTY IN THE AUSTIN DOWNTOWN PUBLIC IMPROVEMENT DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Findings: The Council finds that

- (A) Chapter 372 (*Public Improvement District Assessment Act*) of the Texas Local Government Code (Act) authorized the creation of the Austin Downtown Public Improvement District (District)
- (B) On October 24, 2002, the City Council passed a resolution, which approved the reauthorization of the District in accordance with its findings
- (C) On November 3, 2005, the City Council approved a calendar year 2006 assessment rate, proposed year 2006 assessment roll, and a Service Plan and Budget for the District
- (D) On December 1, 2005, the City Council held a public hearing, properly noticed under the Act, to consider the levy of the proposed assessments on property within the District for calendar year 2006
- (E) At the December 1, 2005 public hearing, the City Council heard each objection to a proposed assessment, found in each case that the assessments levied against each parcel are reasonable and consistent with the special benefits conferred by the District, and passed on each objection before it closed the public hearing
- (F) The assessments set out in Exhibit A, attached to and incorporated in this ordinance
 - (1) should be made and levied against the property and property owners within the District,

- (2) are in proportion to the benefits to the property for the services and improvements in the District, and
 - (3) establish substantial justice, equality, and uniformity in the amount assessed against each property owners for the benefits received and burdens imposed
- (G) In each case, the property assessed is benefited by the services and improvements provided in the District
- (H) The exclusion of certain property from assessment is reasonable because the excluded property will not receive a benefit from the District that is sufficient to justify an assessment and the exclusions promote efficient management of the District
- (I) The procedures followed and apportionment of the cost of the services and improvements in the District comply with applicable law and the purpose for which the District was formed
- (J) The assessments are based on the Travis Central Appraisal District appraised value of property within the District

PART 2. Exemptions and Exclusions. The Council exempts the following from payment of the assessment and excludes from the assessment roll

- (A) City property used for a public purpose,
- (B) property owned by the County, or a political subdivision of the State of Texas and used for a public purpose,
- (C) property exempt from taxation under Section 11.20 (*Religious Organizations*) of the Texas Property Tax Code,
- (D) property used exclusively for school purposes, as identified by the Travis Central Appraisal District records,
- (E) property owned by an association engaged in promoting the religious, education, and physical development of boys, girls, young men or young women operating under a state or national organization and used exclusively for such purpose, including property owned by the Austin Independent School District,
- (F) property owned by an institution of purely public charity, as identified by the

Travis Central Appraisal District records,

- (G) property used primarily for recreational, park, or scenic purposes during the calendar year immediately preceding the effective date of this ordinance,
- (H) property owned by a utility that is located in a public street or rights-of-way,
- (I) property used as a residence that fits the definition of a homestead in Section 41.002 (*Definition of Homestead*) of the Texas Property Code,
- (J) any hospital, and
- (K) the first \$500,000 in valuation of property liable for assessment

PART 3. Historic Property. Property designated by the City as "IT" Historic is assessed on the basis of the reduced value provided by the formula in City Code Section 11-1-22 (*Determination of Exemption Amount*)

PART 4. Assessment and Levy. The assessments shown on Exhibit A are levied and assessed against the property in the District and against the record owner of the property identified by the Travis Central Appraisal District records

PART 5. Liability of Multiple Owners. Each owner of property in the District owned by two or more individuals or entities is personally liable for the amount of the assessment equal to the share of the total assessment against the property based on the owner's partial interest in the total property ownership. A property owner's interest in property may be released from an assessment lien if the owner pays the owner's proportionate share of an assessment

PART 6. Interest and Lien.

(A) An assessment shown on Exhibit A

- (1) accrues interest at the rate of 0% from the effective date of this ordinance until February 1, 2006,
- (2) accrues interest, penalties, and attorney's fees in the same manner as a delinquent ad valorem tax after February 1, 2006, until paid, and
- (3) is a lien on the property shown in Exhibit A" and the personal liability of the property owner

(B) A lien executed under this ordinance is the first enforceable lien and claim

against the property on which an assessment is levied, and is superior to all other liens and claims except a state, county, school district, or City ad valorem tax

PART 7. Due Date and Collection. An assessment is due and payable in full on or before February 1, 2006. If a property owner defaults on payment of an assessment against the owner's property, the city manager may file suit to collect the assessment and may initiate a lien foreclosure, including interest, penalties, costs and attorney's fees

PART 8. Statutory Authority. The assessments levied by this ordinance are made under the authority of Chapter 372 (*Public Improvement District Assessment Act*) of the Texas Local Government Code

PART 9. Reassessment.

- (A) If the Travis Central Appraisal District's appraised value of property in the District is reduced by a court order, from which appeal has been exhausted, or by a final settlement or appeal process of the Travis Central Appraisal District, the City Manager shall reduce the assessment on the property, under Section 372.020 (*Reassessment*) of the Texas Local Government Code
- (B) The City Manager shall reimburse a property owner with the amount of an assessment paid to the City that is excessive due to the reduction in the Travis Central Appraisal District's appraised value of the property, plus interest on the excess payment at the rate of 1 75% per annum

PART 10. Severability. The provisions of this ordinance are severable. If any provision of this ordinance or its application to a person or circumstance is held to be invalid, the invalidity does not affect other provisions or applications of this ordinance

PART 11. This ordinance takes effect on _____, 2005

PASSED AND APPROVED

_____, 2005 § _____
 §
 § Will Wynn
 § Mayor

APPROVED: _____

ATTEST: _____

David Allan Smith
City Attorney

Shirley A. Brown
City Clerk