



TO: Mayor and Council Members

CC: Marc A. Ott, City Manager

FROM: Elaine Hart, Chief Financial Officer, City of Austin *Elaine Hart*

DATE: August 26, 2016

SUBJECT: Staff Recommendation re Creation of WildHorse Public Improvement District

This memo provides additional information as requested during staff's August 9, 2016 briefing on the Travis County WildHorse Public Improvement District (PID). Travis County approved creation of the WildHorse PID on August 9th beginning a thirty day period during which City Council may object to the PID's creation. Such objection must occur prior to September 8, 2016 in accordance with Texas Local Government Code:

Ann. § 372.003(d) states that: "A county may establish a public improvement district unless within 30 days of a county's action to approve such a district, a home rule municipality objects to its establishment within the municipality's corporate limits or extraterritorial jurisdiction."

If the City objects to the PID's creation within the statutory deadline, its creation is terminated.

The purpose of this memo is to provide a staff recommendation on whether the City Council should object to Travis County's creation of the WildHorse PID. In addition, this memo provides information about four additional petitions to create PIDs received by Travis County that are located in the City's extraterritorial jurisdiction (ETJ). Travis County staff has started its due diligence on three of the four PIDs.

A briefing is scheduled for City Council's August 30th work session. Also, an agenda action item (Resolution) is posted for the City Council meeting on September 1st which, if acted upon, will meet the September 8th deadline regarding creation of the WildHorse PID.

Staff Recommendation and Options related to WildHorse PID

The following staff recommendations are specific to the WildHorse PID and should not be considered as recommendations applied across-the-board to future PIDs as each will be evaluated on a case-by-case basis.

Staff recommends that City Council approve Travis County's creation of the WildHorse PID and other provisions within the Resolution.

Funding a one-third share of WildHorse Connector Road

Staff recommends requesting an increase in the PID bond issuance amount rather than the City's issuance of certificates of obligation and proceeded to work on that option with WildHorse representatives. This preserves for the City the ability to reimburse annually over time or to issue certificates of obligation.

- **Option One** - City may request the City's share be added to the PID bond issuance amount.
- **Option Two** - City Council may approve a budget amendment to authorize funding and a related reimbursement resolution to indicate its intent to reimburse itself through future issuance of certificates of obligation.

City staff has reached agreement with WildHorse PID representatives on provisions included in the Resolution and have also informed Travis County staff. These provisions are noted below:

1. Travis County's request for City funding participation for one-third of the WildHorse Connector Road Phase 1 (estimated at \$5 million to \$7 million) shall be initially met by increasing the PID bond issuance amount.
2. Reimbursement for the WildHorse Connector Road Phase 1 shall be paid by the City over the ten year period after PID bonds are issued with a maximum reimbursement of \$7 million. Such reimbursement shall be reflected in the PID's service and assessment plan, and used to reduce the PID special assessments. The City may, at its option, prepay at any time without penalty. The source of funds for this reimbursement is the General Fund or other appropriate sources that may be identified in the future.
3. The City will begin full purpose annexation of remaining property in the WildHorse PID by December 31, 2016, so the entire PID is within the City's full purpose jurisdiction.
4. The City of Austin shall not be subject to any PID assessments.
5. The developer will provide to the City an easement of twelve developable acres for future expansion of the existing wastewater treatment plant located in the WildHorse subdivision.

Pursuant to Section 372.003(a) of the Texas Local Government Code, Travis County determined that the WildHorse PID's proposed public improvements *"promote the interests of the municipality or county"* and *"confer a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction"*.

On August 9, 2016, Travis County Commissioners approved creation of the WildHorse Public Improvement District (PID) on a vote of 3-0, with two abstentions. The WildHorse PID is the first Texas county PID created in a city full-purpose annexed area. The benefits are outlined in the attached Term Sheet between Travis County and the WildHorse PID. Key financial provisions include:

- Maximum authorized improvements of \$65,000,000 (including hard costs, soft costs, contingencies, and a construction management fee but excluding cost of PID formation and PID bond costs of issuance) for the PID over several bond issuances;
- Maximum equivalent tax rate of \$0.35 per \$100 of build out assessed value for PID annual assessments; and
- Bond terms will be negotiated at the time of issue based on current market conditions.

Travis County will approve which improvements are PID financed and will control the timing of PID formation and bond issuance(s). The PID bond issuance(s) will be submitted to the State Attorney General for approval. Disbursement of PID bond proceeds are to be controlled by the County selected Bond Trustee and authorized by County representatives after their review of cost reimbursement requests for specifically identified improvements.

Regarding the WildHorse Connector Road Phase 1, the Term Sheet between Travis County and the WildHorse PID approved by Travis County provided that funding be split one-third each between the PID, Travis County using its 2011 Voter Authorized Bonds, and the City of Austin. It noted that *"PID representatives and Travis County will work together to assist the City in identifying available financing mechanism for the City's share of costs for the WildHorse Connector"*.

During the August 9th work session, City Council raised a question about whether funding for the WildHorse Connector came up during the City's annexation process. Our records indicate that Travis County did not request City funding participation for the WildHorse Connector road project prior to or at the time the City Council was considering full purpose annexation.

The WildHorse PID meets the City's PID Policy stated objective that creating a PID should be to support superior development in the Desired Development Zone. Because using a PID to finance public improvements benefits private development, the City's policy requires such development must confer extraordinary benefits not only within the PID, but also to the community in general, in exchange for the PID bond financing.

Background of the WildHorse Ranch Development, Annexation, and WildHorse PID

The **WildHorse Ranch Development** includes 2,164 acres in eastern Travis County **in the City's Desired Development Zone**; south of U.S. Highway 290 East at the intersection of State Highway 130 and U.S. Highway 290 East. The **WildHorse PID** includes 1,600 acres of the total 2,164 acres to be developed. The property is in City of Austin District 1 represented by Council Member Ora Houston and Travis County Precinct 1 represented by Commissioner Ron Davis. See Exhibit A – Map of WildHorse PID.

In 2002, City Council approved the owner requested limited purpose annexation of the WildHorse Ranch Area adopting a Planning Study and Regulatory Plan that postponed full purpose annexation per the owner request (Ordinance 20020214-043 found at <http://austintexas.gov/edims/document.cfm?id=79839>). The developer also submitted an application for Planned Unit Development (PUD) zoning and a request for City water and wastewater services. City Council approved PUD zoning in February 2002 (Ordinance 20020214-028 for C814-00-2063 - WildHorse PUD) for the WildHorse Ranch Development, but did not require an affordable housing component. Thereafter, development of the project did not proceed as initially planned.

In 2012, when progress on the development resumed, City staff recommended full purpose annexation of the WildHorse Ranch Development as part of the following year's annual annexation program. In August 2013, the City sent notice to property owners and service providers, including Travis County, regarding annexation consistent with statutory requirements and terms of the City/County 1445 Agreement. After receiving the annexation notice, the WildHorse Ranch developer inquired about the potential impact of annexation on construction of Parmer Lane. It was determined that the Parmer Lane Participation Agreement would continue in effect after annexation and that annexation would not negatively affect Parmer Lane construction in accordance with existing agreements. To the best of our knowledge, the WildHorse Connector project was not mentioned or discussed.

In late September and early October 2013, the City conducted annexation hearings at which there were no speakers. Following the hearings, the developer contacted the City to initiate discussions regarding a PID that may accelerate construction of the WildHorse Ranch Project and to request an extended delay of annexation. The developer's PID proposal stated that *"The City shall not be obligated to provide funds for any improvement except from the proceeds of the bonds."* These discussions were preliminary in nature and ultimately full purpose annexation was approved in November 2013 as recommended (Ordinance 20131121-112 located at <http://austintexas.gov/edims/document.cfm?id=201778>). The property was undeveloped at time of full purpose annexation.

In January 2014, following the City's annexation process, Travis County Commissioner Davis sent a letter to the City Manager regarding WildHorse indicating that Travis County and WildHorse Ranch Developer had plans to construct the WildHorse Connector road project as a Public-Private-Partnership project. Travis County's share of funding for the WildHorse Connector road project was "resoundingly approved by voters" as part of Travis County's 2011 Bond Program. The letter also explained that if the WildHorse Ranch developers were unable to secure their funding share for the WildHorse Connector by December 31, 2014, Travis County's bond funds would likely be allocated to other projects. Commissioner Davis requested the City's favorable consideration of a PID to facilitate funding for the WildHorse Connector and advised of a new expectation that the City and the developer consider creating an interlocal agreement on shared funding for the WildHorse Connector.

After initially working with the City on creation of a PID, the land owners representing WildHorse Ranch in October 2015 filed a petition with Travis County to create the PID. The land owners/petitioners are Heart of Manor, L.P., Titan HOM, LLC, and Texas WH 200, LP who together own all private property within the proposed PID boundary.

Since then time, Travis County has developed and adopted a PID Policy and performed due diligence on the requested petition and developer's feasibility study. This included hiring an independent consultant to review assumptions used in the developer's feasibility study (e.g., comparison of proposed home pricing to current market values and assumed absorption rate to number of homes sold in current markets). This policy and information were considered by Travis County prior to creating the WildHorse PID.

Additional Petitions to create PIDs received by Travis County

During the August 9th work session, City Council expressed a desire for information earlier in the PID process. Travis County has received four additional petitions to create PIDs from several developers that are currently under review. The petitioners provided a written Notice of Intent to file a Petition to create a PID to Travis County with copies to the Mayor and City Manager. The following table provides a quick summary of these PID petitions and the next section will describe each proposed PID, all of which include planned subdivisions located in the City's ETJ.

Proposed PID	PID Petition Filed	Developer	Developer's Consultant	Developer's Attorney
Turner's Crossing	June 6, 2016 filed Petition. March 29, 2016 filed Notice of Intent to Petition.	The True Life Companies	DPFG, Inc. (Rick Rosenberg)	Metcalf, Wolff, Stuart & Williams (Steve Metcalfe)
Entrada	August 17, 2016 filed Notice of Intent to Petition.	Lennar	DPFG, Inc. (Rick Rosenberg)	Metcalf, Wolff, Stuart & Williams (Steve Metcalfe)
Bella Fortuna	August 17, 2016 filed Notice of Intent to Petition.	Cadence Development	DPFG, Inc. (Rick Rosenberg)	Metcalf, Wolff, Stuart & Williams (Steve Metcalfe)
Lagos	Petition as filed was incomplete.	Not available.	Not available.	Not available.

Turner's Crossing Proposed PID

A letter dated March 29, 2016 provided Notice of Intent to file a petition with Travis County to create the Turner's Crossing PID.

On June 6, 2016, Travis County was provided a petition to consider creation of the **Turner's Crossing Proposed PID**, which is located in southeast Travis County in the City's ETJ about 1.5 miles east of the intersection of IH-35 and SH-45 SE. The property is in Travis County Precinct 4 represented by Commissioner Margaret Gómez. The approximate 470 acre proposed master planned community is to be developed by The True Life Companies on land once part of the Heep Ranch. The development plan includes an estimated 1,500 single family detached homes, 660 multi-family units, and over eight acres of office and/or general commercial lease space.

Turner's Crossing will be served by Austin Water for both water and wastewater services. As a result, Austin Water will be an important participant in the review and evaluation of the proposed PID and its **possible financial and operational impact on the extension of water and wastewater service to this area**. The developer has indicated that offsite infrastructure improvements for the development include a regional lift station, about 19,650 linear feet of water lines, and an estimated 20,150 linear feet of wastewater lines.

Travis County opened the public hearing on July 26, 2016 and is currently performing its due diligence on the requested PID.

Entrada Proposed PID

On August 4, 2016, City Council set hearings for full purpose annexation of the Entrada annexation area. Entrada is adjacent to the Cantarra single family subdivision, annexed in 2015. The Entrada area is currently undeveloped and includes the Entrada subdivision (C8J-2008-0168 approved preliminary plan), an 842 small lot single family home development. City water and wastewater services will be made available for this project. If Council approves this annexation as recommended, this area will be part of the City's full purpose jurisdiction in December 2016.

On August 17, 2016, a Notice of Intent was emailed requesting that Travis County consider creation of a PID for the planned Entrada development located in the City's ETJ south of the intersection of Wells Branch

Parkway and Immanuel Road. The property is in Travis County Precinct 2 represented by Commissioner Brigid Shea.

Bella Fortuna Proposed PID

On August 17, 2016, a Notice of Intent was emailed requesting that Travis County consider creation of a PID for the planned Bella Fortuna community development located in the City's ETJ adjacent to the City's full purpose jurisdiction south of intersection of Onion Creek and Bradshaw Road. This area is currently undeveloped and includes the Bella Fortuna subdivision (C8J-03-0167 approved preliminary plan), a 415 single family home development. City wastewater service will be made available for this project. Austin Water may be able to provide water service to the tract if the developer fully complies with an executed agreement with its current water provider (Creedmoor Maha Water Supply Corporation). The future extension of Pleasant Valley Road will run through the property from north to south. The property is in Travis County Precinct 4 represented by Commissioner Margaret Gómez.

Lagos Proposed PID

Travis County staff has informed City staff that the Lagos Proposed PID petition, as filed, was incomplete and notification was sent to the petitioner. Travis County has halted work on this proposed PID.

Monitor and Report on Travis County PID Activity

City staff will continue monitoring Travis County activity regarding these PID requests, work cooperatively with Travis County staff to ensure that the City's interests and concerns are communicated, as well as provide periodic status reports to City Council.

Annexation Program

Full purpose annexation of these developing proposed PID areas is recommended to remain consistent with City policies and, based on the City's recent experiences, to mitigate issues before they materialize. When the City is the sole reviewer of development subject to city regulations, potential regulatory and policy conflicts inherent in multi-jurisdiction reviews are avoided. Annexation also ensures infrastructure installed by developers meets City standards and guarantees that sufficient and predictable revenues (via taxes and fees) are generated to maintain assets and provide service in the area.

The cost of deferring annexation based on the term of proposed PID bonds (recent proposals have PID bonds with a 30 year term) limits the City's ability to capture much of the revenue opportunity associated with projected growth. The cost to the City of a decision to delay annexation is significant and there would be little or no offset in additional revenue from the proposed development.

For any additional property to be added to the City's 2016 annexation program, the City Council would need to set the public hearings by September 22.

Review of City's Current PID Policy

As noted during the August 9th City Council briefing, I believe a critical review of the City's current policy adopted in 2008 (*Resolution 20081218-069*) is needed in light of current market conditions and our experience with PIDs since the policy was adopted. This review should be completed and revisions, if any, approved by City Council before a new City PID or new County PID is considered by City Council for approval.

A multi-department team will undertake this policy review and include, at a minimum, the departments of Finance, Law, Planning and Zoning, Development Services, Austin Water, Housing, Parks and Recreations, Public Works, and Austin Transportation. In addition to this policy work, the team will be charged with developing procedures for the review of a "Petition to Create a PID" that builds on the policy and procedures for PID bond issuance. The purpose of these procedures would be to:

- Ensure City Council's established policy is implemented in a consistent, fair, and transparent manner;
- Identify the due diligence process **prior to recommending creation of a City PID or approval (expressing no objection) of a County PID**; and
- Identify the due diligence process **prior to City PID bond issuance**

I hope this information has been helpful to you. Should you have any questions, please contact me.

cc: Assistant City Managers
Deputy Chief Financial Officers
Greg Guernsey, Director, Planning and Zoning

ATTACHMENTS:

- Exhibit A – Map of WildHorse PID Boundary.
- Travis County and WildHorse PID Term Sheet
- City of Austin's Public Improvement District (PID) Policy adopted December 18, 2008
- August 9, 2016 Work Session Briefing on Travis County Potential WildHorse Ranch Public Improvement District (PID)

**TERM SHEET
TRAVIS COUNTY, TEXAS
WILDHORSE RANCH PUBLIC IMPROVEMENT DISTRICT
8/5/16**

The following limitations and performance standards shall apply to the Wildhorse Ranch Public Improvement District ("the PID") as agreed to by Titan Capital Investment Group, LLC and its affiliates (collectively, "Titan"), and Travis County, Texas ("the County") in connection with the development of the proposed Wildhorse Ranch mixed-use master planned community ("the Project"):

COMMUNITY BENEFITS

1. **Generate Primary Employment** – The mixed use nature of the Project is expected to include more than 1,500,000 square feet of commercial and office space offering significant long-term, full-time employment opportunities.
2. **Promote Affordable Housing for Persons of Low to Moderate Income** – With over 4,300 residential units to be developed throughout the Project, Titan will provide a broad range of housing choices that will be attractive to a wide spectrum of income levels, including single family attached and detached housing for moderate income families (100%-200% MFI) and multiunit rental housing for low to moderate income families (100% MFI or below) and to work closely with the Travis County Affordable Housing Policy Committee to agree upon specific numbers of units, mix of units, income levels, and phasing. Titan will convey requirements to builders to comply with affirmative marketing practices and data collection which will be updated annually, as directed by the County. The parcel(s) of land for affordable multi-family housing development will be those determined by the parties as those most advantageous for identified affordability tools such as tax credits.
3. **Advance Approved Master Plans** – The Project furthers the Travis County Land, Water & Transportation Plan, Imagine Austin, and the Draft Austin Strategic Housing Plan.
4. **Create or Enhance Parks, Hike and Bike Trails, Recreational Facilities, Open Space** – The Project will construct improved playgrounds and playscapes along public roadways and trails that provide all-age and all-accessible public land uses, such as multi-use play fields for activities such as soccer, softball, baseball, basketball and lacrosse, as well as additional public recreational facilities such as swim centers. The project will also construct public hike and bike trails and dedicate land to the county for open space.
5. **Promote Multi-Modal Transportation Options** - The Project includes planned connections to Capital Metro routes, including the construction of joint use facilities on Titan's donation of at least 5 acres for such use. This donation will ensure an efficient transportation network while the extensive planned public trail network will provide

alternative transportation options such as bicycles and mass transit for residents and employees to move around Wildhorse Ranch and the greater community. Titan will also work with the County, the City and Capital Metro to identify additional improvements that will enhance Multi-Modal Transportation Options but will not require amendments to the existing PUD for the Project.

6. **Promote Public Education Programs and Facilities** – The planned construction of two schools within the Project’s boundaries will expand the educational options for the area and stimulate creative public uses of school facilities after hours. The Project includes the donation of land to Manor ISD for the schools.
7. **Provide Improvements to the County Public Roadway Network** – The Project will allow the construction of the Wildhorse Connector Phase 1 early in the development of the Wildhorse PID, meeting a long-term need for east/west connectivity in the eastern portion of the County. In addition, the major arterials within the development will be built to meet the requirements of Capital Metro buses.
8. **Better Builder Program** - Titan has committed to work in good faith to implement better builder program requirements for the public improvements funded by the PID bonds, including worker safety, fair wages and other related issues for the Wildhorse project. In addition, Titan will exceed those standards by implementing better builder program requirements to include the privately funded horizontal construction (roads, utilities) within the PID.

SUPERIOR URBAN DESIGN

The Project will provide superior urban design features that promote multimodal transportation, mixed income housing, and mixed-use development that creates a sense of place and raises the opportunity of the area for residents of Wildhorse Ranch and its neighbors.

PUBLIC IMPROVEMENTS

The public improvements to be funded by the PID revenue bonds, which will not exceed \$65 million over several issuances includes:

1. One-third share of the cost of the Wildhorse Connector Road plus the costs of other public roadway improvements
2. The costs of the Austin to Manor Trail for which the benefits can be allocated to the Project
3. The costs of the proposed Gilleland Creek Trail for which the benefits can be allocated to the Project
4. The cost of other public trails and parks, and 1-3 public amenity centers including features such as swimming pools or splash pads in the Project
5. Water and wastewater infrastructure that is not otherwise reimbursed by the City
6. Water quality/stormwater detention infrastructure

FINANCING CRITERIA

1. Maximum Authorized Improvements (including hard costs, soft costs, contingencies, and a construction management fee but excluding costs of PID formation and PID bond costs of issuance) for the PID over several issuances: \$65,000,000
2. Maximum equivalent tax rate per \$100 of build out assessed value for PID annual installments: \$0.35

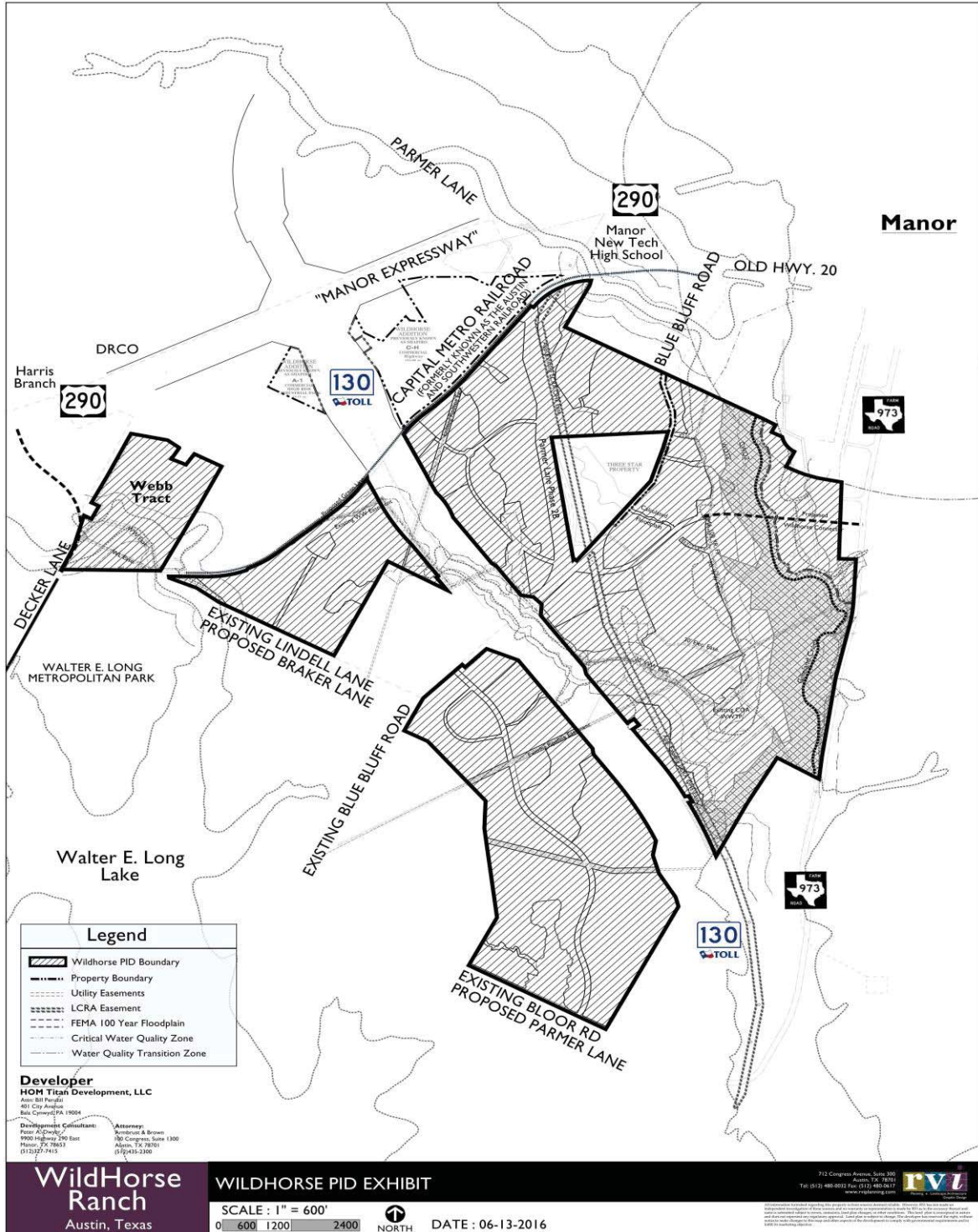
MISCELLANEOUS

1. A Service and Assessment Plan for the District must be approved by Travis County before bonds can be approved and issued by the Travis County Development Authority for the District.
2. It is agreed that the cost for the construction of the planned Wildhorse Connector Road ("the Connector") will be funded one-third by the PID funds allocable to Titan, one-third by the County using 2011 Voter Authorized Bonds and one-third by the City of Austin ("the City"). Titan and the County will work together to assist the City in identifying available financing mechanisms for the City's share of the costs for the Connector.
3. No General Obligation or Certificate of Obligation bonds will be utilized by the County to fund the PID projects except as described in #2 above.
4. The PID Bond Indenture will contain language precluding the County from making any debt service payments for the PID Bonds other than from available special assessment revenues.
5. Titan, its assignees, and the County agree that all proposed future PID bond issues, if any, will be subject to approval by the County Commissioners Court but that the terms outlined here will apply.
6. Bond terms will be negotiated at the time of issue based on current market conditions.
7. It is agreed that the improvements to be funded by the PID are limited to those defined as Authorized Improvements under Texas Local Government Code Section 372.003:
 - a) Streets and sidewalks;
 - b) Public safety and security services;
 - c) Water, wastewater, health and sanitation, and drainage facilities
 - d) Acquisition of rights of way;
 - e) Art;

- f) Creation of pedestrian malls;
 - g) Erection of fountains, lighting, and signs;
 - h) Landscaping and other aesthetics;
 - i) Library facilities;
 - j) Mass transit;
 - k) Park, recreation and cultural facilities;
 - l) Parking facilities; and
 - m) Affordable housing.
8. It is agreed that the improvements to be funded by the PID may be limited further beyond that allowed under #6 above to those specifically included in the PID agreements.
 9. Special assessments on any given portion of the property may be adjusted in connection with subsequent bond issues as long as the maximum annual assessment rate is not exceeded, and the special assessments are determined in accordance with the Service and Assessment Plan. Special assessments on any portion of the property will bear a direct proportionate relationship to the special benefit of the public improvements to that improvement area.
 10. The PID will be responsible for payment of all of the County's and Travis County Development Authority's reasonable and customary costs and expenses.
 11. It is agreed that all principal landowners will provide any required continuing disclosure obligations associated with the issuance of PID Bonds as required under the Bond Indenture or any other regulatory agreement or regulatory agency.
 12. This term sheet shall remain in place until such time and date that a Final Financing Agreement is executed by the County, Titan and/or their assignees.

EXHIBIT A

WildHorse Ranch Public Improvement District Boundaries





Travis County

Potential WildHorse Ranch Public Improvement District (PID)

Financial Services Department
August 9, 2016



Purpose

- Provide information on Travis County's potential creation of its 1st public improvement district (PID) - WildHorse Ranch
- Respond to Council Members' questions
- WildHorse PID – Community Benefits related to Proposed PID
- Policy Questions
- Next Steps





Public Improvement District (PID)

- Texas Local Government Code Chapter 372 allows creation of **special purpose districts** by a **city or county** in City's corporate limits or extraterritorial jurisdiction (ETJ) to **fund public improvements** and/or services **in a defined geographic area**
- Created **only** at **land owners' request via petition** of more than 50% of owners of taxable real property liable for assessment
- **Costs paid by special assessments** levied on property owners in PID that benefit from public improvements and/or services
 - Equal shares of cost imposed on property similarly benefitted



Travis County considers PIDs

- Three PID petitions received since October 2015
 - WildHorse Ranch (northeast Travis County; full purpose annexed)
 - Turner's Crossing (southeast Travis County; in Austin ETJ)
 - Third PID noted in County Commissioners' August 2 briefing; not identified by name or location
- WildHorse Ranch – 1st potential Travis County PID
 - County developed PID Policy; then performed due diligence
 - August 9 County agenda - discuss and take action to create PID
 - 1st Texas county PID in a city full-purpose annexed area, if created
- Other Texas County PIDs
 - Hays County – La Cima (September 23, 2014; in San Marcos ETJ)
 - Comal County – The Crossings (April 14, 2016; near New Braunfels)



WildHorse Ranch Development

- 2,164 acres in eastern Travis County in City's Desired Development Zone; south of U.S. Highway 290 East at intersection of State Highway 130 and U.S. Highway 290 East
 - 1,600 acres of development is proposed WildHorse PID
- City approved Planned Unit Development (PUD) zoning February 2002 (*Ordinance 20020214-028*)
 - PUD requires no affordable housing
- City approved full purpose annexation November 2013 (*Ordinance 20131121-112*)
 - Property undeveloped at time of full purpose annexation
 - Annexed per owner's request and regulatory plan adopted at time of limited purpose annexation



[5]



Does PID impact PUD requirements?

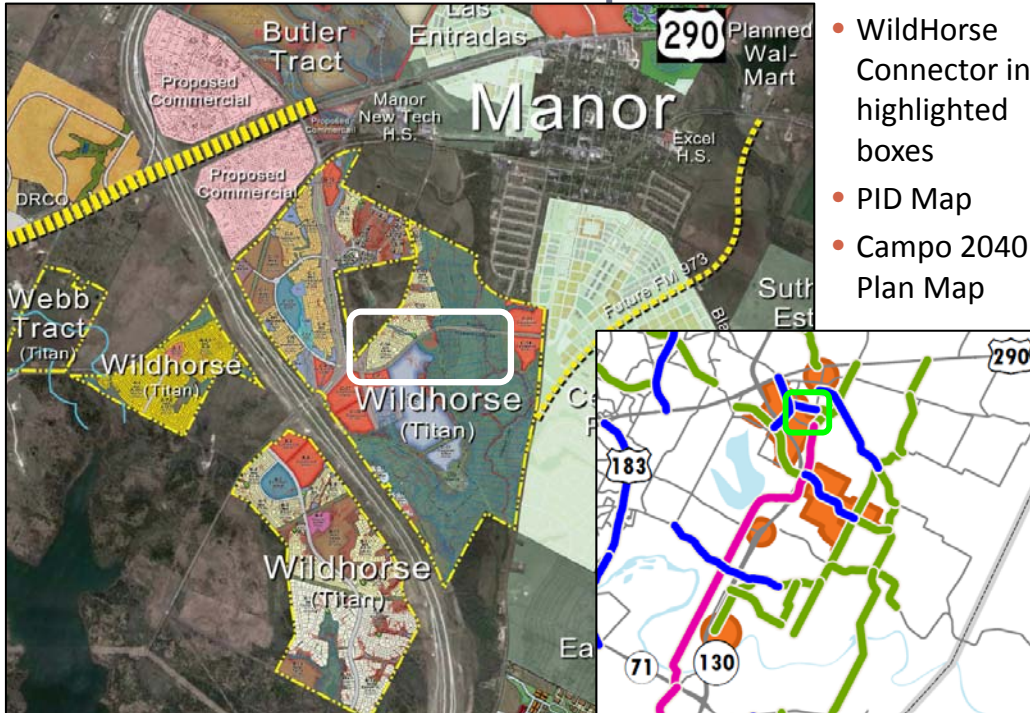
- PUD – **zoning of property** – used for developments in City limits or City's extra-territorial Jurisdiction (ETJ)
- PID – **special district** – established in City's corporate limits or extraterritorial jurisdiction (ETJ) to **fund public improvements** and/or services **in a defined geographic area**
- City – **zoning authority** – able to enforce PUD standards over any PID agreement that proposes a different development standard for any element



[6]



WildHorse Ranch Proposed PID



- WildHorse Connector in highlighted boxes
- PID Map
- Campo 2040 Plan Map



Travis County 2011 Bonds - Roads

- County 2011 Bond road projects required public/private partnership agreement with WildHorse Ranch
 - \$8.77M - Wildhorse Connector-Parmer Lane Extension to FM973
 - \$8.74M - FM973 to Blake-Manor Road Connector
- County Participation Agreement deadline November 30, 2015
- WildHorse initially worked with City on potential PID creation; work progressed but not expected to meet County's deadline
- Early October 2015 developer filed petition asking Travis County create PID



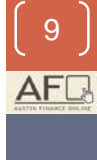


WH PID - Regional Mobility Benefit

Wildhorse Connector-Parmer Lane Extension to FM973

- County requires cost participation by WildHorse Ranch
- County proposing WildHorse Connector cost share at 1/3 each; WildHorse fully annexed before County road bonds issued
 - **County** - use portion of \$8.77M 2011 Bonds
 - **WildHorse Ranch** - issue WildHorse PID Bonds, if PID created
 - **City of Austin** - identify funding source
- City staff recommends certificates of obligation as funding source (current estimate \$5 million to \$7 million)

WH PID = Proposed WildHorse Ranch Public Improvement District



WH PID – Promote Affordable Housing

Summary per Travis County staff

- Over 4,300 residential units
- Single-family attached and detached housing for moderate income families (100%-200% median family income or MFI)
- Multi-unit rental housing for low to moderate income families (100% MFI or below)
- Land parcel(s) for affordable multi-family housing development; projects of best value for affordability tools such as tax credits

WH PID = Proposed WildHorse Ranch Public Improvement District





WH PID – Other Community Benefits

Summary per Travis County staff

- Over 1.5 million square feet of commercial and office space for long-term, full-time employment opportunities
- Public hike and bike trails; playgrounds and playscapes
- Developer land donations
 - Dedicate land to County for open space
 - Minimum 5 acre site for multi-modal transportation joint use facility
 - Two Manor ISD school sites
- Better builder program requirements for PID funded public improvements including worker safety and fair wages

WH PID = Proposed WildHorse Ranch Public Improvement District



PIDs – General Benefits

- Gain land use control in extraterritorial jurisdiction (ETJ) and plan for long-term annexation
 - Limited purpose annexation & planned unit development zoning
 - Opportunity to negotiate reasonable development standards
- “*Growth pays for itself*” - allocate cost to property owners that benefit from public improvements
- Lower overall financing cost for developer may allow for greater amenities and higher valued development through negotiations
 - Gain superior improvements not customary in standard development
- Non-recourse debt to city or county although government officials sign PID bond documents





PIDs – General Concerns

- Public policy concern with number of developer driven special districts (Municipal Utility Districts or MUD trend in 1980s)
- Risks inherent in construction, development, real estate market impact PID's success (assumed absorption and pricing)
- Increased regulatory scrutiny of municipal bond market requires extensive due diligence before PID bond issuance
- PID bonds are non-rated investments; limited universe of investors
- Long-term ongoing public-private partnership with developer
- Ongoing resources to administer PID annual processes
- If PID issues arise, city or county work to mitigate impact
 - Inadequate disclosure of PID assessments to home buyers
 - Foreclosure risk if landowner(s) unable to pay special assessments



County PID – City's Option to Object

- Tex. Loc. Gov't Code Ann. § 372.003(d) *"A county may establish a public improvement district unless within 30 days of a county's action to approve such a district, a home rule municipality objects to its establishment within the municipality's corporate limits or extraterritorial jurisdiction."*
- Travis County August 9 agenda includes discussion and possible action to create WildHorse Ranch PID
 - If approved, Council may object to PID's creation up to September 8



Policy Questions re PIDs

- Would Council policy differ for In-City PIDs and ETJ PIDs?
 - In-City PIDs: Overlapping tax burden plus special assessment
 - ETJ PIDs: Overlapping tax burden **less City tax** plus special assessment; full purpose annex to coincide with PID's termination
- Is a PID needed if PUD zoning is in place?
 - PUD zoning generally results in superior development
 - PID (capital) – low cost financing tool for a developer to fund public improvements that provides special benefits in the district
- Does Council have objections to Travis County's creation of WildHorse Ranch PID?

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City's Next Steps for Travis County PIDs

- Staff to prepare item for Council action *"discussion and possible action on Travis County creating the WildHorse PID"*
 - Opportunity to express objection to PID creation, if any
 - If Travis County creates PID on August 9; Council may object within 30 days (prior to September 8)
- Continue monitoring Travis County PID activity; provide Council periodic status reports
- Potential future agenda items if WildHorse PID is created
 - Interlocal Agreement with Travis County for cost sharing on Wildhorse Connector
 - Reimbursement Resolution to use certificates of obligation and budget amendment to fund City's share of Wildhorse Connector

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Next Steps for City PIDs

Staff Recommendation

- Moratorium on City created Public Improvement Districts to allow for review of current policy and develop procedures
- Staff to review City's PID Policy (*Resolution 20081218-069*) and recommend policy revisions to Council
 - Department team: Finance, Law, Planning and Zoning, Austin Water, Housing, Parks and Recreations, Public Works, Austin Transportation
- Develop procedures for review of "Petitions to Create a PID"
 - Ensure Council established policy is implemented in a consistent, fair, and transparent manner
 - Identify due diligence process prior to recommending PID creation
 - Identify due diligence process prior to PID bond issuance



Questions



AGENDA



Thursday, December 18, 2008

**Watershed Protection and Development Review
RECOMMENDATION FOR COUNCIL ACTION**

Item No. 69

Subject: Approve a resolution establishing a policy and general criteria under which the City Council will consider requests to create public improvement districts.

Fiscal Note: There is no unanticipated fiscal impact. A fiscal note is not required.

For More Information: Pat Murphy, 974-2821; Tom Nuckols 974-2568

Prior Council Action: Council postponed action on November 6, 2008. Council postponed action on November 20, 2008.

Public improvement districts (PIDs) are a tool cities can use to fund public services and improvements in a defined geographic area by apportioning the cost among the owners of the land that benefits from those services or improvements. The City of Austin has created two PIDs, the Downtown PID and the East 6th Street PID. In these PIDs, the City assesses the owners of offices, restaurants, retail stores, and other existing development to fund City services that benefit their property.

Within the last year, several owners of undeveloped land in the City of Austin or its extraterritorial jurisdiction have approached the City with the concept of creating PIDs to fund capital improvements for the initial development of their land. In these PIDs, the City would assess the land owners and the revenue would be used to pay the debt service on bonds issued to finance the new parks, public facilities, and infrastructure for the development project. Cities in other states have used PIDs to fund capital improvements for new development, and some other Texas cities now appear to be doing so.

City staff has drafted a policy, with general criteria, for the City Council to consider using if and when the City Council is requested to decide whether and under what conditions the City would create a PID in association with a specific development project in the City's Desired Development Zone. Because using a PID to finance public improvements benefits private development, staff proposes that the development must confer extraordinary benefits to the public in exchange for PID bond financing. Such benefits could include, for example, affordable housing, open space, environmental improvements, public transit, and enhanced infrastructure or other public facilities. City staff will establish guidelines that will outline specific administrative requirements and issues that developers would have to address before creation of such a PID would be recommended to the City Council.

The attached resolution establishes the proposed City Council policy regarding PIDs.

RESOLUTION NO. 20081218-069

WHEREAS, a public improvement district ("PID") is a tool the City can use to meet community needs by funding supplemental or enhanced public improvements or services that would not otherwise be constructed or provided in a timely manner; and

WHEREAS, the improvements and services funded through a PID are ultimately paid for by those who most benefit from them – the owners of property in the PID, and it is these owners who petition the City to form a PID; and

WHEREAS, a PID that finances public infrastructure benefits developers by allowing them to reduce their debt to private lenders by using public financing to pay the initial cost of infrastructure for development, so those requesting creation of such a PID should demonstrate that it confers an extraordinary benefit not only to the properties within the PID, but also to the community in general; and

WHEREAS, this resolution outlines issues for the City Council to consider in determining whether to establish a PID and is not intended to limit the authority of the City Council to consider or approve any particular request; **NOW, THEREFORE**,

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

The City Council resolves that the following are established as its policy and criteria for considering requests to create PIDs to fund public infrastructure, municipal services, or both in association with either new development or redevelopment projects:

1. The City's objective in creating the PID should be to support superior development in the Desired Development Zone.
2. The City's basic requirements for creation of a PID should be that:
 - All developments supported by a PID must comply with the City's Planned Unit Development (PUD) Green Building Program, regardless of whether the development receives PUD zoning.
 - The development supported by the PID provides extraordinary public benefits (such as extension or enhancement of infrastructure, affordable housing, environmental improvement, public transportation facilities, open space);
 - It is in the City's designated Desired Development Zone;
 - It is accompanied by a development agreement;
 - The development that it supports meets or exceeds the intent of the development standards of the City Code;
 - It is financially self-sustaining; and
 - The petitioners should constitute 100% of the landowners within the proposed boundaries of an "undeveloped land" PID, or a majority of the landowners within the proposed boundaries of all other PIDs.
3. Whether development supported by the PID provides sufficient public benefits should be determined by weighing the value of the benefits to the community and to property in the PID against the relative cost of the improvements or services to be provided.

4. Improvements and services provided by a PID should include the full range of services and improvements allowed by law, including but not limited to:

- Landscaping, fountains, distinctive lighting, and signs.
- Sidewalk, street, or other right-of-way improvements.
- Pedestrian malls.
- Acquisition and installation of art.
- Libraries.
- Off-street parking facilities.
- Mass transportation facilities.
- Water, wastewater, reclaimed water, or drainage facilities.
- Establishment or improvement of parks.
- Acquisition of real property in connection with an authorized improvement.
- Special supplemental services for improvement and promotion of the district, including advertising, health and sanitation, public safety or security, development, and cultural enhancement.
- Expenses for establishment, administration and operation of the PID.

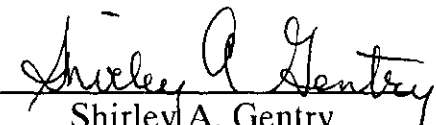
5. In considering whether a PID provides sufficient public benefits, Council will consider benefits including but not limited to:

- Establishing land use controls that otherwise would not be available in the City's ETJ.
- Providing amenities that would not typically accompany a development with conventional financing.

- Potentially allowing City capital improvement program funds to be redirected to other high priority needs by financing capital infrastructure with alternative PID financing.
6. As a basis for considering issuance of bonds supported by a pledge of PID assessments, Council should consider criteria including but not limited to the following:
- Evidence that the value of the property within the PID will be significantly increased by construction of the public improvements financed by the PID, as determined by the City.
 - Substantiation of no significant financial risk to City, as assessed by the City.
 - City's faith, credit, or taxing power should not be pledged to PID bond payments.
 - If development occurs in phases, development must be sustainable by the proposed bonding capacity, bond phasing, and development approvals.

APPROVED: December 18, 2008

ATTEST:


Shirley A. Gentry
City Clerk