

## **RESOLUTION NO. 20200220-015**

**WHEREAS,** a public improvement district (“PID”) is an economic development tool authorized by Texas Local Government Code Chapter 372 (the “Statute”) that provides for the financing of public improvements and supplemental services that are determined by a municipality or county to confer a special benefit on a geographically defined area within the municipality’s corporate limits or extraterritorial jurisdiction or the county’s boundaries; and

**WHEREAS,** a Development PID is a special purpose district created to help spur economic development by providing a means to finance the costs of infrastructure that promote development and benefits a definable part of the City, with such costs being borne by the property owners within the PID boundaries who receive special benefits from the public improvements; and

**WHEREAS,** a Maintenance and Operations PID is an economic development district that allows property owners within a specific geographic area to benefit from enhanced supplemental services and public improvements that specifically benefit such property owners located within the PID; and

**WHEREAS,** in 2008, the City adopted a PID policy (the “Original PID Policy”); and

**WHEREAS,** the City has previously authorized the creation of three Development PIDs (“Existing Development PIDs”) and three Maintenance and Operations PIDs (“Existing M&O PIDs”); and

**WHEREAS,** the Original PID Policy should be updated to (1) reflect best practices and investment market expectations and (2) to apply to Maintenance and Operations PIDs; and

**WHEREAS,** a team consisting of representatives from Austin Water, Development Services, Economic Development, Financial Services, Law,

Neighborhood Housing and Development, Parks and Recreation, Planning and Zoning, Public Works, and Transportation and Watershed Protection developed the proposed updated PID policy (the "Updated PID Policy"). In developing the proposed Updated PID Policy, the team reviewed the requirements of the Statute, best practices, and the PID policies of other Texas cities and counties, and received input from internal and external stakeholders; **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

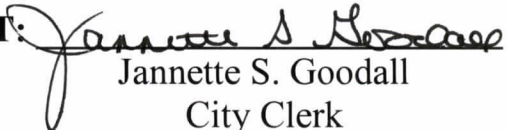
The Updated PID Policy, attached hereto as Exhibit A, is adopted.

**BE IT FURTHER RESOLVED:**

In the event of a conflict between the Updated PID Policy adopted by this Resolution and any agreements governing the financing of public improvements which provide special benefits to the Existing Development PIDs ("Existing Development PID Agreements"), the provisions of such Existing Development PID Agreements, as currently in effect, shall control.

**BE IT FURTHER RESOLVED:**

In the event of a conflict between the Updated PID Policy adopted by this Resolution and the resolutions and ordinances that created the Existing M&O PIDs ("Existing M&O PID Resolutions and Ordinances"), the Existing M&O PID Resolutions and Ordinances, as currently in effect, shall control.

**ADOPTED:** February 20, 2020 **ATTEST:**   
Jannette S. Goodall  
City Clerk

# Exhibit A

02/20/2020

## City of Austin Public Improvement District Policy

(Policy does not apply to PIDs under Section 372.0035, Tourism PIDs)

A Public Improvement District ("PID") is an economic development tool that permits the financing of public improvements and supplemental services that are determined by the City of Austin (the "City") to confer a special benefit on a geographically defined area within its corporate limits or its extraterritorial jurisdiction ("ETJ"). The purpose of this PID policy (the "Policy") is to serve as a guide for outlining the policies that will be used by the City when it considers the establishment and management of a PID, the levying of PID assessments, and/or the issuance of PID bonds. The Policy is intended to provide guidance with respect to Development PIDs and Maintenance and Operations PIDs that may be considered for authorization by the City. The Policy does not apply to PIDs created under Section 372.0035

All capitalized terms in this Policy have the meanings defined in the "Definitions" sections of this Policy.

### Development PIDs

A "Development PID" is a special purpose district created to help spur economic development by providing a means to finance the costs of infrastructure that benefit and promote development within a definable part of the City with these costs being borne by those property owners within the PID boundaries who receive special benefits from the public improvements.

#### **Minimum Requirements for a Development PID**

At a minimum, each Development PID shall meet all of the following requirements:

1. The Development PID shall meet all requirements of Texas Local Government Code Chapter 372 (the "Statute"). To the extent of a conflict between the terms of this Policy and the Statute, the Statute shall prevail. Certain requirements of this Policy may be in addition to those of the Statute and other state laws.
2. The Development PID shall be financially self-sustaining and not require the City to incur any costs associated with the Development PID, including costs associated with the formation and administration of the Development PID or the financing and construction of the Development PID improvements. The City will not waive any fees that impact the ability of any City department to cover costs of service for the development or improvement of PID projects, except waivers granted through participation in other City programs set forth to implement the City's Comprehensive Plan.
3. The Development PID shall not overlap the boundaries of another Development PID.



4. The Development PID shall be located within the City's full purpose jurisdiction ("FPJ") prior to creation of the Development PID.
5. The Development PID shall not finance improvements or services within a gated community or a development in which PID improvements would not be accessible to the general public.
6. Property in the Development PID owned by the City shall not be subject to PID assessments even if it receives a special benefit from special assessment expenditures.
7. Property in the Development PID owned by another governmental entity may be assessed only pursuant to an interlocal agreement or contract between the entity and the City.
8. The Development PID shall confer special benefits on the property within the Development PID.
9. The proposed development shall be consistent with the entitlements on the property. All required zoning and other land use regulations shall be in place for the development prior to the levying of assessments.
10. The public improvements funded through special assessment revenues shall fund public improvements that not only meet infrastructure standards in place at the time of PID application but also deliver improvements superior to development standards. Ideally the Development PID funds the incremental cost of development exceeding basic development standards.
11. The Development PID shall be used in connection with the financing of infrastructure projects that promote development in accordance with the City's Comprehensive Plan.
12. The Development PID shall obtain its water and wastewater utility services from Austin Water.

#### **PID Notification and Petition Requirements**

As required by Statute, a petition requesting the establishment of a Development PID (a "Petition") shall be signed by the landowners of taxable real property representing more than 50% of the appraised value of taxable real property within the proposed boundaries of the Development PID. In addition, the record owners of the real property shall:

- a) constitute more than 50% of all record owners of property that are liable for assessments of the Development PID or;
- b) own taxable real property that constitute more than 50% of the area of all taxable real property that is liable for assessments of the Development PID.

The Petitioner shall notify the City Manager in writing (the "Notification") at least 120 days in advance of their intent to file a Petition. Upon Notification, the PID Review Committee



will be convened. The Notification shall include at minimum:

1. A legal description of the boundaries of the Development PID and a map of the Development PID boundaries, each suitable for publication.
2. The general nature of the proposed improvements.
3. A justification for the need for the proposed Development PID.
4. The current tax roll of the landowners in the Development PID, including a separate list of any property that is designated as a homestead.
5. The financial feasibility of the Development PID and the proposed improvements.

Prior to submission of the Petition, the Petitioner shall submit funding for an escrow account that will be established for costs incurred by the City relating to the Petition.

The Petition shall be submitted in hard copy and electronic format to the City Clerk.

The Petitioner shall pay all applicable fees as stated in the City's Fee Schedule upon submission of the Petition.

Each Petition shall include:

1. A detailed justification for the need for the requested Development PID, including an explanation as to why the requested Development PID is necessary for the proposed development. This should include narrative and financials that clearly illustrate the total sources and uses of funds for the overall development and the impact the Development PID has on the overall financial viability of the project.
2. Identification of the goals in the City's Comprehensive Plan to be achieved by the Development PID and an explanation as to how such goals will be achieved.
3. A description of the special benefits to be provided by the Development PID by improvement area (if applicable). The City requires multiple special benefits provided by the Development PID.
4. A general and legal description of the boundaries of the Development PID and a map of the Development PID boundaries, each suitable for publication.
5. Description of the general nature of the proposed improvements.
6. Disclosure of any proposed improvements within the Public Improvement District that are anticipated to be developed under regulations other than the regulations in effect at the time a development application for the improvements is filed.
7. Estimated cost of proposed improvements.
8. Feasibility study that takes into account the market for the proposed development; the market support for the sale or lease of land uses that are subject to payment of the total property tax assessment inclusive of the Development PID; and any property owner's association ("POA") fees; and the Petitioner's capacity to deliver the project. Acceptable evidence includes at minimum a market study, environmental site analysis, and feasibility study, which shall be prepared and

- completed no earlier than 90 days prior to the submission of the Petition.
9. Proposed assessment rate, including a comparison of the combined PID assessment and ad valorem tax burden on property owners in the Development PID to comparable combined burdens on property owners in nearby developments. If a Maintenance and Operation PID or a Property Owners Association exists, or is planned within the boundaries of the Development PID, the petitioner shall supply the additional assessment amount.
  10. Plans for phasing of the real estate development supported by the Development PID and construction of public improvements in the development.
  11. Proposed apportionment of project costs between the Development PID and governmental entities.
  12. Fair market appraisal of the property in the Development PID by an independent third-party Certified General Real Property Appraiser acceptable to the City.
  13. Current tax roll of the landowners in the Development PID, including a separate list of any property that is designated as a homestead.
  14. Evidence of sufficient financial commitment of the Petitioner, in a form acceptable to the City, to the project beyond the PID assessments by the Petitioner.
  15. Evidence of the Petitioner's history of implementing successful development projects.
  16. Letters from the Petitioner's financial institutions confirming that the Petitioner is in good financial standing.
  17. Information regarding the financial history of the Petitioner, including:
    - a. Information as to whether the Petitioner or its officers have been, are currently, or contemplate being in receivership or bankruptcy;
    - b. Information as to whether the Petitioner or its officers have ever defaulted on any loans or financial obligations; and
    - c. Information as to whether the Petitioner or its officers have any loans or other financial obligations for which payments are not current.
  18. Statement certifying that the Petitioner and its officers are not currently delinquent with respect to payment of city, county, state, and federal taxes.
  19. Demonstrate compliance with the City's Transportation Plan to be achieved by the Development PID to include a description of required roadways and cross-sections per the Plan, as well as a multi-modal and transit analysis.
  20. Any other reports prepared by independent, third-party subject matter experts as required by the City.
  21. Any other information required by the Statute.
  22. A statement that the Petitioner requests or concurs with the establishment of the Development PID.

The Petitioner shall be required to attend pre-filing meetings with City staff and City Council presentations scheduled by the City.



The Petitioner shall provide any and all supplemental information requested by the City.

### **PID Review Committee**

Upon receipt of the Petitioner's Notification, a PID Review Committee, led by the Financial Services Department, will be convened. The PID Review Committee will include City representatives from service areas that handle accounting, bond issuance, law, planning, zoning, annexations, permitting, water and wastewater, economic development, housing, transportation, parks, watershed and other departments as needed.

The PID Review Committee will review the Petitioner's Notification to determine whether the submission is complete. The responsibilities of the PID Review Committee will include:

- Contact Petitioner for additional information;
- Make an initial determination as to whether the proposed Development PID is consistent with the City's growth policies, land use and development policies, zoning, transportation, water and wastewater, and other applicable regulations;
- Make an initial determination as to whether the special benefits made possible through the contemplated public improvements to be funded by PID assessment (1) confers sufficient and compelling public benefit, not just to the development but to the City at large and (2) sufficiently advances City Council's approved plans, goals, policies, and ordinances/resolutions.
- Make an initial determination as to whether the Petitioner's ownership interest, delegation of ownership rights or other legal control of the real property proposed to be included in the Development PID creates standing to submit a Petition;
- Communicate findings to the Petitioner; and
- Provide additional guidance pertaining to the above to the Petitioner.

Upon the City Clerk's receipt and validation of the Petition, the PID Review Committee will assess the adequacy of the Petition and the Petitioner's compliance with this Policy and the Statute. The PID Review Committee may consult with its bond counsel, PID consultant, and/or financial advisor to assist in making this determination. The PID Review Committee will also advise City Council on the merits and considerations of the creation of the Development PID, including an analysis of the impact of the Development PID formation and its effects on the City, and make a recommendation whether to proceed with a public hearing on the Petition.



## **Notice, Public Hearing, and Approval of Petition**

Upon City Council's approval for setting of a public hearing on the Petition, the City will ensure that:

- the notice of the hearing is published in a newspaper of general circulation in the City and on the City's website; and
- the notice is mailed to property owners as required by the Statute.

The public hearing may be continued from time to time. After the final adjournment of the public hearing, the City Council has six months to adopt a resolution for the creation of the Development PID as required by the Statute.

The City Council may authorize the Development PID only if a majority of all members of City Council approve a resolution authorizing the creation of the Development PID (the "PID Authorization").

The City Council will consider written protests regarding the creation of the Development PID if the protests are submitted:

- during the 20-day period after Development PID creation takes effect;
- to the City Clerk; and
- by at least two-thirds of the record owners in the Development PID or the owners of at least two-thirds of property in the Development PID.

Construction of Development PID improvements shall not begin until the later of the twenty-first (21st) day after the date of the PID Authorization or the final resolution of any Development PID protest.

## **Special Benefits**

Special benefits are those that are superior to the benefits that would be typically generated by development projects that do not involve PID financing, including, but not limited to:

1. Projects or services that will generate primary employment or other long-term economic development benefits to the City, above and beyond the economic development benefits generated by hiring short-term workers to construct the projects supported by the Development PID.
2. Projects or services that increase Affordable Housing opportunities for persons of low or moderate incomes.
3. Projects or services that advance the City's Comprehensive Plan.
4. Projects or services that create or enhance parks, hike and bike trails, and open spaces that exceed what is required by applicable development regulations.

5. Projects or services that improve environmental protection, storm water quality, and flood control benefits in ways that exceed what is required by applicable development regulations.
6. Projects or services that utilize a comprehensive transportation demand management plan to increase or enhance multi-modal options (mass transit, bicycle, pedestrian, carpooling, etc.) with an overall goal to decrease single-occupancy vehicle trip rates to/from the Development PID in ways that exceed what is required by applicable development regulations.
7. Projects or services that enhance or extend existing infrastructure.
8. Projects or services that provide innovative, exceptional benefits to improve public roadway network in the City beyond the Development PID's internal streets.
9. Projects or services that provide or improve public educational or health programs and/or facilities.
10. Projects or services featuring excellence in community design, including well-connected streets, humane public spaces, on-site amenities, and a mix of land uses in walking distance.

Not all special benefits require funding from PID assessments or PID bonds. If a special benefit is determined to be ineligible for PID financing based on the Statute, the Petitioner shall ensure that the ongoing financing of the special benefits is secured from other sources.

### **Audit Requirements**

Upon reasonable prior written notice, the City shall have the right, during normal business hours, to audit and inspect the records, books, and all other relevant records of the Petitioner related to services and public improvements financed by the Development PID. If requested, the Petitioner will provide updates on the Development PID in the form of a presentation at a City Council meeting or work session.

### **PID Agreements**

Prior to the levying of PID assessments or authorization of PID bonds, the Petitioner and the City shall enter into a PID agreement to establish:

- the basic terms and conditions identified upon creation of the Development PID, including a provision for community special benefits;
- the payment or reimbursement to the City of the City's one-time and ongoing administrative and operational costs, to be determined on an annual basis, including, but not limited to:
  - reviewing the Petition;
  - publishing and mailing notices pursuant to this Policy and the Statute;
  - reviewing the appraisal, Service and Assessment Plan, and Market

Feasibility Study;

- review of legal documents by the City Law Department;
  - the City's PID consultants, bond counsel, and financial advisors;
  - Development PID bond costs of issuance;
  - review and approval of plans for and inspection of construction of PID improvements;
  - assessment and collection of PID assessments; and
  - development and review of annual updates to the Service and Assessment Plan;
- the source of funds to be used to finance the PID improvements;
  - the planning, development, construction, management and maintenance of PID improvements, including review and approval by responsible governmental entity, and any interlocal agreements between the City and the governmental entities responsible for the PID improvements;
  - terms and conditions for ongoing PID administration, operation, and management, including collection of PID assessments;
  - any services to be funded by the Development PID;
  - compliance with the requirements of this Policy; and
  - any other related matters.

The PID Agreement between the City and the Petitioner will be substantiated by certain documents, which may include, but are not limited to the following:

- Financing Agreement
- Development Agreement
- Acquisition and Reimbursement Agreement
- Landowner Agreement
- Escrow Agreement

The required documents to support each PID Agreement will be determined by the City at the time of the PID Authorization, and in coordination with the City's bond counsel, PID consultant, and/or financial advisor.

### **Requirements Prior to Levying of Assessments and PID Bond Issuance**

Prior to the levying of assessments on property within the Development PID and the issuance of PID bonds, the City shall:

1. Publish and mail notice of its intention to consider the proposed assessments;
2. Conduct a public hearing as required by the Statute;
3. Determine the total cost of the PID improvements;
4. Approve a final Service and Assessment Plan and assessment roll; and
5. Establish a separate PID fund.



## Financial Requirements and Limitations for PID Bond Issuance

The following financial limitations shall apply to all PID bonds issued by the City. PID bond structures shall be determined by staff at the time of issuance. The City retains the right, at its sole discretion, to make a final determination as to the acceptable structure of any PID bond to be issued by the City:

1. Security: PID bonds will constitute a special obligation of the City, secured by and payable solely from the Development PID's special assessment revenues. The City's full faith, credit, taxing power or general revenue shall not be pledged as security to PID bonds.
2. Value-to-Lien: The minimum appraised value-to-lien ratio for each PID bond shall be 3:1. The appraised value of the real property collateralizing the PID bond will be determined by an appraisal to be delivered in a form and methodology acceptable to the City.
3. Debt Service Structure: It is the City's preference to issue bonds with a level debt service structure.
4. Term: The maximum maturity for each series of bonds shall not exceed 20 years. The average life of the PID bonds shall not be extended if refunded.
5. Minimum Issuance Size: In recognition of the significant amount of City time and resources required to support the issuance of PID Bonds, the City requires a minimum par amount of \$5,000,000 financed for each bond issuance.
6. Debt Service Reserve Fund: Each PID bond will be secured by a debt service reserve fund to be funded in an amount equal to the lesser of:
  - a. Maximum annual debt service on the bonds as of the date of issuance;
  - b. 125% of average annual debt serve on the bonds as of the date of issuance;or
  - c. 10% of the principal amount of bonds.
7. Permitted Issuance Uses: The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund:
  - a. actual costs of the qualified improvements;
  - b. required reserve accounts;
  - c. capitalized interest, in amount not-to-exceed the interest costs during the construction period and 12-months after the completion of construction, and in no event for a period greater than three years from the date of initial delivery of the bonds and;
  - d. any costs of issuance.
8. Continuing Disclosure: All current and future landowners will be required undertake continuing disclosure obligations associated with the issuance of PID bonds in accordance with the provisions of a regulatory agreement which meets the requirements of federal securities law.

The following maximum assessment limitations shall apply to Development PID assessments:

- The annual Development PID installment shall not exceed the City's equivalent tax rate at the time the assessments are levied. In addition, the Development PID installment combined with the ad valorem tax burden shall not exceed a total of \$3.00 per \$100 of assessed property value at the time the assessments are levied.
- The total annual assessment burden per \$100 of assessed property value is inclusive of all taxing jurisdictions assessing the property, Development PID assessment (as an equivalent tax rate) and any other special assessment secured by lien calculated as an equivalent property tax assessment rate.

PID bond project proceeds for professional services rendered to or on behalf of the developer, including attorney fees and consultant and/or advisory fees, shall be limited to 0.5% of the par value of the bond issuance to ensure the maximum amount of PID bond proceeds are spent on public improvements which provide special benefits to the defined area within the Development PID.

The reimbursement of construction costs will occur after construction of the public improvements has been completed and the public improvements have been inspected and accepted.

### **Property Disclosures**

The City requires that the Petitioner comply with the following disclosures pertaining to the property within the Development PID:

1. Landowner's Agreement shall be recorded in the Official Public Records of the County to notify any prospective owner of the existence of PID assessments levied and recorded on the property.
2. All closing statements and sales contracts for property in the Development PID shall disclose responsibility for payment of PID assessments and the amount of the PID assessments. Such disclosures shall be acknowledged by the purchaser through an executed document. The City shall review and approve all forms or written acknowledgements relating to PID assessments prior to any property sales within the Development PID.
3. Each grantor who conveys property that is subject to PID assessments shall:
  - a. include a notice in the instrument of conveyance that the property is subject to PID assessments until the PID assessment is paid in full;
  - b. obtain the grantees written acknowledgement of the notice;



- c. record the instrument in the Official Public Records of the County, and
  - d. provide a certified copy of the recorded instrument to the City.
4. The Petitioner shall erect and maintain for the duration of the Development PID signage disclosing the existence of the PID in a form and condition acceptable to the City along the main entries and exits at the boundaries of the Development PID that is clearly visible to all entering and exiting the Development PID.
  5. Petitioner shall describe in their promotional material the financial and other relative impacts on the developments being included in the Development PID.
  6. If a Property Owner Association is established in the Development PID, the POA shall be required to provide at minimum annual disclosure of the Development PID and financial obligations of the property owners located within the PID. Annual disclosure information will be provided to the POA by the PID Administrator.

### **Development PIDs Established by a County**

If a proposed PID is anticipated to be created by a County but is within the City's FPJ, the Petitioner must provide Notification to the City before submitting a Petition to the County.

The County shall notify the City (City Manager and Chief Financial Officer) at the earliest possible date of a Petitioner's intent to establish a PID in the City's ETJ.

An interlocal agreement shall be entered into between the City and the County prior to the City undertaking work on behalf of the PID. The interlocal agreement shall include the roles and responsibilities of the County and City relating to the PID, as well as the applicable fees required to be paid to the City for anticipated work on the PID.

### **Miscellaneous**

The Financial Services Department of the City will be the lead department regarding the establishment, implementation, amendment, oversight and monitoring of this Policy.

A Development PID dissolution date shall be included as part of the City Council resolution creating a Development PID. The final maturity date of any obligations issued to finance PID improvements shall not exceed the dissolution date.

All petitions for the establishment of a Development PID that were previously not authorized by City Council, shall not be resubmitted within a two year period from City Council action.

### **Definitions**

Affordable Housing means, in general, housing for which the occupant is paying no more than 30% of his or her gross income for housing costs, including utilities, as established by the federal Department of Housing and Urban Development.

City Comprehensive Plan means plans approved by the City Council, such as the Austin



Strategic Mobility Plan, the Community Climate Plan, the Watershed Protection Plan, the Strategic Housing Blueprint, the Austin Strategic Direction 2023, Imagine Austin, and other plans as approved by Council.

City Fee Schedule means the document included in the annual budget that sets the City's fees, fines, rates, and other charges as authorized by City Council.

Cost of Issuance means the City's costs and expenses related to the bond issuance, including, but not limited to bond counsel to the City, financial advisory to the City, PID Administrator, disclosure counsel to the City, costs and expenses of City staff, and trustee counsel.

ETJ means the extraterritorial jurisdiction of the City.

FPJ means full purpose jurisdiction of the City

Maintenance and Operations (M&O) PID means a special purpose district that allows property owners within a specific geographic area to enhance services and public improvements that specifically benefit the properties located within the M&O PID boundaries. M&O PIDs are an economic development mechanism commonly used to stabilize commercial business districts and promote business growth along commercial corridors and areas of commercial concentration

Market Feasibility Study means a study that examines the likelihood that a proposed real estate development project supported by a PID will be financially successful and generate sufficient PID assessments based on historical and projected real estate demand and supply trends.

Owner means owner or owners of real property in the PID.

Petition means a petition for creation of a Development PID.

Petitioner means the owner or owners signing the Petition and their successors and assigns.

PID assessments means special assessments levied on property within the PID under the Statute to pay for PID improvements.

PID bonds means special assessment revenue bonds issued by the City under the Statute payable by PID assessments from, and secured by special assessment liens on, property in the PID.

PID improvements means landscaping, lighting, signs, sidewalks, roads, streets, pedestrian malls, bicycle facilities, libraries, off-street parking, public transit, trails, water, wastewater, reclaimed water, storm water management, parks, development and improvement of Affordable Housing, services for improvement and promotion of the PID,

payment of expenses for creating and operating the PID, and any other improvements authorized by the Statute.

Property Owner Association (POA) means an incorporated or unincorporated association that: (1) is designated as the representative of the owners of property in a residential subdivision; (2) has a membership primarily consisting of the owners of the property in the residential subdivision; and (3) manages or regulates the residential subdivision for the benefit of the owners of property in the residential subdivision. This includes Homeowners' Associations.

Service and Assessment Plan means an ongoing plan approved by the City Council that covers a period of five years from the date of approval that defines the annual installments on the total PID assessment and the projected cost for PID improvements, and that is updated annually by the City Council to establish the annual installments and budget for the PID.

Services means special supplemental services for improvement, promotion, and maintenance of a PID, including services for health and sanitation, water and wastewater, public safety, recreation, and any other services authorized by the Statute.

## **Maintenance and Operations Public Improvement Districts**

A Maintenance and Operations Public Improvement District (M&O PID) is a type of special purpose district that allows property owners within a specific geographic area to enhance services and public improvements that specially benefit the properties located within the PID boundaries of the M&O PID.

M&O PIDs are an economic development mechanism commonly used to stabilize commercial business districts and promote business growth along commercial corridors and areas of commercial concentration. Common services funded through M&O PID special assessment revenue include security, capital improvements, beautification efforts, promotional efforts including events and specific marketing.

### **Minimum Requirements for an M&O PID**

At minimum, each M&O PID shall meet all of the following requirements:

1. The M&O PID shall meet all requirements of Texas Local Government Code Chapter 372 ("Statute"). To the extent of a conflict between the terms of this Policy and the Statute, the Statute shall prevail. Certain requirements of this Policy may be in addition to those of the Act and other state laws.
2. The public improvements funded through special assessment revenues must fully fund the improvements within five years at the sole discretion of the City. These improvements do not replace City services but are, instead, above and beyond the City services. Extensions beyond the five year is subject to City Council approval.
3. The M&O PID shall be financially self-sustaining and not require the City to incur any costs including costs associated with the formation and administration or the financing and construction of the M&O PID improvements. The City will not waive any fees that impact the ability of any City department to cover costs of service associated with M&O PID projects. City of Austin may elect to reimburse itself for staff costs for oversight.
4. Should an M&O PID overlap the boundaries of another M&O PID, the PIDs must demonstrate no duplication of services and improvements in annual service plans.
5. The M&O PID shall be located within the City's full purpose jurisdiction (FPJ) prior to creation of the M&O PID.
6. The M&O PID shall not finance improvements or services within a gated community which M&O PID improvements would not be accessible to the general public.
7. Improvements or services funded outside of the PID specific geographic area are subject to City Council approval during the annual service and assessment plan and budget adoption process.



8. Property in the M&O PID owned by the City shall not be subject to M&O PID assessments, even if it receives a special benefit from special assessment expenditures.
9. Property in the M&O PID owned by another governmental entity may be assessed only pursuant to an interlocal agreement or contract between the entity and the City and at their discretion.
10. The M&O PID shall convey and document special benefit and public good to the properties within the district.
11. The M&O PID shall be used in connection and alignment with community benefits identified in planning and policy documents adopted by the City of Austin.
12. A petitioner at the time of creation and reauthorization must identify a qualified nonprofit or private management entity to oversee M&O PID special assessment, prepare annual service plans and budgets and coordinate needs and requests of property owners.

#### **M&O PID Notification and Petition Requirements for Establishment and Reauthorization**

A petition ("Petition") requesting the establishment and the reauthorization of an M&O PID shall include the following requirements and meet the requirements outlined in section 372.005 of the Texas Local Government Code (LGC):

The petition must contain signatures of owners of real property representing more than 50% of the appraised value of taxable real property liable for assessment under the proposal, based on the total taxes that would go to the M&O PID. The Petitions must also contain signatures of owners of real property liable for assessment who satisfy either a. or b. below. This exempts City of Austin property and untaxed property.

- a) Constitute more than 50% of all record owners of property that is liable for assessment.
  - a. This is counted by the property. An owner of four (4) properties would count as four (4) record holders.
- b) Constitute more than 50% of the area of all taxable real property that is liable for assessment.
  - a. This refers to the parcel land area only.

Petition signatures shall reflect that a reasonable attempt was made to obtain full support of the property owners. Properties with delinquent payments of city, county, state and federal taxes will not be accepted as part of the 50 percent requirement.

The Petitioner shall notify the City Manager in writing (the "Notification") at least 120 days in advance of their intent to file a Petition for establishment and reauthorization of the M&O PID. Upon Notification, the PID Review Committee will be convened. The Notification shall include:

1. A legal description of the boundaries of the M&O PID and a map of the M&O PID boundaries, each suitable for publication.
2. The general nature of the proposed improvements and maintenance plan.
3. A justification for the need for the proposed M&O PID.
4. The current tax roll of the landowners in the M&O PID, including a separate list of any property that is designated as a homestead and nontaxable property inclusive of City owned property and delinquent properties.
5. The financial feasibility of the M&O PID and the proposed improvements and/or enhanced services.
6. Recommendation of an advisory body and or management entity with dedicated roles and responsibilities of the PID.

The Petitioner shall be required to attend pre-filing meetings and/or City Council presentations scheduled by the City.

The Petition shall be submitted in hard copy and electronic format to the City Clerk.

The Petitioner shall pay all applicable fees as stated in the City's Fee Schedule upon submission of the Petition.

Each Petition shall include:

1. A detailed justification for the need for the requested M&O PID, including an explanation as to why the requested or reauthorized M&O PID is necessary for the proposed geographic area and improvements.
2. Identification of the goals in the City's Comprehensive Plan to be achieved by the M&O PID and an explanation as to how such goals will be achieved with a maintenance plan.
3. A description of the special benefits to be provided by the M&O PID by improvement within geographic area.
4. A general and legal description of the boundaries of the M&O PID and a map of the M&O PID boundaries, each suitable for publication.
5. General nature of the proposed improvements.
6. Detailed estimated cost of proposed improvements including estimated long term maintenance costs for all years, ten years minimum to justify the assessment rate requested.
7. Documentation that construction of improvements through M&O PID assessments will be maintained by the M&O PID from M&O PID revenues.
8. A management plan that describes how funds will be managed including day-today operations, and the recommendation of advisory body or a Management Entity.
9. Feasibility Report that takes into account both the current and forecasted economic market context for the proposed geographic area and the Petitioner's capacity to deliver and sustain the proposed improvements. Acceptable evidence includes at



- minimum a market study, and feasibility study, which shall be prepared and completed no earlier than 90 days prior to the submission of the Petition.
10. Proposed method of assessment including a comparison of the combined PID assessment and ad valorem tax burden on property owners in the M&O PID.
  11. Proposed apportionment of fee costs between the M&O PID and governmental entities.
  12. Current tax roll of the landowners in the M&O PID, including a separate list of any property that is designated as a homestead.
  13. Evidence of annual assessment value is equal to or greater than \$500,000 annually, subject to City Council approval.
  14. Recommendation of an advisory body and or M&O PID Management Entity with the responsibility of developing and recommending an improvement plan to the governing body.
  15. Any other information required by the Statute.
  16. A statement that the Petitioner and all that have signed the Petition requests or concurs with the establishment and or reauthorization of the M&O PID.
  17. The Petitioner shall provide any and all supplemental information requested by the City.

When creating or reauthorizing an M&O PID, the City authorizes the negotiation and execution of a five-year management agreement from the date of creation. Every five years, an updated five-year service and five-year assessment plan shall be submitted to support a renewal of a contractual management agreement. The periodic five-year service and assessment plan shall establish PID assessment total forecasts, identification of improvements and special benefits and ensure current property owners notification of PID purpose and projects.

### **Reauthorization**

When creating an M&O PID, the City authorizes an expiration date of at least five years from the date of creation. The expiration date ensures current property owners endorse the M&O PID purpose and projects. For an M&O PID to continue to exist past the expiration date identified at the time of creation, the City must receive a petition ("Petition") requesting the reauthorization of the M&O PID. This Petition must meet the same requirements for a petition to establish an M&O PID in this Policy and Section 372.005 of the Texas Local Government Code (LGC). It is the sole responsibility of the M&O PID management entity or advisory body to meet these requirements for PID reauthorization within the timeframes identified in this Policy.

If the City does not receive a validated Petition to reauthorize the M&O PID, staff may provide recommendations to City Council on feasibility of continuing special benefits provided by the M&O PID. City Council action would be required.



## **PID Expansion**

M&O PID expansions are defined by adding any new adjacent properties to an existing PID's boundaries and levying the approved assessment rate to those properties. A petition to add a property to an existing M&O PID must meet the following requirements:

1. The Petitioner shall notify the City Manager in writing ("Notification") no later than October 4th (annually) of the intent to file a Petition for expansion. Should October 4 fall on a holiday or non-business day, Notification should be issued the business day prior. The Notification shall include:
  - a. A legal description of the boundaries of the M&O PID and a map of the M&O PID boundaries including the expansion.
  - b. Signed letter of intent from property owners to be included within the M&O PID referenced.
  - c. If multiple contiguous properties are included in the expansion proposal, the petition must contain signatures of owners of real property representing more than 50% of the appraised value of taxable real property liable for assessment under the expansion proposal, based on the total taxes that would go to the M&O PID. The Petitions must also contain signatures of owners of real property liable for assessment who satisfy either 1. or 2. below. Petition signatures shall reflect that a reasonable attempt was made to obtain full support of the property owners. Properties with delinquent payments of city, county, state and federal taxes will not be accepted as part of the 50% requirement. This exempts City of Austin property and untaxed property.
    1. Constitute more than 50% of all record owners of property that is liable for assessment
      - a. This is counted by the property. An owner of four (4) properties would count as four (4) record holders.
    2. Constitute more than 50% of the area of all taxable real property that is liable for assessment
      - a. This refers to the parcel land area only.
  - d. Signed letter of intent and approval from the M&O PID Management Entity and advisory body for PID expansion.
  - e. Parcel identification information including status of property information on delinquent payment of city, county, state, and federal taxes.
  - f. Current tax roll of property(s) to be considered for inclusion and information on designated homestead or nontaxable property.

Petitions for expansion of an M&O PID are due by February 1, annually. It shall be required to attend a pre-filing meeting or City Council meetings related to the expansion.

The Petition shall be submitted in hard copy and electronic format to the City Clerk after notification.

The Petitioner shall pay all applicable fees as stated in the City's Fee Schedule upon submission of the Petition.

A petition for the new segment of the PID shall be submitted to City Clerk's Office.

### **PID Review Committee**

Upon receipt of the Petitioner's Notification, a PID Review Committee, led by the Financial Services Department, will be convened. The PID Review Committee will include representatives from service areas affected that may include that handle accounting, bond issuance, law, planning, zoning, annexations, permitting, water and wastewater, economic development, housing, transportation, parks and other departments as needed.

The PID Review Committee will review the Petitioner's Notification to determine whether the submission is complete. The responsibilities of the PID Review Committee will include:

- Contact Petitioner for additional information;
- Make an initial determination as to whether the proposed M&O PID is consistent with the City's growth policies, land use and development policies, zoning, transportation, water and wastewater, and other applicable regulations;
- Make an initial determination as to whether the Special Benefits made possible through the PID special assessment (1) confers sufficient and compelling public benefit not only to the development but for the City at large and (2) sufficiently advances City Council's approved plans, goals, policies and ordinances/resolutions;
- Make an initial determination as to whether the Petitioner's ownership standing allows to submit on behalf of the benefitted property owners for an M&O PID;
- Advise on the appointment of an advisory body with the responsibility of developing and recommending an improvement plan to the governing body
- Communicate findings to the Petitioner; and
- Provide additional guidance pertaining to the above to the Petitioner.

Upon the City Clerk's receipt and validation of the Petition, the PID Review Committee will assess the adequacy of the Petition and the Petitioner's compliance with this Policy and the Statute. The PID Review Committee may consult with its bond counsel, PID consultant, and/or financial advisor to assist in making this determination. The PID

Review Committee will also advise City Council on the merits and considerations of the creation of the M&O PID, including an analysis of the impact of PID formation and its effects on the City, and make a recommendation whether to proceed with a public hearing on the Petition.

### **Notice, Public Hearing, and Approval of Petition for Establishment and Expansion**

Upon City Council's approval for setting of a public hearing on the Petition, City staff will:

- the notice of the hearing in a newspaper of general circulation in the City and on the City's website; and
- the notice is mailed the notice to property owners as required by the Statute.

The public hearing may be continued from time to time. After the final adjournment of the public hearing, the City Council has six months to adopt a resolution for the creation of the M&O PID as required by the Statute.

The City Council may authorize the M&O PID only if a majority of all members of City Council approve a resolution authorizing the creation of the M&O PID (the "PID Authorization").

The City Council will consider written protests regarding the creation of the M&O PID if the protests are submitted:

- during the 20-day period after M&O PID creation takes effect;
- to the City Clerk; and
- by at least two-thirds of the record owners in the M&O PID or the owners of at least two-thirds of property in the M&O PID.

Construction of M&O PID improvements shall not begin until the later of the twenty-first (21st) day after the date of the PID Authorization or the final resolution of any M&O PID protest and the execution of a Management Agreement.

Levying of the assessment on properties within the PID boundaries will not occur until a Management Agreement has been executed with the City of Austin and M&O PID Management Entity. If a Management Agreement cannot be executed within six (6) months of City Council approval of a PID, staff will recommend to City Council that a new M&O PID Management Entity be selected for the PID.

### **Authorized Improvements and Special Benefits**

Authorized improvements and enhanced services are addressed in the Statute as those that shall produce special benefits. Special benefits are those that are superior to the benefits that a property owner would receive without the M&O PID. These enhanced



services and public improvements include but are not limited to:

1. Projects or services that will generate primary employment or other long-term economic development benefits to the City, above and beyond the economic development benefits generated by hiring short-term workers to construct the projects supported by the PID.
2. Projects or services that increase affordable housing opportunities for persons of low or moderate incomes.
3. Projects or services that advance the City's Comprehensive Plan.
4. Projects or services that create or enhance parks, hike and bike trails, and open spaces that exceed what is required by applicable development regulations.
5. Projects or services that improve environmental protection, storm water quality, and flood control benefits in ways that exceed what is required by applicable development regulations.
6. Projects or services that utilize a comprehensive transportation demand management plan to increase or enhance multi-modal options (mass transit, bicycle, pedestrian, carpooling, etc.) with an overall goal to decrease single-occupancy vehicle trip rates to/from the PID in ways that exceed what is required by applicable development regulations.
7. Projects or services that enhance or extend existing infrastructure.
8. Projects or services that provide innovative, exceptional benefits to improve the public roadway network in the City beyond the PID's internal streets.
9. Projects or services that provide or improve public educational or health programs and/or facilities.
10. Projects or services featuring excellence in community design, including well-connected streets, public planning, and the development, construction, management and maintenance of PID improvements.

#### **Requirements Prior to Levying of Assessments**

Prior to the levying of assessments on property within the PID, the City shall:

1. Publish and mail notice of its intention to consider the proposed assessments and conduct a public hearing as required by the Statute;
2. Determine the total cost of the PID improvements and long-term maintenance;
3. Execute a Management Agreement with the PID Management entity
4. Approve a final Service and Assessment Plan and appraisal roll; and
5. Establish a separate PID fund.

#### **Service and Assessment Plan and Budget**

It is the sole responsibility of the M&O PID Management Entity to meet and understand

the following requirements:

1. Prepare an initial five-year service and assessment plan and budget for the establishment and of an M&O PID in accordance with the referenced timelines in the Policy. Budgets must be supplemented by detailed, line-item explanation of how that amount was derived inclusive of on-going maintenance and operating costs. All Service and Assessment Plans are subject to review and approval by City Council and City of Austin.
2. Prepare and submit an annual service plan outlining all improvements and special benefits.
3. Prepare and submit the annual budget and assessment plan within the timeline published by the City. Budgets must be supplemented by detailed, line-item explanation of how that amount was derived.
4. Prepare periodic five-year service and assessment plan and budget. Budgets must be supplemented by detailed, line-item explanation of how that amount was derived inclusive of on-going maintenance and operating costs. Five-year service and assessment plans must include a five-year projection for assessment revenue totals. All Service and Assessment Plans are subject to review and approval by City Council and City of Austin.
5. M&O PID Management Entity will provide the City documentation of notice to property owners prior to submittal of the service and assessment plan.
6. At the discretion of the City of Austin, the City may hold a public meeting with owners of property within the M&O PID and request that the M&O PID Management Entity present the proposed budget and assessment plan and to seek input regarding the needs of geographic area. The City will prepare notices to the property owners.

### **Financial Requirements and Limitations**

The following financial requirements and limitations shall apply to all M&O PIDs.

1. The City reserves the right to retain a reserve fund, funded by PID assessments in an amount equal to or lesser than 15% of the annual assessment to serve as a refund and delinquency account. Remaining reserves not utilized for refunds or delinquencies will be released to the M&O PID at the end of each annual cycle.
2. The M&O PID Management Entity is required to have a three month or one quarter operating reserve to satisfy contractual obligations should PID dissolution occur. Reserves greater than three month or one quarter are subject to City Council approval.
3. Annual PID assessment totals shall be expended in totality minus three month or one quarter operating reserve unless approved by City Council through the annual service and assessment plan and budget adoption process.



4. Assessment rate shall adjust annually per City Council approval.
5. No more than 25% of the estimated total annual special assessment revenue and any governmental annual contribution (assuming the average annual collection rate) will pay for administrative costs unless approved by City Council through the annual service and assessment plan and budget adoption process. Administrative costs PID startup costs, insurance, personnel expenditures, equipment, office space inclusive of rent, legal fees and travel.
6. In order to ensure that M&O PIDs continue to operate without cost to the City, the City will charge applicable fees to each M&O PID for the annual costs associated with administering the M&O PID. This fee will be calculated annually for each M&O PID
7. The City will only release assessment funds for all approved expenses of the PID in accordance with the adopted Budget and Service and Assessment Plan.
8. A capital improvement must have a useful life of five or more years.
9. The records maintained by the Management Entity for the M&O PID are subject to review and audit by City personnel and external auditors.

### **Property Disclosures**

The City requires that the Petitioner comply with the following disclosures pertaining to the property within the PID:

1. Landowner's Agreement shall be recorded in the Official Public Records of Travis County to notify any prospective owner of the existence of PID assessments levied and recorded on the property.
2. All closing statements and sales contracts for property in the PID shall disclose responsibility for payment of PID assessments and the amount of the PID assessments. Such disclosures shall be acknowledged by the purchaser through an executed document.
3. Petitioner shall describe in their promotional material, website and in social media the financial and other relative impacts on the improvements being included in the PID.
4. The M&O PID Management Entity shall mail notices to all property owners and tenants, to extent possible, of annual meeting for all owners to discuss PID activities, finances and plans. The management entity shall be required to provide at minimum annual disclosure of the PID and financial obligations of the property owners located within the PID.

### **M&O PIDs Established by a County**

If a proposed M&O PID is anticipated to be created by a County but is located within the City's FPJ, the Petitioner must provide Notification to the City before submitting a Petition to the County.



The County shall notify the City (City Manager and Chief Financial Officer) at the earliest possible date of a Petitioner's intent to establish a PID in the City's ETJ.

An interlocal agreement shall be entered into between the City and the County prior to the City undertaking work on behalf of the PID. The Inter-local Agreement shall include the roles and responsibilities of the County and City relating to the PID, as well as the applicable fees required to be paid to the City for anticipated work on the PID.

### **Dissolution**

An M&O PID may be dissolved in accordance with the procedures set forth in the Statute. If an M&O PID is dissolved either by property owner petition or by failure to meet the requirements of the contractual management agreement the M&O PID will remain in effect for the purpose of retiring unpaid obligations for improvements and services and contractor dissolution.

### **Miscellaneous**

The Financial Services Department of the City will be the lead department regarding the establishment, implementation, amendment, oversight and monitoring of this Policy.

The Economic Development Department will be the lead department in required oversight of the M&O PIDs for annual processes.

### **Definitions**

Advisory Body means the entity identified in the petition or appointed by City Council with the responsibility of developing and recommending an improvement plan for the PID

Affordable Housing means, in general, housing for which the occupant is paying no more than 30% of his or her gross income for housing costs, including utilities, as established by the federal Department of Housing and Urban Development.

City Comprehensive Plan means plans approved by the City Council, such as the Austin Strategic Mobility Plan, the Community Climate Plan, the Watershed Protection Plan, the Strategic Housing Blueprint, the Austin Strategic Direction 2023, Imagine Austin and other plans as approved by Council.

City Fee Schedule means the document included in the annual budget that sets the City's fees, fines, rates, and other charges as authorized by City Council.

ETJ means the extraterritorial jurisdiction of the City.

FPJ means full purpose jurisdiction

Management Entity means an organization that is contracted by the City to manage the public services funded by the M&O PID special assessments in addition to other contractual requirements that benefit the City in carrying out statutory requirements of M&O PID administration.

Market Feasibility Study means a study that examines the likelihood that a proposed real estate development project supported by a PID will be financially successful and generate sufficient PID assessments based on historical and projected real estate demand and supply trends.

Owner means owner or owners of real property in the PID.

Petition means a petition for creation, modification, dissolution, or renewal of a PID.

Petitioner means the owner or owners signing the Petition and their successors and assigns.

PID assessments means special assessments levied on property within the PID under the Statute to pay for PID improvements.

PID improvements means landscaping, lighting, signs, sidewalks, roads, streets, pedestrian malls, bicycle facilities, libraries, off-street parking, public transit, trails, water, wastewater, reclaimed water, storm water management, parks, development and improvement of Affordable Housing, services for improvement and promotion of the PID, payment of expenses for creating and operating the PID, and any other improvements authorized by the Statute.

Property Owners' Association means an incorporated or unincorporated association that: (1) is designated as the representative of the owners of property in a residential subdivision; (2) has a membership primarily consisting of the owners of the property in the residential subdivision; and (3) manages or regulates the residential subdivision for the benefit of the owners of property in the residential subdivision. This includes Homeowners' Associations.

Reauthorization means the process which extends the existence of an M&O PID that has completed its statutory term through the same process that governs the creation of a new M&O PID.

Service and Assessment Plan means an ongoing plan approved by the City Council that covers a period of five years from the date of approval that defines the annual installments on the total PID assessment and the projected cost for PID improvements, and that is updated annually by the City Council to establish the annual installments and budget for the PID.

Services means special supplemental services for improvement, promotion, and maintenance of a PID, including services for health and sanitation, water and wastewater,