CITY OF LAVON, TEXAS

RESOLUTION NO. 2018-06-03

Public Improvement Districts Policy

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS APPROVING A PUBLIC IMPROVEMENTS DISTRICT POLICY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council desires to set forth guidelines for the consideration, implementation, utilization and administration of public improvement districts authorized by Chapter 372 of the Texas Local Government Code;

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

SECTION 1. The City Council has reviewed and approved the Public Improvement Districts Policy attached hereto as Exhibit "A".

SECTION 2. That this resolution shall take effect from and after the date of its passage.

DULY PASSED AND APPROVED by the City Council of the City of Lavon, Texas on the 5th day of June, 2018.

Charles A. Teske, Jr.
Mayor

ATTEST:

Kim Dobbs
City Administrator | City Secretary

CITY OF LAVON, TEXAS

RESOLUTION NO. 2018-06-03

EXHIBIT A

Public Improvement Districts Policy

City of Lavon

Policy for Public Improvement Districts

OVERVIEW

This Policy sets forth guidelines pursuant to which the City of Lavon (the "City") will consider, implement, utilize and administer the public improvement districts ("PIDs"). PIDs are development financing tools authorized pursuant to Chapter 372 of the Texas Local Government Code (the "Act"), which allow for the costs of certain public improvements and supplemental services in a designated area to be allocated to and paid by the owners of the parcels that actually benefit from such improvements and services. A PID can therefore provide a means to fund supplemental services and improvements to meet community needs which could not otherwise be constructed or provided by contribution from those citizens who most benefit from them.

The purpose of this Policy is to outline the considerations that will need to be addressed before the City Council can support the establishment and/or continuation of a PID. Such considerations include petition requirements, assessments, mandatory information disclosures to property owners in a potential PID, the content of a PID's annual service and budget, and parameters in which the issuance of obligations secured by and payable from PID assessments will be considered. This Policy also addresses City PID administration requirements, which may be in addition to the requirements of the Act and other state laws.

The City Council will not take <u>any</u> action to commence with the creation of a PID or other related development district prior to the approval of a final Development Agreement on the property in question. In addition, the City Council will not entertain any developer requests for a Municipal Utility District ("MUD"), Water Control & Improvement District ("WCID") or any other taxing special district within the City's boundaries or ETJ.

This Policy has been prepared and approved to assist in the operations and management of a PID, and the guidelines set forth herein are not intended to be an all-inclusive list. In addition, while this Policy sets forth the generally expected parameters under which PIDs will be created, maintained, and administered; certain requirements contained herein may be waived by the City on a case-by-case basis as needed to provide the flexibility necessary to ensure the most favorable development opportunities for the City and its residents.

I. ESTABLISHMENT

A PID is a defined area of properties, whose owners have petitioned the City to form a PID. City Council establishes a PID by adoption of a resolution after a public hearing. The public hearing is publicized and written notification of the hearing is mailed to all property owners in the proposed PID. By petition, the owners pledge to pay a special assessment in order to receive enhanced services and/or improvements within the PID. The PID must demonstrate that it confers a benefit, not only to the properties within the PID, but also to the "public" which includes the entire City.

II. GENERAL

1. All proposed PIDs must be located within the City limits or in the City's extraterritorial jurisdiction (the "ETJ").
2. The proposed PID must be financially self-sufficient and not be a cost to the City or increase the cost of any aspect of City service delivery.
3. The proposed PID must not impact the City's bond ratings, cost of capital or access to capital.
4. PIDs must be established carefully and only when related to a public purpose.
5. All persons selling land in a PID must include a "title encumbrance" which notifies any prospective property owner of the existence or proposal of special assessments on the property. All closing statements must specify who is responsible for payment of the PID assessment on a pro rata share thereof.
6. The PID's budget shall include sufficient funds to pay for all costs above and beyond the City's ordinary costs, including additional administrative, operational costs and additional maintenance costs resulting from operation of the PID.
7. The PID petitioner will be required to pay fees for administrative and operational costs incurred by the City. The payment of fees is not a guarantee that the City will approve the PID. The fees will pay for such costs as:
   (a) Reviewing the PID petition.
   (b) Publishing related notices.
   (c) Reviewing the appraisal, the initial service and assessment plan, and the market feasibility study, including the costs of all services provided by City consultants, attorney, bond counsel and financial advisor.
   (d) Bond issuance.
   (e) Review and approval of plan for and inspection of construction of PID improvements.
   (f) Procurement of contracts for PID administration and operation, collections of assessments, foreclosures, etc.
   (g) The City's ongoing administrative and operational costs related to an approved PID, such as collection of PID assessments, review and approval of service and assessment plan updates, and other costs shall be reimbursed by PID assessments. The City's costs shall be determined on an annual basis.
   (h) Administration and management of ongoing PID responsibilities, such as preparations and updating of the service and assessment plan, issuance of notices for annual City Council action on the service and assessment plan, operation and maintenance of PID improvements, and other related matters shall be paid by PID assessments and performed by a third party under contract with the City.
8. The City will use PID bond proceeds only to pay or to reimburse the cost of PID improvements that have been designed and constructed to the standards of, and accepted for maintenance or otherwise approved by, the governmental entity responsible for them.
9. In the event of default under the terms of the PID petition or any PID agreement, the City shall, after providing notice and an opportunity to cure, have the right to recapture reimbursements if the PID Financing Agreement established a Cash Flow PID.

III. PREFERENTIAL REQUIREMENTS

PIDs in which the cost of public improvements are financed without any City participation are preferred. Except for public improvements specifically approved in a City bond proposition, the City will not expend or pledge a tax increment, general fund revenue, general obligation or certificate of obligation bond proceeds, set to support the costs of PID improvements unless explicitly approved by the City Council as advancing a City purpose.

IV. PETITION REQUIREMENTS

Petitions requesting establishment of a public improvement district must satisfy all statutory requirements under §372.004 of the Texas Local Government Code. In addition, all petitions submitted for establishment of a public improvement district shall include the following:

1. The basic terms and conditions for creation of the PID, including the provision of community benefits.
2. The petitioner's qualifications and previous experience with real estate development, financing of the development, prior PIDs, etc.
3. A legal description of the boundaries of the PID, a black and white map of the PID boundaries suitable for publication for the legal notices and a "commonly known" description of the area to be included in the District.
4. A current tax roll of the owners in the PID.
5. Any plan for phasing of both the real estate development supported by the PID and construction of public improvements in the PID.
6. Contain the signatures of one hundred percent (100%) of property owners.
7. Indication of the estimated costs of the proposed improvements (in dollars, $)
8. Indication of the Maximum Assessment (in dollars, $).
9. Maximum Bond Issuance (in dollars, $).
10. Maximum Tax Equivalent Rate (in cents, $).
11. A sunset clause, and a pre-executed petition to dissolve the PID by the landowner in case the project does not move forward within three (3) years.
12. Contingency plan to address the maintenance or disposition of PID improvements and or property that has not been dedicated to the public if a PID is dissolved.
13. Evidence that the petition's signatures meet the state law requirements or the petition will be accompanied by a reasonable fee to cover the city costs of signature verification.
14. If the proposed District is an expansion of an existing public improvement district, a petition for the new segment of the proposed District must identify each subdivision, or portion thereof, within the proposed boundaries of the new District, and each subdivision or portion thereof, that is not currently in an existing PID shall individually satisfy the requirements for a petition under §372.005 of the Texas Local Government Code. Subdivision has the meaning assigned by §232.021 of the Texas Local Government Code.
15. A section, which clearly identifies the benefit of the PID to the affected property owners (for use in benefit hearings) and to the city as a whole (i.e., public purpose).
16. Description of all city-owned land within the District as well as its proposed share of project costs.
17. Specified assurances to the City that the construction of improvements in the public right-of-way will be maintained by the PID and in no way obligates the City to future maintenance or operational costs, unless otherwise stated in a subsequent agreement.

18. Statement that the petitioners understand that the annual budget for the District is subject to review by city staff with final approval by the City Council.
19. A certified check for the application fee will be paid by the applicant to reimburse the city for the cost of evaluating the petition. This application fee must be paid in full when the petition is submitted to the City for evaluation and review.
20. Application fees are intended to pay for all costs incurred by the City that are associated with establishing the PID including, but not limited to: salaries for City Staff, City Attorney, Financial Advisor, PID consultant fees, bond attorney fees, independent appraisal fees, engineering costs, and all other reasonable and appropriate expenses.
21. A Capital PID requesting bond financing must be owned by a single owner and their affiliated entities.
22. All estimated costs must be identified before a decision is reached on a request to establish a PID. Costs to be identified include costs related to establishing the District; costs for maintenance, operations and administration; and costs for later revision, repair or replacement of any improvements.

V. ASSESSMENTS

1. By ordinance, the City annually levies the assessments on the properties in the District in accordance with the petition.
2. The City will contract with the County Tax Office for billing and collecting of PID assessments.
3. PID assessments for Capital PIDs with bond financing will be divided equally throughout the PID by acreage at a fair, logical and equitable process based on benefit commensurate with the bond repayment schedule and annual expenses.
4. The PID assessment is billed on each property owner's annual ad valorem tax statement.
5. Annual cash and tax equivalent assessments levy must be level or descending.

VI. BOND FINANCING FOR CAPITAL PIDS

All Capital PIDs established by the City with an intent to fund improvements through bond financing shall be limited by the following restrictions and requirements:

1. The developer, all related parties and professionals must submit to full disclosure due diligence, and be approved by the City's bond counsel, city attorney, financial advisor, etc. prior to consideration of issuance of debt.
2. The developer must be compliant with all aspects or the development agreement, current on all taxes, fees, and assessments, not be involved in any disputes or lawsuits with the City or any overlapping jurisdiction.
3. The terms of repayment for any bonds issued for Capital PIDs shall specify a maturity date not longer than thirty (30) years from the date of issuance.
    (a) The maturity date for any bond issued shall not exceed the useful life of any assets constructed.
    (b) The maturity date for any bond issued shall not exceed the initial authorization term of the Capital PID.
    (c) The annual debt service payments and corresponding assessments shall not increase over the life of the debt, but shall be level from year to year.
4. Repayment of any debt is limited to the pledge of revenue derived from the PID.

5. One hundred percent (100%) of the project's major and internal public costs must be cash funded at closing - total public costs minus PID project fund = developer cash deposit.
6. The amount of interest that may be capitalized within the debt issuance shall be equal to no more than 2 years of interest payments.
7. Capitalized interest shall terminate at the end of the fiscal year before transfer of any property to 3rd parties.
8. Proceeds of Capital PID debt issuance, along with any required cash contribution to fully fund project costs, will be placed in a trust administered by a trust indenture.
9. Excess proceeds from a debt issuance must be applied to prepay outstanding bond principal outstanding debt payments.
10. A Debt Service Reserve Fund shall be established in an amount equal to 1.0 times the maximum annual debt service payment.
11. A draft Service and Assessment Plan for debt issuance must be submitted and approved by City Staff before consideration of debt financing.
12. Issuance of debt in arrears will only be considered if the following requirements are met:
    (a) Developer will advance fund any cash necessary for the project;
    (b) A Service and Assessment Plan and debt issuance structure must be completed;
    (c) A trust indenture and trustee must be appointed; and
    (d) A reimbursement resolution must be completed prior to incurring any expenses.
13. All costs incurred by the City that are associated with the administration of the PID shall be paid out of special assessment revenue levied against property within the PID. City administration costs shall include those associated with continuing disclosure, agent fees, staff time, regulatory reporting and legal and financial reporting requirements.
14. The City shall choose and utilize its own financing team including, but not limited to, bond counsel, financial advisor, assessment consultant, and underwriters related to bond financing proceedings.
15. The City shall choose and utilize its own continuing disclosure consultant and arbitrage rebate consultant. Any and all costs incurred by these activities will be included in City administration costs recouped from special assessments. The continuing disclosure will be divided into City disclosure and developer disclosure, and the City will not be responsible or liable for developer disclosure but the City's disclosures professional will be used for both disclosures.
16. The Owner agrees to provide periodic information and notices of material events regarding the Owner and the Owner's development within the PID in accordance with Securities and Exchange Commission Rule 15cc2-12.
17. Developers requesting establishment of a Capital PID with bond financing must participate in the City's continuing annual financial disclosures.
18. City Staff has been delegated authority from the Mayor and City Council to initiate foreclosure proceedings on any delinquent property for failure to pay the special assessment associated with the PID.
19. In the event of a default on bonds issued for Capital PIDs, all associated parties and their affiliates shall be barred indefinitely from submitting a petition to the City requesting establishment of any future PID.
20. The aggregate principal amount of PID Bonds issued and to be issued shall not exceed amounts sufficient to fund the Public Improvements.

21. Each series of PID Bonds shall be in an amount estimated to be sufficient to fund the Public Improvements or portions thereof for which such PID Bonds are being issued.
22. Delivery by Owner to the City of a certification or other evidence from an independent appraiser or other professional confirming that the special benefits conferred on the properties being assessed for the Public Improvements increase the value of the property by an amount at least equal to the amount assessed against such property.
23. Approval by the Texas Attorney General of the PID Bonds and registration of the PID Bonds by the Comptroller of Public Accounts of the State of Texas.
24. Owner is current on all taxes, fees and obligations to the City.
25. Owner is not in default under this Agreement or the Development Agreement.
26. No related outstanding PID Bonds are in default and no reserve funds have been drawn upon that have not been replenished.
27. Review and approval by the City of the plats and construction plans for the Public Improvements.
28. The PID administrator has certified that the costs of the Public Improvements to be paid from the proceeds of the PID Bonds are eligible to be paid with the proceeds of such PID Bonds.
29. The Public Improvements to be financed by the PID Bonds have been or will be constructed according to the approved design specifications and construction standards imposed by the Development Agreement.
30. The City's evaluation and determination that there will be no negative impact on the City's creditworthiness, bond rating, access to or cost of capital, or potential for liability.
31. The City has determined that the PID assessment level, structure, terms, conditions and timing of the issuance of the PID Bonds are reasonable for the project costs to be financed and that there is sufficient security for the PID Bonds to be creditworthy.
32. The maximum maturity for PID Bonds shall not exceed 30 years from the date of delivery thereof.
33. Unless otherwise agreed to by the City, the PID Bonds shall be sold and may be transferred or assigned only in minimum denominations of $100,000 or integral multiples of $1,000 in excess thereof; provided that the limitation on transferability or assignment shall not apply (A) if the PID Bonds are assigned a rating of not less than rated "BBB" by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., "Baa" by Moody's Investors Service, Inc., or an equivalent rating by a nationally recognized municipal securities rating service acceptable to the City, and upon compliance with applicable securities laws. The City agrees that if the PID Bonds have an investment grade rating, they may be sold in minimum denominations of $5,000 or integral multiples of $1,000 in excess thereof.
34. No information regarding the City, including without limitation financial information, shall be included in any offering document relating to PID Bonds without the consent of the City.
35. Owner shall simultaneously fund the Public Improvements to the extent that the Public Improvements have not already been completed and paid for by Owner or otherwise to the extent that the PID Bonds are insufficient to fund such Public Improvements.

VII. PID MANAGEMENT

1. The City will choose and utilize a private PID consulting firm to manage the PID, subject to administrative oversight by City staff.

2. The management company will coordinate development of the Budget and Five Year Service Plan with the City staff and City team members, with input from the Owner, which will then be submitted to the City Council for consideration following a public hearing conducted in accordance with State law.
3. The PID consulting firm will communicate to all property owners within the District, regarding special events, activities, or other pertinent news in the PID.
4. The PID consulting firm shall attend City staff working meetings and City Council meetings when PID items are on the agenda or to be discussed.

VIII. SERVICE PLAN

State law specifically outlines the improvements and special supplemental services that may be adopted in the Five Year Service Plan and provided for in the PID's annual Budget.

1. The City utilizes PIDs for various operational and maintenance projects to include:
   (a) Landscaping;
   (b) Erection of fountains, distinctive lighting, and signs;
   (c) Construction or improvement of sidewalks and streets;
   (d) Construction or improvement of pedestrian trails;
   (e) Acquisition and installation of pieces of art;
   (f) Acquisition, construction, or improvement of libraries;
   (g) Acquisition, construction, or improvement of off-street parking facilities;
   (h) Acquisition, construction, or improvement of mass transportation facilities;
   (i) Acquisition, construction, or improvement of water, wastewater, or drainage facilities;
   (j) The establishment or improvement of parks;
   (k) Acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
   (l) Special supplemental services for improvement and promotion of the PID, including services relating to advertising, promotion, health and sanitation, public safety, security, business recruitment, development, recreation, and cultural enhancement; and
   (m) Payment of expenses incurred in the establishment, administration, and operation of the PID.
2. Budgets shall be developed, and funds allocated so that all property owners within the PID benefit.
3. Annual budgets shall be supplemented by a detailed line item explanation of the various components and how the amount was derived.
4. Annual budgets may be altered by submitting a mid-year adjustment for approval by City Council.