

Chapter 81. Travis County Public Improvement District Policy and Procedures¹

Contents:

81.001	General Provisions 1
81.002	Definitions 2
81.003	Community Benefits 3
81.004	PIDs within Municipal Limits or ETJs 4
81.005	Minimum Requirements for a PID 4
81.006	Preferential Requirements. 7
81.007	Contents and Filing of Petition 8
81.008	Notice, Public Hearing, and Approval of Petition 9
81.009	Financial Limitations and Performance Standards 9
81.010	PID Administration and Management 10
81.011	Audit Requirements 10
81.012	Boundary Modifications, Supplemental Assessments, Renewal, or Dissolution 11

81.001 General Provisions

- (a) A public improvement district (PID) is a tool that provides for the financing of the costs of public improvements or services that benefit a definable part of Travis County (the County). It allows the costs of PID improvements or services to be borne by those who receive special benefits from the improvements or services because they own property in that definable area. At the same time, residents of the county who live outside the definable area also receive some benefit from those improvements or services.
- (b) The purpose of this chapter is to outline the policies and procedures the Travis County Commissioners Court (the Commissioners Court) will use to consider whether creation of a PID, a levy of PID assessments, or issuance of PID bonds is in the best interest of the County.
- (c) For purposes of the several filing requirements of Chapter 372, Local Government Code (Chapter 372), the person performing the functions of a municipal secretary for the County is the assistant Travis County Clerk responsible for maintaining the minutes and other records of the Commissioners Court.
- (d) The Commissioners Court may, on a case-by-case basis, waive a requirement of this chapter if it does not conflict with state law. Any requirements waived shall be noted in the resolution approving the PID petition or other relevant document and must include a finding that the waiver is in the best interest of the County.

¹ Chapter 81 was adopted by Travis County Commissioners Court on January 26, 2016, item 10.

81.002 Definitions

In this chapter

- (1) “Affordable Housing” means, in general, housing for which the occupant is paying no more than 30 percent of his or her income for gross housing costs, including utilities, as established by the federal Department of Housing and Urban Development.
- (2) “Approved Master Plans” means master and regional plans approved by the Commissioners Court, such as the Land Water and Transportation Plan, the Colorado River Corridor Plan, and the Eastern Creeks Greenbelts Plan.
- (3) “ETJ” means the extraterritorial jurisdiction of a municipality.
- (4) “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.
- (5) “Owners” means owners of real property in the PID.
- (6) “Petitioners” means the owners signing the PID petition.
- (7) “PID assessments” means special assessments levied on property within the PID under Chapter 372 to pay for PID improvements.
- (8) “PID bonds” means special assessment revenue bonds issued by the County under Chapter 372 payable by PID assessments from, and secured by special assessment liens on, property in the PID.
- (9) “PID improvements” means landscaping, lighting, signs, sidewalks, roads, streets, pedestrian malls, libraries, off-street parking, public transit, water, wastewater, stormwater 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 Chapter 372.
- (10) “PID petition” means a petition for creation, modification, dissolution, or renewal of a PID.
- (11) “Service and Assessment Plan” means an ongoing plan approved by the Commissioners Court 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 Commissioners Court to establish the annual installments and budget for the PID.
- (12) “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 Chapter 372.

81.003 Community Benefits

- (a) Subject to the requirements of this chapter, the Commissioners Court will prioritize approval of petitions for PIDs supporting real estate development projects that provide for the following public benefits to a degree that is superior to the level of community benefits typically generated by real estate development projects not involving PID financing. Such benefits include, but are not limited to, the following:
- (1) Projects that will generate primary employment or other long-term economic development benefits to the County, above and beyond the economic development benefits generated by hiring short-term workers to construct the project supported by the PID.
 - (2) Projects that increase affordable housing opportunities for persons of low or moderate incomes.
 - (3) Improvements or services that advance Approved Master Plans.
 - (4) Projects that create or enhance parks, hike and bike trails, recreational facilities, open space benefits, etc. that exceed what is required by applicable development regulations.
 - (5) Projects that improve environmental protection, stormwater quality, and flood control benefits in ways that exceed what is required by applicable development regulations.
 - (6) Projects that increase or enhance mass transit, bicycle, pedestrian, carpooling, or any transportation options other than single-occupant vehicles.
 - (7) Projects that improve public educational programs and/or facilities.
 - (8) Projects that provide innovative, exceptional benefits to improve the public roadway network in the County other than the projects internal streets.
 - (9) Projects that ensure superior land uses within the PID.
 - (10) Projects that incorporate more than minimal green building standards.
- (b) PIDs must provide multiple community benefits. Affordable housing opportunities are especially important to the Commissioners Court, so the County will examine each PID petition for affordable housing opportunities. Creation of a PID without affordable housing element will generally be appropriate only where the area surrounding the PID has a greater need for community benefits other than affordable housing.
- (c) It is not necessary that all community benefits be funded by PID assessments or PID bonds. If a community benefit is not eligible for PID financing based on

section 372.003, Local Government Code, the petitioner must ensure ongoing financing of the benefit from other sources.

81.004 PIDs within Municipal Limits or ETJs

- (a) For areas within city limits, PIDs created by the municipality are preferred. Generally, the Commissioners Court will consider PID petitions for property in municipal limits only if:
 - (1) the project will enhance or assist in completing a County project;
 - (2) the PID includes property within an unincorporated area and municipal limits or within multiple municipal limits.
- (b) For proposed PIDs in an ETJ or municipal limits, the petitioners shall be responsible for coordination with and between the County and the municipality at the earliest possible date to assess municipal annexation plans, the maximum PID assessment rate relative to municipal taxation, relative responsibilities for acceptance and maintenance of PID improvements to be financed by the PID, and related matters.
- (c) For PIDs in either municipal limits or an ETJ, the petitioner must provide the County with acceptable evidence that the municipality has been notified in writing of the petitioner's intent to request creation of the PID by the Commissioners Court.

81.005 Minimum Requirements for a PID

- (a) For a PID petition to be approved by the Commissioners Court, the real estate development project supported by the PID must meet the following minimum requirements.
 - (1) The petitioner must submit acceptable evidence of the feasibility of the real estate development project and the PID, taking into account both the market for the proposed product types and the petitioner's capacity to deliver the project.
 - (2) The petitioner must agree either to reimburse the County or directly pay for the County's one-time administrative or operational costs, such as costs of:
 - (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 cost of services provided by County consultants, bond counsel, and financial advisors;
 - (D) bond issuance;
 - (E) review and approval of plans for and inspection of construction of PID improvements;

- (F) procurement of contracts for PID administration and operation, collection of assessments, foreclosures, etc.
- (b) The County'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 from PID assessments. The County's costs will be determined on an annual basis.
- (c) Administration and management of ongoing PID responsibilities, such as preparation and updating of the Service and Assessment Plan, issuance of notices for annual Commissioners Court 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 administrator under contract with the County.
- (d) The County will authorize PID bond proceeds only to pay the costs of PID improvements that have been designed and constructed to the applicable standards of the government entity responsible for them. For construction of PID improvements, the County will pay the petitioner for costs incurred as construction progresses, but no more frequently than monthly.
- (e) Before the County will levy a PID assessment or authorize issuance of PID bonds, the petitioners and the County must enter into a PID Agreement that establishes:
 - (1) the basic terms and conditions for creation of the PID, including the provision of community benefits and compliance with the requirements of this policy;
 - (2) payment or reimbursement to the County of both the County's one-time and ongoing administrative and operational costs;
 - (3) the financing of the PID improvements and the payment of assessment revenue or PID bond proceeds to pay the costs of the PID improvements;
 - (4) the planning, development, construction, management, and maintenance of the PID improvements, including review and approval by, and any interlocal agreements between the County and, the government entities ultimately responsible for the PID improvements;
 - (5) terms and conditions for ongoing PID administration, operation, and management, including collection of PID assessments;
 - (6) any services to be funded by the PID; and
 - (7) other related matters.
- (f) Before the County will levy PID assessments or authorize issuance of PID bonds, the petitioners must provide the following.

- (1) A fair market value appraisal of property in the PID by an appraiser acceptable to the County.
 - (2) A Market Feasibility Study.
 - (3) The method of assessment, including a preliminary Service and Assessment Plan, including a comparison of the combined PID assessment and *ad valorem* tax burden on owners in the PID with comparable combined burdens on owners in nearby developments.
 - (4) A plan for administering and managing PID responsibilities, such as collection of assessments, preparation and updating of the Service and Assessment Plan and assessment roll, and other related matters.
 - (5) Any plan for phasing of both the real estate development supported by the PID and construction of public improvements in the development.
- (g) Before the County will levy PID assessments or authorize issuance of PID bonds, contracts must be executed for:
- (1) Collection of PID assessments; and
 - (2) Third party administration and management of the PID.
- (h) With regard to use of historically underutilized businesses, provision of performance and payment bonds, and other requirements, contracts for design and construction of the PID improvements shall substantially conform to the requirements the County applies to design and construction contracts for roads built pursuant to public/private participation agreements.
- (i) In addition, construction of improvements financed by PID assessments or PID bond proceeds must meet the following requirements consistent with the Better Builder Program.
- (1) Payment of the prevailing wage to construction workers, provided the Travis County living wage is preferred when it is the higher of the two.
 - (2) Provide OSHA-10 training for construction workers and OSHA-30 for construction safety managers.
 - (3) Provide workers compensation insurance for construction workers.
 - (4) Provide independent monitoring of the construction sites by on-site monitors approved by the County.
 - (5) Recruit 30% of its construction workforce from local, Department of Labor-certified apprenticeship programs that provide bilingual instruction or other training programs that provide bilingual instruction approved by the County.
- (j) The PID agreement and/or other documentation acceptable to the County must be recorded in the County Clerk's Official Public Records to notify any prospective owner of the existence of PID assessments on the property. All closing statements and sales contracts for property in the PID must disclose responsibility for payment of PID assessments and the amount of the PID

assessments. The petitioners must erect signage disclosing the existence of the PID in a form acceptable to the County along the main entries and exits at the boundaries of the PID that is clearly visible to all motorists entering and exiting the PID.

- (k) Property in the PID owned by Travis County shall not be subject to PID assessments. Property in the PID owned by another governmental entity may be assessed only pursuant to an interlocal agreement between the entity and the County.
- (l) The PID may not finance improvements or services within a gated community or a development in which PID improvements would not be accessible to the general public.
- (m) A PID may not overlap the boundaries of another PID.
- (n) Development of property within the PID may not require variances from applicable development regulations that result in a significantly lower standard of development.

81.006 Preferential Requirements.

- (a) PIDs in which the cost of public improvements is financed without County financial participation are preferred. Except for public improvements specifically listed in a voter-approved County bond proposition, the County will not expend or pledge a tax increment, general fund revenue, general obligation or certificate of obligation bond proceeds, etc. to support the costs of PID improvements, unless explicitly approved by Commissioners Court as advancing a County purpose.
- (b) PID petitions signed by 100% of the owners in the PID boundaries are preferred. A PID petition will be viewed more favorably when it is signed by a higher percentage of the owners. At a minimum, a PID petition must be signed by:
 - (1) owners of taxable real property representing more than 50% of the appraised value of taxable real property liable for PID assessments as determined by the Travis Central Appraisal District; and
 - (2) the record owners of real property liable for PID assessments who either:
 - (A) constitute more than 50% of all record owners of property liable for PID assessments; or
 - (B) own taxable property that constitutes more than 50% of the area of all taxable property in the PID that is liable for PID assessments.
- (c) Collection of PID assessments by the County Tax Assessor Collector is preferred.

- (d) PIDs in which the private construction of improvements meets the requirements of 81.005(i) are preferred.

81.007 Contents and Filing of Petition²

- (a) The petitioners shall notify in writing the County Judge, the Commissioner of any precinct in which a proposed PID is located, and the County Executive of Planning and Budget at least 45 days in advance of their intent to file a PID petition. The petitioners may be required to attend one or more pre-filing meetings or Commissioners Court presentations scheduled by the County.
- (b) The petition must include the following:
 - (1) A description of the community benefits to be provided by the project under 81.005.
 - (2) A legal description of the boundaries of the PID and a black and white map of the PID boundaries suitable for publication.
 - (3) The general nature of the proposed improvements.
 - (4) The estimated cost of the improvements.
 - (5) The proposed method of assessment.
 - (6) Whether the PID will be managed and administered by the County, the private sector, or a partnership between the two.
 - (7) The proposed apportionment of costs between the PID and governmental entities.
 - (8) A statement that the petitioners request or concur with the establishment of the PID.
 - (9) A statement that a PID advisory body may be appointed, and whether the petitioners propose one.
 - (10) A current tax roll of the owners in the PID, including a separate list of any property that is designated as a homestead.
 - (11) Any other information required by Chapter 372.
- (c) The petitioners must include with the PID petition a certified check for a filing fee which will be used to defer the County's approximate internal staffing and overhead costs of processing and reviewing the PID petition. The County Executive for Planning and Budget shall determine the filing fee and update it from time to time. Until the County Executive determines the fee, the fee shall be \$10,000. In addition, petitioners must pay all direct costs of processing the PID petition, such as newspaper advertisements, postage, and contractors.

² 81.007(c): PID filing fee changed to \$36,000 on October 25, 2016, Agenda Item #17.

81.008 Notice, Public Hearing, and Approval of Petition

- (a) County staff will assess the adequacy of the PID petition and the petitioner's compliance with this chapter and Chapter 372 and recommend to the Commissioners Court whether to proceed with a public hearing on the PID petition.
- (b) If the Commissioners Court approves setting a public hearing on the PID petition, County staff will publish the newspaper notice and mail the notice to property owners required by Chapter 372.
- (c) The hearing may be continued from time to time. After the final adjournment of the public hearing, the Commissioners Court has six months to adopt a resolution making the findings required by Chapter 372.
- (d) The resolution must be approved by a majority of all members of the Commissioners Court.
- (e) Creation of the PID is effective when the resolution creating the PID has been published by County staff one time in a newspaper of general circulation in the County.
- (f) During the 20-day period after PID creation takes effect, PID creation may be protested in writing by either:
 - (1) two-thirds of the record owners in the PID; or
 - (2) the owners of at least two-thirds of property in the PID.
- (g) Construction of PID improvements may not begin until the later of the 21st day after PID creation takes effect or final resolution of any PID protest.

81.009 Financial Limitations and Performance Standards

- (a) Before levying PID assessments or authorizing issuance of PID bonds, the Commissioners Court shall:
 - (1) publish notice and hold a public hearing as required by Chapter. 372;
 - (2) determine the total cost of PID improvements;
 - (3) approve a final Service and Assessment Plan and appraisal roll;
 - (4) levy an assessment; and
 - (5) establish a separate PID fund in the County treasury.
- (b) The following limitations and performance standards shall apply to PID bonds.
 - (1) The minimum appraised value-to-lien ratio at date of each bond issue shall be 3:1.
 - (2) The maximum maturity for each series of bonds shall be 30 years.
 - (3) The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund:

- (A) the actual costs of the qualified PID improvements;
 - (B) required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of construction and in no event for a period greater than 3 years from the date of the initial delivery of the bonds; and
 - (C) any costs of issuance, arbitrage, administrative fees, third party fees, or other costs related to issuance.
- (c) The PID bond reserve fund shall be funded from bond proceeds at the time bonds are issued.
 - (d) The County will apply to PID bonds the same post-issuance compliance requirements the County applies to its general obligation and certificate of obligation debt.

81.010 PID Administration and Management

- (a) The County will procure a third party firm to administer the PID under the County Purchasing Act.
- (b) A third party firm shall:
 - (1) perform all duties required by the PID petition, PID agreement, or other PID documents;
 - (2) submit to the County periodic reports of all PID activities and expenditures as required by the Service and Assessment Plan or any agreement with the County;
 - (3) submit to the County an annual independent audit of all PID financial activities;
 - (4) prepare all proposed assessment rolls;
 - (5) prepare proposed Service and Assessment Plan updates, which shall include a comparison of the combined PID assessment and *ad valorem* tax burden on owners in the PID with comparable combined burdens on owners in nearby developments; and
 - (6) submit all proposed assessment rolls and Service and Assessment Plan updates to the Commissioners Court for approval.
- (c) The Planning and Budget Office will manage the third party administrator's contract.

81.011 Audit Requirements

Upon reasonable prior written notice, the County shall have the right during normal business hours to audit and inspect the records, books, and all other relevant records of the third party administrator and the petitioners related to services and public improvements financed by the PID.

81.012 Boundary Modifications, Supplemental Assessments, Renewal, or Dissolution

The Commissioners Court may only renew, add territory to, supplement assessments for, or dissolve a PID in the same manner as a PID is created.