

CALDWELL COUNTY, TEXAS

Public Improvement District Policy

OVERVIEW

A Public Improvement District ("PID") is designed to fund the costs of the public improvement projects through the collection and levy of special assessments on the properties directly benefitted by such improvement projects, rather than through the use of broader taxes or other general revenues. Pursuant to Texas Local Government Code Chapter 372 (the "PID Act"). Caldwell County (the "County") is permitted to fund qualified public improvements which confer a special benefit on a definable part of the County. A PID can finance capital costs and fund supplemental services – through the levy of special assessments on the benefitted properties within the PID – to fund community needs which may not otherwise be constructed or provided without the PID. The costs of the capital improvements and/or supplemental services are paid entirely by property owners within the PID who receive special benefits from the capital improvements or services.

A PID is a defined area of properties, whose owners have petitioned the County to form a PID. The Commissioners Court establishes a PID by adoption of a resolution after a public hearing. The public hearing is publicized per the PID Act and written notification of the hearing is published in a newspaper of general circulation and mailed to all property owners in the proposed PID. Through petition by existing property owners or information disclosures to future property owners, the owners understand that they will be paying an assessment to receive enhanced services and/or improvements within the PID. A PID must confer both a special benefit to the properties within the PID and a general benefit to the "public" which includes the County.

The purpose of this PID policy (the "Policy") is to outline the issues to be addressed before the Commissioners Court can support the creation of a PID. This Policy outlines such things as petition requirements, qualified costs, financing criteria, information disclosures to property owners, and the determination of annual plans of services, budgets and assessments. To the extent of a conflict between the terms of this Policy and the PID Act, the PID Act shall prevail.

GENERAL

1. Proposed PIDs must be located entirely within the County.
2. PIDs must be financially self-sufficient and not require the County to incur any costs associated with the formation of the PID, bond issuance costs, PID administration, or the construction of PID improvements.
3. PID petition signatures should reflect that a reasonable attempt was made to obtain the full support of the PID by the majority of the taxable property owners located within the proposed PID. Priority will be given to PIDs with the support of 100% of the landowners of taxable value within a PID.
4. PID petitions will be more likely to be approved if the petition includes projects which provide one or more community benefits described below.
5. A PID's budget shall include sufficient funds to pay for all related administrative and/or operational costs, including costs associated with tasks undertaken by County staff.
6. A landowner's agreement must be recorded in the Official Public Records of the County, which among other things, will notify any prospective owner of the existence or proposal

of special assessments on the property. It will be the developer's and landowner's responsibility to ensure that all closing statements and sales contracts for lots with homebuilders, home purchasers, etc., must specify who is responsible for payment of any existing PID assessment or a *pro rata* share thereof.

7. The boundaries of a PID must be clearly identified as such by signage along the main entry/exits located at the boundaries of the PID. All signage shall be clearly visible to all motorists entering and exiting the PID. Additional signage stating the presence of the PID shall be visible at all sales centers located within the PID.
8. Property owned by the County that is located in the boundaries of the PID shall not be subject to any assessment. Property in the PID owned by another governmental entity may be assessed only pursuant to an interlocal agreement between the entity and the County.
9. The PID shall confer special benefits on the property within the PID.
10. The boundaries of existing PIDs may be modified. However, a boundary change during the existing term of a PID may only be considered if no PID bonds have been issued and a new petition of the entire proposed PID area (both current boundary and areas to be added or excluded, as applicable) is submitted that meets the minimum criteria for creation/renewal and application fee as described below.
11. An Annual Service and Assessment Plan shall be adopted and updated as required by the PID Act.
12. The Service and Assessment Plan may contain procedures for the termination of the PID without imposing unintended costs on the County. A PID cannot be dissolved without a petition from property owners and must be sufficient as for creation or renewal in accordance with section 372.005(b) of the PID Act.

COMMUNITY BENEFITS

1. PID petitions will be more likely to be approved if the project includes one or more aspects of the following types of improvements which:
 - a. Generate economic development benefits to the County above and beyond the benefits generated by hiring short-term workers to construct the project supported by the PID;
 - b. Provide for improvements in the public right of way (e.g., entryways, landscaping, fountains, specialty lighting, art, decorative and landscaped streets and sidewalks, bike lanes, multi-use trails, signage);
 - c. Increase the accessibility and affordability of broadband service within the County;
 - d. Provide innovative or exceptional benefits to improve the transportation infrastructure in the County other than the project's internal streets;
 - e. Increase or enhance mass transit, carpooling, or other transportation options;
 - f. Improve public educational or health programs and/or facilities;

- g. Meet community needs beyond those required for the PID development (e.g., enhanced drainage improvements, land and infrastructure for re-irrigation of treated wastewater, off-street public parking facilities, pedestrian connectivity, wastewater and/or water system improvements, which create new or enhanced public roads and streets and which enhance and create opportunities to redevelop older or underutilized areas of the County);
 - h. Exceed development requirements; in particular enhanced architectural standards, enhanced landscaping, lighting which preserves dark skies, and which provide for a superior design of lots or buildings;
 - i. Provide for increased recreation and open space opportunities for public use;
 - j. Protect and preserve natural amenities and environmental assets such as the lakes, trees, creeks, ponds, floodplains, slopes, hills, viewscapes, and wildlife habitats;
 - k. Additional stream buffers beyond minimum requirements in any [drainage way protection zones or watershed protection areas].
 - l. Protect and preserve existing historical buildings, structures, features or places which would otherwise be of special benefit to the property users or community; and
 - m. Advance master and regional plans approved by the Commissioners Court, such as [the Transportation Plan, the Parks and Open Space Master Plan], and similar approved planning documents.
2. 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 of the PID Act, the petitioner must ensure ongoing financing of the benefit from other sources.
 3. PIDs should provide multiple community benefits. Economic development, transportation infrastructure and broadband access opportunities are especially important to the Commissioners Court, so the County will examine each PID petition for these benefits. Creation of a PID without such community benefits will generally be appropriate only where the area surrounding the PID has a greater need for community benefits other than these listed.
 4. At the County's discretion, a PID Petitioner for a project without such economic development, transportation or broadband community benefits may be required to pay a PID Community Benefit Fee in lieu of providing off-site improvements.
 5. PID bond proceeds are not allowed to be used to pay for the PID Community Benefit Fee.

6. The PID Community Benefit Fee shall be equal to 10% of net PID bond proceeds at each issuance, and shall be paid , as directed by the County, to the County or an economic development corporation created by the County.

PIDS WITHIN MUNICIPAL LIMITS OR ETJs

1. For areas within municipal limits, PIDs created by the municipality are preferred. Generally, the Commissioners Court will consider PID petitions for property in municipal limits only if:
 - a. the project will enhance or assist in completing a County project;
 - b. and the PID includes property within an unincorporated area and municipal limits or within multiple municipal limits.
2. 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.
3. 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.
4. For proposed PIDs in an ETJ, the County will consider the municipality's annexation plan before creating the PID in an area already identified in the plan.

PETITION REQUIREMENTS

1. A petition requesting the establishment of a 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 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 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 PID.
2. The petition must comply with the requirements of section 372.005(a) of the PID Act, and must state:
 - a. the general nature of the proposed improvements;
 - b. the estimated cost of the improvements;
 - c. the boundaries of the proposed PID;
 - d. the proposed method of assessment, which may specify included or excluded classes of assessable property;
 - e. the proposed apportionment of costs between the proposed PID and the County as a whole;
 - f. whether the proposed PID will be managed by the County, by the private sector,

- or by a partnership of the two;
 - g. that the persons signing the petition request or concur with the establishment of the proposed PID;
 - h. that an advisory body may be established to develop and recommend an improvement plan to the Commissioners Court; and
 - i. that the petitioner has read and understands this Policy and will adhere to all language herein.
 - j. Any other information required by the PID Act.
3. For a PID to be established, a petition shall include the following:
- a. Evidence that the petition's signatures meet the state law requirements, or the petition must be accompanied by a reasonable fee to cover the County's costs of signature verification.
 - b. A black and white map of the PID boundaries suitable for publication, a legal description of the boundaries of the PID, and a "commonly known" description of the area to be included in the PID.
 - c. Statement that the petitioners understand that the annual update, including any annual costs, for the PID is subject to review by County staff with final approval by the Commissioners Court.
4. Additional requirements include:
- a. PID petitions shall include this additional note: "With respect to community property, the County may accept the signature of a spouse as a representation of both spouses that they support the creation or renewal of the PID, absent a separate property agreement. *However, if County staff is made aware of any disagreement among owners of community property, those signatures will not be counted.*"
 - b. Signatures for PID petitions must be gathered not more than six months preceding submittal of the PID petition.
5. 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 Commissioners Court shall determine the filing fee and update it from time to time. Until the Commissioners Court determines the fee, the fee shall be \$20,000. This fee is regulatory in character and approximates the costs of evaluating the PID petition and supporting documentation. In addition to the application fee, any other related County-required cost is the responsibility of the Developer, including but not limited to costs such as newspaper advertisements, postage, contractors and consultants.
6. The petitioners must provide a current tax roll of the owners of property in the PID, including a separate list of any property that is designated as a homestead. A petition will be viewed more favorably if it has attached a current tax roll with the signatures of the owners registering support of the petition next to the account for the owner's property on the tax rolls, or other evidence that the petitioner(s) are the current owner(s) of taxable property within the PID.
7. The petitioners must provide a copy of the preliminary plan for the anticipated financing of the construction of the authorized improvements in the proposed PID (the "Financing

Plan") shall be submitted with the Petition. This Financing Plan shall include at a minimum:

- a. Targeted gross bond amount;
 - b. Estimated annual assessment revenue generated;
 - c. Annual installment per unit;
 - d. Estimated annual installments as an equivalent tax rate;
 - e. Estimated number of bond issuances;
 - f. Proposed maturity dates for PID bonds;
 - g. Proposed timetable of the development; and
 - h. Any other such supporting information related to the success of the PID.
8. The petitioners must provide a copy of a Feasibility Report (as referenced in section 372.007 of the PID Act) which demonstrates the economic feasibility of the project and includes the following information:
- a. An assessment revenue pro forma for the proposed project;
 - b. A financial review of the development projections and absorption schedule;
 - c. Analysis of above describing the timing and amount of PID assessment revenue which will be generated based upon varying levels of assessments; and
 - d. Comparison of the project with other similar projects in the area that will not have an assessment.
 - e. Proposed and estimated reserve amounts, if any.

PID ADMINISTRATION

1. The County may provide for the administration of a PID through in-house resources or contract with a qualified third-party company to manage and administer the PID, subject to appropriate oversight by County staff.
2. If the County elects to hire a third-party administrator, the County will provide authority for the administrator to:
 - a. coordinate the annual development of the budget and update to the Service and Assessment Plan which will be submitted to the Commissioners Court for consideration in accordance with the PID Act and any other applicable Texas law. The budget shall provide for sufficient funding to pay for all costs above and beyond the County's ordinary costs, including additional administrative and/or operational costs as well as additional maintenance costs resulting from the PID.
 - b. provide for the calculation of the assessment and allocation to the respective parcels in the PID and shall provide for the billing of the assessments to the property owners or provide information to the County Tax Office. The contractor and developer will coordinate to ensure that the billing/assessment information provided to the tax office includes all pertinent properties.
 - c. prepare annual reports reflecting the expenditure of PID bond proceeds or the reimbursement of developer expenditures, as appropriate.
 - d. prepare annual reports reflecting the imposition and collection of the assessments and the balances in the various accounts related to the PID to be provided to the

Commissioners Court on a quarterly or other periodic basis as may be required by the County.

- e. prepare and provide any other reports or information required of the County or the project under the PID Act.
- 3. Provision for the costs associated with the provision of the administrative services, whether the services are provided by third parties or the County, shall be included in any budget proposed by the developer and may include but is not limited to allocation of interest on the assessment to the extent authorized under the PID Act.
- 4. If the County elects to hire a qualified third party PID administrator to administer the PID, the costs for such administration shall be paid for with revenues generated within the PID.
- 5. The County may request an independent audit at any time.

BOND SIZE LIMITATIONS

The following limitations and performance standards shall apply to the issuance of PID bonds approved by the County:

- 1. Minimum appraised value to bond ratio: 3:1
- 2. Maximum annual permitted increase in annual assessment installment: 2%
- 3. Maximum years of capitalized interest for each bond issue: 3
- 4. Maximum maturity for each series of bonds: 30 years

The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund: (i) the actual costs of the qualified public improvements (ii) 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 (iii) any costs of issuance. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future bond issuances and applicable federal law pertaining to the issuance of tax-exempt bonds.

FINANCING CRITERIA

- 1. Bond issuances in advance of construction of an individualized phase of a PID will be subject to compliance with these standards..
- 2. No bonds backed by the general credit of the County (e.g. General Obligation bonds or Certificates of Obligation) will be utilized by the County to fund or support the PID improvements.
- 3. All subsequent PID bond issues, if any, will be subject to approval by the Commissioners Court. The Commissioners Court will consider evidence that (i) the value of the property within the PID and the County as a whole will be significantly increased by the projects financed with the PID bonds; (ii) no financial risk of burden will be imposed on the County; and (iii) development in phases will be self-sustaining and financially sound.
- 4. Additional special assessments may be levied or special assessments may be adjusted in connection with subsequent bond issues if an agreed-upon maximum annual assessment rate is not exceeded and the special assessments are determined in accordance with the Service and Assessment Plan and the PID Act.

5. Special assessments will bear a direct proportionate relationship to the special benefit of the public improvements received. In no case will assessments be increased for any parcel unless (a) the property owner of the parcel consents to the increased assessment and (b) no bonds secured by such assessment have been levied.
6. The County shall not be obligated to provide funds for any improvements except from the proceeds of the PID bonds and PID assessments.
7. Each PID bond indenture will contain language precluding the County from making any debt service payments for the PID bonds other than from available special assessment revenues.
8. A PID developer will be responsible for payment of all the County's reasonable and customary costs and expenses, including the cost of any appraisal, subject to reimbursement from PID bonds or PID assessments, if any.
9. Any PID bond issued will include a Reserve Fund in an amount equal to the lesser of: (i) the maximum annual debt service on the bonds, (ii) 10 percent of the principal amount of the PID Bonds, or (iii) 125 percent of the average annual debt service and that such Reserve Fund will be funded from bond proceeds at the time bonds are issued, subject to the regulations of the Internal Revenue Code related to tax-exempt bonds.
10. Improvements to be funded by the PID are limited to those defined as Authorized Improvements under section 372.003(b) of the PID Act, including, but not limited to:
 - a. Landscaping and irrigation in public rights of way;
 - b. Erection of fountains, distinctive lighting, backlit street signs and way finding signs;
 - c. Acquiring, constructing, improving, widening, narrowing, closing or rerouting sidewalks, streets or any other roadway or their rights-of-way;
 - d. Construction or improvement of pedestrian malls;
 - e. Acquisition and installation of pieces of public art;
 - f. Acquisition, construction or improvement of libraries;
 - g. Acquisition, construction or improvement of public off-street parking facilities;
 - h. Acquisition, construction, improvement or rerouting of mass transportation facilities;
 - i. Acquisition, construction or improvement of water, wastewater or drainage improvements;
 - j. The establishment or improvement of parks;
 - k. Projects similar to those listed in a. through j. above;
 - l. Acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
 - m. Special supplemental services for improvement and promotion of the PID, including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and culture enhancement;
 - n. Payment of expenses incurred in the establishment, administration, and operation of the PID, including expenses related to the operation and maintenance of mass transportation facilities; and

- o. The development, rehabilitation, or expansion of affordable housing.
- 11. Any trails, parks, streets or other public amenities that are located within a gated community or otherwise inaccessible location may not be funded or reimbursed by the PID.
- 12. All public infrastructure within the PID that is to be reimbursed will be subject to County inspection at any time and verification of eligible costs. Public infrastructure must be built to meet or exceed County specifications. Upon completion, public infrastructure within a PID must be conveyed to the County or to another political subdivision of the State, with the County's consent.
- 13. All current and future landowners will be required to 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.

PROJECT CRITERIA

Prior to forming a PID for which bonds will be issued to fund the costs of qualified public improvements, the following requirements must be satisfied:

- a. The property owner or developer must demonstrate to the County that it has the expertise to complete the proposed development.
- b. The property owner must provide the County with its sources of funding the public improvements not being funded by the PID.
- c. The proposed development must be consistent with the entitlements on the property. All required zoning, other required land use approvals or other required permits must be in place for the development prior to the issuance of any PID bonds.
- d. The property owner must provide evidence to the County that the utility service provider has sufficient capacity to provide all necessary utility services.
- e. All reasonable estimated costs must be identified before a decision is reached on a request to issue bonds for a PID. Costs to be identified include costs related to establishing the PID; costs for construction and/or the acquisition of improvements, the maintenance and operation of PID projects (if any) and PID administrative costs.
- f. If the County elects to hire a qualified third party PID administrator to administer the PID, the costs for such administration shall be paid for with PID assessment revenues. The PID administrator will be required to prepare the annual update to the Service and Assessment Plan.
- g. The developer will submit a final Financing Plan (and other applicable PID documentation) for review by the County, which clearly identifies the benefit of the PID to the affected property owners and to the County as a whole (i.e., public purpose) and evidence of insurance.
- h. In conjunction with the County and its consultants, the developer may be asked to prepare a Service and Assessment Plan. The plan must cover a period of at least five years and must define the annual indebtedness and projected costs of the PID improvements and the proposed assessments on the various classes of covered property under the plan. The Service and Assessment Plan shall include but is not limited to:
 - a. A description of the proposed method of assessment including the classes of covered property;

- b. An apportionment of the costs between the PID and the County, if any;
 - c. A description of the management of the PID; and
 - d. If applicable, all County-owned land within the district.
- e. Improvements constructed in the public right-of-way will be dedicated to the County (or other political subdivision of the State with the County's consent) and maintained by the developer, an owner's association or other third-party mutually agreed upon by the County and the developer. Any signs, structures, or improvements proposed to be built in the public right-of-way must be approved by the County in writing before any costs are incurred.

Developer Reimbursement

1. The Developer will submit expenses for reimbursements pursuant to the terms of an agreed upon PID reimbursement agreement with the County.
2. The County's appointed designee (which may be the PID Administrator) will verify expenses' and eligibility for reimbursements pursuant to the provisions of the PID reimbursement agreement.
3. Subject to the availability of assessment revenues, reimbursement payments will be processed within thirty (30) days after the date on which the costs were verified.

Miscellaneous

1. If any section, subsection, sentence, clause, phrase, or word of this Policy is declared unconstitutional or invalid for any purpose, the remainder of this Policy shall not be affected.
2. The County in its sole discretion may engage the following professionals, including but not limited to: 1) PID Administrator; 2) Appraiser; 3) Underwriter; and 4) Trustee.
3. Any waivers to this Policy must be approved by the Commissioners Court of the County.
4. PID Agreements shall include this language: The County shall, upon reasonable prior written notice to the developer and during normal business hours, have the right to audit and inspect the developer's records, books, and all other relevant records related to reimbursable amounts under this agreement. The parties agree to maintain the appropriate confidentiality of such records, unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, State Law, municipal ordinance, or at the direction of the Office of the Texas Attorney General.
5. In the event of a default by the developer under a negotiated PID reimbursement agreement, the County shall, after providing the developer notice and an opportunity to cure, have the right to recapture all prior reimbursements.
6. No public official or employee shall be personally responsible for any liability arising under or growing out of any approved PID. Any obligation or liability of the developer whatsoever that may arise at any time under the approved PID or any obligation or liability which may be incurred by the developer pursuant to any other instrument transaction or undertaking because of the PID shall be satisfied out of the assets of the developer only and the County shall have no liability.
7. All PID agreements shall include indemnification language as follows: **Indemnification.**

Developer covenants and agrees to fully indemnify and hold harmless, County (and their elected officials, employees, officers, directors, representatives, and agents), individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature brought by any third party and relating to Developer's actions on the project, including but not limited to, personal injury or death and property damage, made upon County or directly or indirectly arising out of, resulting from or related to Developer or Developer's tenants' negligence, misconduct or criminal conduct in its activities under this agreement, including any such acts or omissions of Developer or Developer's tenants, any agent, officer, director, representative, employee, consultant or subconsultants of Developer or Developer's tenants, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this agreement, all without, however, waiving any governmental immunity available to County, under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this indemnification are solely for the benefit of the County and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Developer shall promptly advise County in writing of any claim or demand against County, related to or arising out of Developer or Developer's tenants' activities under this agreement and shall see to the investigation and defense of such claim or demand at Developer's cost to the extent required under the indemnity in this paragraph. County shall have the right, at their option and at their own expense, to participate in such defense without relieving Developer of any of its obligations under this paragraph.

It is the express intent of this section that the indemnity provided to the County shall survive the termination and or expiration of this agreement and shall always be broadly interpreted to provide the maximum indemnification of the County and/or their officers, employees and elected officials permitted by law.

7. All PID agreements will stipulate that the developer, or its assign, will acquire General Liability and Property insurance which provides liability coverage at least equal to the liability coverage that the County maintains at the time the PID is approved.



NOTICE

CALDWELL COUNTY COMMISSIONERS COURT

BE IT KNOWN that on the 22nd day of June, in its duly noticed regular meeting, the Caldwell County Commissioners Court voted unanimously to approve and adopt the attached Caldwell County, Texas Public Improvement District Policy.

SIGNED this the 22nd day of June, 2021.

A handwritten signature in black ink, appearing to read "Hoppy Haßen", written over a horizontal line.

Hoppy Haßen
Caldwell County Judge

ATTEST:

A handwritten signature in black ink, appearing to read "Teresa Rodriguez", written over a horizontal line.

Teresa Rodriguez
Caldwell County Clerk

