COUNTY PUBLIC IMPROVEMENT DISTRICTS

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What are Public Improvement Districts?

- Public Improvement Districts (PIDs) are special purpose districts authorized under Chapter 372, Texas Local Government Code. They are not like MUDs.

- Landowners may petition Texas counties to create PIDs.

- PID petitions designate an area in the county where owners agree to pay a special assessment to finance public improvements in the district.

- A county may authorize a petition and create the PID if it finds the district promotes the county's interests.

Why are PIDs Created?

Landowner Perspective -- Landowners (developers) use PIDs to finance public infrastructure in new subdivisions. PID financing provides cheaper capital for infrastructure and passes the costs directly to the ultimate lot purchaser.

County Perspective -- Counties authorize PIDs because they can obtain useful concessions from the landowners that would not otherwise be available or bring higher quality development to the community.

A Brief Historical Overview

- Legislation was enacted in 1987 and initially used as a reimbursement mechanism.
- First used to issue bonds in 2007 prior to the economic downturn but use of PIDs was curtailed until the housing market came back.
- Texas began to see a wider incidence of petitions beginning in 2013. In 2017 cities (and a county) issued 16 series of PID Bonds.
- There are only two counties that have thus far issued PID bonds and presumably have created PIDs.

Texas County PIDs

Texas counties have only created two PIDs:

- **Comal County** – $3,625,000 Special Assessment Revenue Bonds, Series 2017
  - (The Crossings Public Improvement District)
- **Hays County** - $19,200,000 Special Assessment Revenue Bonds, Series 2015
  - (La Cima Public Improvement District Major Public Improvement Project)

Why the difference in activity?

- PIDs are created in cities to finance public infrastructure in residential developments.
  - Developer wants the city to accept the streets and infrastructure and take over maintenance of the improvements as soon as possible.
  - City wants the additional tax base.
- Counties typically do not have the same motivations as they do not provide water and sewer or other services associated with residential developments.

PID Characteristics

- The PID is not a political subdivision of the State, County or municipality.
- The PID has no separate taxing authority or other powers.
- The County typically governs the PID.
- The County establishes an assessment to be levied on benefited property in the PID.
- Only PID lots are impacted -- the assessment “runs with the land.” It is collected like property tax.

PID Characteristics (continued)

- PID assessments are solely for the costs of the infrastructure and the administration of the PID (and the cost of issuing bonds, if any are issued).
- The PID ceases to exist and the assessments end when infrastructure (or the bonds) are paid off.
- The County collects the assessments and uses the proceeds to either reimburse the developer for the cost of the infrastructure or pay the debt service on the bonds, if issued.
- The PID-financed improvements become property of the County or other public entity, subject to the entity's maintenance.

Authorized Improvements

- Water, sewer & storm drain facilities
- Parks, landscaping, hiking, bike trails and art
- Streets, sidewalks, and “streetscaping”
- Parking, transit and transportation systems
- Libraries, recreational amenities and cultural facilities
- Purchase of easements, greenbelts or wetlands
- Offsite requirements for road access, sewer line extensions, water distribution systems
- Services, including public safety, public health, recreation and cultural enhancements

For a detailed list – see Section 272.003, Local Government Code.

DETAILS ON HOW A PID WORKS

County issues bonds backed solely by the PID assessments.

The PID assessment is not a tax obligation of the County.

No taxpayers outside the PID are responsible for any portion of the PID obligation.

The County is obligating itself to impose and collect the assessment and will have to contract to administer the PID assessments over the life of the assessments or bonds (annual review).

PID bond proceeds are held by a trustee to ensure proper use and the County specifies the level of control it wants to have over the expenditure of those funds.

The assessments expire when the bonds are paid off.

SOME PID CREATION DETAILS

- PID petition submitted by a landowner triggers the County's obligation to consider creating a PID.
- The County is obligated to investigate the efficacy of the project and make certain findings before it either approves or rejects the petition.
- Creating the PID adds other obligations for developing a Service and Assessment Plan (e.g., notice and hearing).
- A PID proposed within a home rule city or its ETJ can only be created by the County if the city does not object within 30 days of the filing of the petition.

FEASIBILITY REPORT

The County will need to obtain a feasibility report to determine whether:

1) an improvement should be made as proposed by petition or otherwise, or
2) whether the improvement should be made in combination with other improvements authorized under the PID legislation.

The County may also require that a preliminary estimate of the cost of the improvement or combination of improvements be made.

For the purpose of determining the feasibility and desirability of an improvement district, the County may take other preliminary steps before the hearing, before establishing a PID, or before entering into a contract.

PID Bond Issues to Consider

The County will need to determine if is comfortable issuing bonds. While the developer may try to maximize proceeds by pushing the limits of what can be underwritten, the County will need to determine what should be underwritten. Some factors in making that decision include:

1. Leverage – value to lien calculation may be subject to negotiation
2. Status of Development – what if any portion of the infrastructure has been built
3. Indications of Demand – has developer contracted to sell lots

PID Bond Issues to Consider (continued)

Additional factors in making that decision include:

4. Overall Plan of Finance – what is the level/type of fiscal commitment being offered prior to bond issue
5. Developer – is the developer established, reputable with a quality resume
6. Phasing – is this a single phase or does the developer have a multi-phased project
7. Desirability – how important (strategic) is this development to the County and what are the benefits

County Specific PID Issues

- While counties may own and maintain county roads, drainage, and parks in rural subdivisions, they typically do not provide water and sewer service in such subdivisions.
- So, unless the PID infrastructure is limited to county maintained items, there will be a problem in whom to dedicate other public improvements to and how those are paid from the County's PID assessment.

County Taxpayer Issues

- Another issue that will arise is that homeowners in such rural county subdivisions will be paying a combined ad valorem tax rate plus the assessment, which is different than homeowners in other county areas outside the PID.
- The County will have a continuing need (over the life of the assessment) to educate and remind homeowners that they bought the lot with that obligation and that the assessment covers their cost of the specified improvements.

Proactive County Moves

- It may be useful to adopt a PID policy that requires landowners to pay appropriate fees to cover this due-diligence activity imposed on the County.

County Project Team

- County Commissioners Court (Local Government Corporation)
- County Attorney or legal representative
- County subdivision regulation or planning staff
- Bond Counsel
- Financial Advisor
- PID Administrator
- Appraisal Firm
- Dissemination Agent

Developer/Landowner Team

- Developer/Landowner
- Developer's Counsel
- Assessment Consultant
- Engineer
- Dissemination Agent

Investor Team

- Underwriter
- Underwriter’s Counsel
- Trustee (engaged by the County)
- Trustee’s Counsel

Parting Thoughts

- Does a PID petition provide opportunities for the County to obtain some benefits for the County's residents that make the PID worth considering?
- Does the County want to encourage development of the type being proposed and does the PID create the opportunity to have better quality development?
- Is the County comfortable with issuing debt secured by such a pledge and assume the associated risks?

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