

RESOLUTION NO. 2017-10-77

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING AMENDMENTS TO THE 2014 PUBLIC IMPROVEMENT DISTRICT POLICY; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Mayor and City Council of the City of Lancaster support Lancaster neighborhoods in the creation of Public Improvement Districts throughout the city to strengthen and connect neighborhoods; and

WHEREAS, Texas Local Government Code, Chapter 372 allows for the creation of Public Improvement Districts; and

WHEREAS, the City of Lancaster recognizes that Public Improvement Districts are valuable tools which neighborhoods use to enhance the maintenance of public property beyond the level normally provided by the City.

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

SECTION 1. The City Council hereby adopts the Public Improvement District policy with amendments, which is attached hereto and incorporated herein as Exhibit "A".

SECTION 2. That all resolutions of the City of Lancaster heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby repealed, and all resolutions of the City of Lancaster not in conflict with the provisions hereof shall remain in full force and effect.

SECTION 3. If any article, paragraph, subdivision, clause or provision of this resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgement or holding shall not affect the validity of this resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

SECTION 4. That this Resolution shall take effect immediately from and after its passage, as the law and charter in such cases provide.

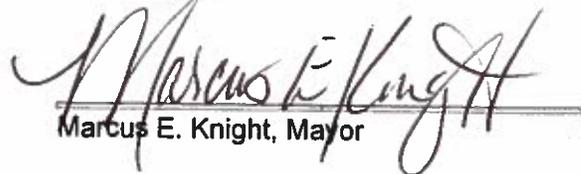
DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 9th day of October, 2017.

ATTEST:



Sorangel O. Arenas, City Secretary

APPROVED:



Marcus E. Knight, Mayor

APPROVED AS TO FORM:



David T. Ritter, City Attorney

CITY OF LANCASTER PUBLIC IMPROVEMENT DISTRICT POLICY

PURPOSE

A Public Improvement District (PID) is a tax assessment area established to provide for the maintenance and enhancement of public improvements and services in the area. Assessments are generally based on the appraised values of real property within the area and/or the cost of improvement(s). A PID can encompass and serve both residential and commercial property. Cities are authorized to create PID's under Chapter 372 of the Texas Local Government Code.

The City of Lancaster recognizes that PID's are valuable tools which neighborhoods use to enhance the maintenance of public property beyond the level normally provided by the City. It is the intent of the city to allow direct management control of PID operations by bodies consisting of PID property owners. However, PID bodies serve advisory functions, and all final decisions are made by the governing body of the PID, the City Council. Section 372.002 of the Texas Local Government Code, Exercise of Powers, states that "Powers granted under this subchapter may be exercised by a municipality or county in which the governing body of the municipality or county initiates or receives a petition requesting the establishment of a public improvement district. A petition must comply with the requirements of Section 372.005."

PID ESTABLISHMENT

The City Council must approve all petitions requesting establishment of public improvement districts. Land included in the PID must be contiguous.

A PID may be created at any time; however, to be assessed in October following PID creation, the required number of petition signatures must be turned in to the City by July 1st. Establishment shall be in accordance with Chapter 372 of Texas Local Government Code.

The key indicator that distinguishes an existing neighborhood or business district from a new development is whether the majority of lot ownership is held by the developer or by the residents. All PID's must comply with the details of the approved resolution that established the PID. Public Improvement Districts are prohibited from enforcing Homeowners Association Deed Restrictions. PID's are likewise prohibited from expenditures of public monies advertising or promoting a developer's sales.

Advisory Board Membership

PID Board members will comply with all laws, policies, and procedures set by:

- Chapter 372 of the Texas Local Government Code.
- The City of Lancaster
- The City of Lancaster Code of Ordinances
- The Texas Open Meetings Act
- The City of Lancaster Public Improvement District Policy
- The Bylaws of the Public Improvement District

If any Advisory Board member intentionally violates any of these laws, policies, or procedures, the City may remove the member from the Advisory Board and appoint a replacement.

Existing Neighborhood or Existing Business District

Individuals interested in establishing a PID should determine the support of their community and present a petition including a conceptual plan of improvements to the City Manager's Office which includes at least:

- Proposed district boundaries
- Estimated costs associated with the improvements and maintenance
- The general nature of the proposed improvements or maintenance program
- Consideration of future replacement of capital improvements, i.e. fences
- Classes of property which will be subject to or exempt from assessment and the proposed method of assessment
- A core committee of interested individuals (names, addresses and phone numbers) willing to serve as the initial PID Advisory Board
- That the persons signing the petition request or concur with the establishment of the PID

The City Manager's Office will coordinate with any neighborhood or organized group interested in establishing a PID.

After initial review, the city will determine whether sufficient support and documentation has been provided. If accepted, the city will then prepare the final application packet.

The final application packet must include an assessment plan apportioning the cost of the improvement plan to be assessed:

- An estimated assessment rate is applied to the expected appraised value of property to sufficiently fund a budget. The budget should provide adequate funds for the following:
 - Annual routine maintenance of improvements
 - Reserves to fund long term major maintenance and replacement of improvements
 - Associated out-of-pocket administrative costs
- The Advisory Board will recommend specific improvements, oversee the annual service plan and long-term plans, and manage related contracts and services.
- A Petition - The petition is sufficient if signed by:
 - Owners of taxable real property representing more than 50% of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and
 - Record owners of real property liable for assessment under the proposal who:
- Constitute more than 50% of all record owners of property that is liable for assessment under the proposal; or
- Own taxable real property that constitutes more than 50% of the area of all taxable real property that is liable for assessment under the proposal.

Maintenance and Improvements

PID assessments may only be used to serve, maintain or improve public property and may not be used to benefit or enhance private property. Listed below are services and improvements which Lancaster PID's may provide or maintain. Other improvements allowed by the statute will be reviewed and considered individually by the city.

- Landscaping and irrigation
- Right-of-way, median, and other open space maintenance, such as residential detention ponds
- Perimeter fencing
- Entry features
- Fountains
- Distinctive lighting
- Distinctive signs
- Art or decorations
- Sidewalks
- Parks
- Special supplemental services for improvement and promotion of the district including public safety, security, business recruitment, development, recreation, and cultural enhancement
- Payment of necessary expenses incurred in the establishment, administration, and operation of the district

Listed below are services and improvements which Lancaster PID's may not provide or maintain:

- Construction, improvement, or maintenance of privately owned facilities or land including that owned by a Home Owners' Association (HOA)
- Purely social activities
- Travel expenses
- Advertisement or promotion intended to sell property or newly constructed private property within PID area

PID ADVISORY BOARD ELECTIONS

After receiving a petition that complies with this policy and Texas Local Government Code, section 372.005, the Lancaster City Council will appoint an Advisory Body with the responsibility of developing and recommending an improvement plan to the City Council.

- Council will appoint an Advisory Board according to the nomination plan developed by the PID residents in their initial petition.
- New Advisory Board members shall be nominated annually, either by themselves or another property owner within the PID.
- Selection and ratification by City Council will be moved to December of each year.
- Board Composition – Each PID must have at least three (3) members, but not more than seven (7), and shall satisfy the requirements of Section 372.008 (b) Local Government.
- Board Terms – members will serve staggered 2 year terms¹. Odd numbered seats will be elected in odd numbered years and even numbered seats will be elected in even years.

¹ Specified seats will serve an initial two year term when a new PID is established.

- Currently established PID's will begin staggering seats in the current year by selecting three of its members to hold their seats for an additional year.
- Board Election – Board elections must occur annually. Please see this policy for specific board election procedures that must be followed by all established PID's.
- All Election meetings must be published publically (ex: neighborhood signs, city's website, etc.).

Board Responsibilities and Planning

The Advisory Board will hold work session from time to time to discuss maintenance and improvement projects. Work sessions will be open to the public. Notification to the community of the time, place, and topics to be considered will be provided via the city website and area signage. Work sessions are not to be considered public meetings or hearings and general comments from persons not serving on the Advisory Board are not solicited.

Meetings

Each PID is required to hold one homeowner meeting each year that is open to the public comment. The annual meeting will finalize projects for the five year service plan, district tax assessment rates, and the upcoming budget. The PID will provide notice of the meeting to all PID property owners. The advisory board may schedule other meetings as required and will notify the City of Lancaster of their time and location at least 72 hours in advance. The City will assist in publication of notice and posted agenda regarding such meetings. The PID advisory board will request the meetings be posted on the City website; in addition to this, the PID advisory board may advertise the meetings. The public is permitted and encouraged to speak at the annual meeting. The Board will provide forms to record the names and addresses of persons speaking and to record support for or opposition to the Advisory Board's plans. Minutes of the public meeting with such comments will be attached to the approved proposal sent to the city council. Final recommendations regarding the five year plan and tax rate are the responsibility of the Advisory Board.

Operations

Improvements and maintenance authorized by PIDs are supplemental to the general operations of the city and shall be paid entirely from district assessments.

Contracts

The PID advisory board shall pursue annual contracts for maintenance, repair, and construction services where possible.

Contracts will be negotiated by the PID advisory board.
Contracts will be approved by the PID advisory board

The PID advisory board must ensure that its contractors provide appropriate liability and other insurance.

Insurance

The PID advisory boards will acquire general liability, automobile liability, and errors and omissions insurance, such coverage to be paid for from PID assessments. Property insurance for valuable assets is optional and to be paid for from PID assessments.

The PID advisory board should consult its insurance advisor /agent on the appropriate levels of insurance. PIDs may obtain insurance through the Texas Municipal League (TML) at government rates or purchase it from a private carrier. If PIDs decide to pursue insurance coverage via the Texas Municipal League, it must do so independently of the City of Lancaster. The City of Lancaster will not allow umbrella coverage under its TML policy for any PIDs.

Security - If any PID hires additional security, the security service must provide proof of adequate insurance, or the PID may hire off-duty police officers. If any PID hires additional security, the Police Department will be notified prior to engaging the security service.

New Development

All new residential developments shall have either a PID or an HOA (or both). State law requires notification to homebuyers before purchasing the property acknowledging that they will pay PID assessments with their property taxes. Developers interested in establishing a PID should present a petition including a conceptual plan of improvements to the city Planning Director before construction begins. The PID petition must be submitted for City Council approval before the final plat is filed. The plan must include at least:

- Proposed district boundaries
- Estimated costs associated with the improvements and maintenance
- The general nature of the proposed improvements or maintenance program
- Consideration of future replacement of capital improvements, i.e. fences
- Classes of property which will be subject to or exempt from assessment and the proposed method of assessment
- The proposed apportionment of costs between the PID and the municipality as a whole (the transfer)
- How the PID will be managed
- An advisory board to develop and recommend an improvement plan to the governing body of the municipality at least half of whose members shall be resident of the development.
- That the persons signing the petition request or concur with the establishment of the PID
- A plan for turning the PID over to the residents when the developer has finished the residential development. The plan should include an approximate date for giving control to the residents and the specific triggers for giving control to an advisory body, such as 50% of development. The developer will be responsible for: scheduling a meeting with residents; informing the residents of the purpose, date, time, and location of the meeting; attending this meeting with the residents; explaining how the PID works; helping residents

to nominate an advisory body; and turning over to the new advisory body a detailed accounting of prior expenditures.

A city task force consisting of representatives from the following departments will review the initial submittal: Planning, City Attorney, Finance, and Parks and Recreation. The City Manager's Office will take the lead in the review process and will handle administrative tasks.

If the developer intends an HOA for early phases of development, to be phased out and replaced by PID structures later, the plan must propose detailed benchmarks for the transition timeline, occupancy rates, and property /ownership transfers.

After initial review, the city task force will determine whether sufficient support and documentation has been provided. If accepted, the PID committee will then prepare the final application packet in a format provided by the city. If city reviewers find that sufficient information available, the applicants must be provided a detailed critique allowing amendments and corrections to the application to be made in a timely fashion.

The final application packet must include an assessment plan apportioning the cost of the improvement plan to be assessed; including:

- If applicable, a description of the division of PID and HOA responsibilities and the relationship between PID fees and HOA dues.
- An estimated assessment rate to be applied to the expected appraised value of property in order to sufficiently fund a budget. The budget should provide adequate funds for the following:
 - Annual routine maintenance of improvements
 - Reserves to fund long term major maintenance and replacement of improvements
 - Associated city out-of-pocket administrative costs
- Description of procedures for the nomination of an Advisory Body. The Advisory Body will recommend specific improvements, oversee the annual budget and long-term plans, and manage related contracts and services.
- A petition. The petition must be signed by the landowners and approved by the city council before construction begins. The petition is sufficient if signed by:
 - Owners of taxable real property representing more than 50% of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and
 - Record owners of real property liable for assessment under the proposal who:
- Constitute more than 50% of all record owners of property that is liable for assessment under the proposal; or
- Own taxable real property that constitutes more than 50% of the area of all taxable real property that is liable for assessment under the proposal.
- Other documentation requested by the city.

PID ADVISORY BOARD RESPONSIBILITIES

- **Management** - Management of a PID is the responsibility of the PID advisory board. If the district fails to appoint an advisory board but wishes to continue the PID assessments and

maintenance, the city will maintain the district through a contract with a property management company with all expenses to be paid from PID assessments.

- **Bylaws** - Each PID must adopt bylaws. Specifically, the board may recommend:
 - The number of members, with a minimum of 3 and a maximum of 7 composition must comply with 372.008 Local Government Code
 - The number of regular meetings, with a minimum of one (1) per year.

The City staff will assist in the developing, and review each PID's bylaws before they are adopted. The City Council must vote to approve the bylaws to give them force. The PID advisory boards may amend the bylaws as necessary, and all amendments must be approved by the City Council.

PID Relationship to City after PID is created

- **Training** - The City will hold an annual training after the election of new PID officers. The training will be designed to educate new and existing PID officers of the laws, policies, and practices that govern PID's in the City of Lancaster.
- **Budgeting** - The City will give a crash course in PID budgeting at the annual training and again prior to budget development.
- **Fees and permits** – PID's are required to pay the same fees and obtain the same permits as would be required of any person or persons of the city. PID's will pay for water utilities through the interdepartmental billing system.

PID's must pay for:

- Meter fees
- Tap fees
- Collection cost for the PID assessment

Assessment Rate Increase

If a PID requests an assessment rate increase following annual review of its service plan, the PID must hold at least one additional homeowner meeting within the month before the assessment hearing to announce the increase, provide budget information, and answer questions. The PID may hold additional homeowner meetings as needed. No PID is allowed to increase its assessment rate more than 25% in one year budget year.

PID Relationship to City after PID is created

- **Fees and Permits - Developers forming PID's for new developments are required to pay any fees and obtain the permits which may be necessary for the development, including but not limited to:**
 - Meter fees
 - Tap fees (if the work is done by the city)
 - Security deposits
 - Impact fees
 - Inspection fees
 - Permits as required
 - Other City fees as required

- **Monthly Invoice/Expense Submission and Reimbursement Process** - All PIDs will be required to submit invoices monthly to the city for review and reimbursement and/or payment through PID accounts for annual service plan expenditures. Should expenses exceed the funds allocated within the annual service plan, the PID shall adhere to the City of Lancaster Budget Adjustment Process to obtain Council approval for changes.

Expansion of a PID

- Expansion of an established PID requires that a written petition of the owners of the property to be added to the PID be submitted to the established PID advisory body, which shall form the petition to City Council for consideration. For an expansion, there is no minimum number of parcels, and land annexed into the PID must be contiguous to the existing PID. The City Council will not unilaterally take action without first conducting a fiscal impact analysis and obtaining PID boards' input. If the subject property is contiguous to an existing PID and neither area has outstanding debt, it will be annexed into the existing PID after consideration and approval by the City Council.

The petition shall include:

- Formal request to be annexed into PID including petition of owner of property to be added to PIDs (meeting Section 372.005 of state statute) if more than a single owner.
- Fully completed exhibit which contains the name of each parcel owner, the parcel legal description (subdivision name, lot, block, etc.) and the tax account number for each parcel.
- Description of property including boundaries, name of subdivision or property, boundary map, and site plan.
- Description and scaled site plan of proposed improvements including landscape plan, landscape irrigation plan, signage, etc.

If the expansion is a new development, the petition shall include:

- Letter of commitment that developer/property owner shall maintain improvements for a period of two years after annexation into improvement district.
- Commitment that developer/property owner shall pay any costs associated with annexation.

- **Fees and Permits** - New developments joining existing PID's are required to pay any necessary fees and permits, including but not limited:
 - Meter fees
 - Tap fees (if the work is done by the City)
 - Security deposits
 - Impact fees
 - Inspection fees
 - Permits as required
 - Other City fees as required

PID STAKEHOLDER GROUPS AND RESPONSIBILITIES

PID stakeholder groups include

- City Council
- City staff

- PID advisory boards
- PID property owners
- PID contractors (only during initial construction and development phases; of less than 50% owner occupancy)

City Council Responsibilities

PID boards serve advisory functions, and all final decisions are made by the governing body of the PID. The City Council approves the annual 5-year service plan, and assessment rate and roll.

City and City Staff Responsibilities

- **Collections** - Dallas County will collect current and delinquent PID assessments. Current collection costs will be reimbursed from PID assessments. In the case of a PID dissolution, PID assessments will continue until any and all debt obligations of the PID are paid in full.
- **Public Notices** - The city will coordinate annual PID roll review and distribution of public notices and communications for the annual public hearing to adopt the assessment roll and assessment rate, and service plan and to appoint the advisory board.
- **Expenditures** - The city will review PID expenditures and process payments.
- **Reporting** - The city will account for each PID's assets, revenues, and expenses separately and reports will be provided to the PID advisory boards regularly. PID records are open to the public.
- **Contracts** - The PID advisory board shall pursue annual contracts for maintenance, repair, and construction services where possible.
 - The PID advisory board will negotiate contracts.
 - Contracts will be approved by the PID advisory board

The PID advisory board must ensure that its contractors provide appropriate liability and other insurance. Day-to-day responsibilities may be provided by contract management paid for from PID assessments.

- **Support** - The city will provide support to the PID boards as needed and will orient new PID advisory board members to the role and responsibilities of the PID as needed, and during the annual PID Officer training.

PID Policy Updates

- The PID Policy Committee will consider any proposed revisions to the PID policy.
- PID advisory boards will then be notified of the proposed revisions.
- The PID Policy Committee will consider advisory boards' comments.
- The City Council will conduct a hearing to approve the policy.

- The Policy Committee will establish “a review and revision process” that considers and, if necessary, updates this policy at least once annually.

CITY LIABILITY

The PIDs and PID advisory board, performing the tasks of the PID that are authorized or mandated by the City, are authorized by the City to perform those tasks, and to the extent possible, are afforded the appropriate rights and protections of other City volunteers if they act strictly in accordance with city policies and procedures. PID advisory board members must obtain the advice of experts.

A PID proposing to install any sign or structure in a median must have City Council approval **before any costs are incurred**, and the following must be agreed to by the PID as a condition of approval by City Council:

- The PID will assume responsibility for third party liability for any and all claims or suits for damage to any persons or property, including that property purchased, installed, operated, and maintained by the PID, arising out of or in connection with, directly or indirectly, the construction, maintenance, occupancy, use, existence or location of said uses granted hereunder, whether or not caused, in whole or in part, by alleged negligence of officers, agents, servants employees, contractors, subcontractors, licensees, or invitees of the PID. The PID maintains rights, at the option of the PID, to repair, replace, or to remove, any property installed, operated, and maintained by the PID. The PID will assume responsibility for any and all claims or suits for personal injury, including death, to any and all persons, of whatsoever kind or character, arising out of or in connection with, directly or indirectly, the construction, maintenance, occupancy, use, existence or location of said uses granted hereunder, whether or not caused, in whole or in part, by alleged negligence of officers, agents, servants employees, contractors, subcontractors, licensees or invitees of the PID. The PID will assume responsibility for any and all injury or property damage arising out of or in connection with any and all acts or omissions of the PID, its officers, agents, servants, employees, contractors, subcontractors, licensees, invitees, or trespassers.

I have read and understand this policy.

Signature

Date