

## **ORDINANCE NO. 23-07-06-02**

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, ADOPTING THE EXISTING PUBLIC IMPROVEMENT DISTRICT POLICY APPROVED BY THE LAGO VISTA CITY COUNCIL ON MAY 5, 2022, AND AMENDING THE APPLICABLE PORTIONS OF THE FEE SCHEDULE FOR CONSISTENCY.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, the City Council of the City of Lago Vista has previously adopted a Public Improvement District (PID) policy on May 5, 2022, with an effective date of June 1, 2022; and

**WHEREAS**, that policy includes certain fees and cost recovery provisions that are inconsistent with the provisions within Article 5.000 of Appendix A of the Lago Vista Code of Ordinances, the Fee Schedule; and

**WHEREAS**, fee changes require adoption by ordinance and notice in accordance with the *Texas Local Government Code*; and

**WHEREAS**, the City Council desires to adopt the previously approved PID Policy by ordinance and to amend Article 5.000 of Appendix A of the Lago Vista Code of Ordinances for consistency with the provisions of that PID Policy and to apply those same fees to other similar special district financing tools that might be proposed to support development, such as a Municipal Utility District (MUD) or a Tax Increment Redevelopment Zone (TIRZ); and

**WHEREAS**, the City Council wishes to adopt the previously approved PID policy as shown in Exhibit "A;" and

**WHEREAS**, the City Council also wishes to amend Article 5.000 of Appendix A of the Lago Vista Code of Ordinances as shown in Exhibit "B."

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**SECTION 1. FINDINGS OF FACT.** All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend the paragraph on page 33 within Chapter 3 of the 2030 Lago Vista Comprehensive Plan specifically titled "Residential Land Use Types Defined" as shown in Exhibit "A."

**SECTION 3. REPEALER.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**SECTION 4. SEVERABILITY CLAUSE.** If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5. CODIFICATION AND PUBLICATION.** The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.013 of the *Texas Local Government Code*.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

**SECTION 7. OPEN MEETINGS.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**AND, IT IS SO ORDERED.**

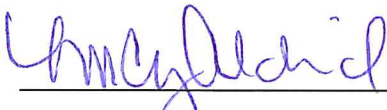
**PASSED AND APPROVED** this 6th day of July 2023.



Ed Tidwell, Mayor



ATTEST:



Lucy Aldrich, City Secretary

On a motion by Councilor Prince, seconded by Councilor Sullivan, the above and foregoing ordinance was passed and approved..

## **EXHIBIT “A”**



### **Public Improvement District Policy Manual**

A Public Improvement District (“PID”) in accordance with Texas Local Government Code Chapter 372, provides the City of Lago Vista (“the City”) an economic development tool for financing the costs of public improvements that benefit a definable part of the City or its extraterritorial jurisdiction (“ETJ”). PIDs allow the costs of public improvements to be borne by those who receive special benefits from the improvements.

The purpose of this PID policy is to outline the policies and procedures the City will use to consider whether creation of a PID, the levy of PID assessments, and issuance of PID bonds is in the best interest of the City. Any aspect not specifically addressed by this policy will be considered on an individual project basis.

The City may, on a case-by-case project basis, waive a requirement of this policy if it does not conflict with Texas or federal 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 City.

Except for the approval and issuance of special assessment revenue bonds or the approval of a reimbursement agreement, the City will not bear financial responsibility for PID improvements undertaken by a PID owner/developer.

#### **General Requirements**

The City will consider a petition for formation of a PID only within the City’s corporate limits or within its ETJ provided that the ETJ property owners voluntarily agree to annexation of such property into the City’s corporate limits.

Property located within the boundaries of a proposed PID that is owned by the City or intended to be conveyed or dedicated to the City shall not be subject to any PID assessment.

For a proposed PID, the initial bond issue shall not be less than \$3 million.

#### **Petition Requirements**

Each PID petition or application shall include:

1. Signatures from property owners of more than 50% of property within the proposed PID collected within the six-month period prior to the submission of the petition.

2. Payment of a non-refundable application fee of \$15,000 at the time a petition is filed.
3. A current certified tax roll of all property within the proposed PID.
4. A map acceptable to City staff and a metes and bounds description of the property included in the proposed PID.
5. A description clearly identifying the benefits of the proposed PID to the affected property owners and to the City as a whole.
6. Evidence of insurance.
7. A description of the developer's previous experience developing projects of similar scale and type.
8. The proposed "not to exceed" maximum tax rate equivalent.
9. A sunset clause, and a pre-executed petition to dissolve the PID by the landowner in case the SAP is not approved, and assessments levied for either reimbursement or bond issuance within three years of the date of the Development Agreement.

#### **Additional Documentation**

An independently prepared market analysis or feasibility study will be required prior to the public hearing. The market analysis or feasibility study will assess the reasonableness of the public improvements and overall development plan considering market conditions. The City will order the study, and the costs of the will be paid by the PID petitioner.

#### **Reimbursement for Costs and Expenses**

If the City determines it is in its best interest to establish a proposed PID and accepts a PID Petition, the City will require the developer to execute a Reimbursement Agreement. The Reimbursement Agreement will require the developer to initially deposit funds in the amount of \$50,000 to pay for (a) the City's costs for staff including the City Attorney, City Engineer, and City Planning staff, and (b) professional fees and expenses of third-party consultants and advisors including, but not limited to, Bond Counsel, Financial Advisor, PID Administrator, Trustee, Underwriter, Appraiser, and Market Study Analysts.

An additional \$25,000 deposit will be required to be deposited by the developer when the deposit balance reaches \$10,000. The unused balance will be returned to the developer after the bond closing. The developer may recover deposit funds used for City costs and professional fees and expenses at bond closing.

#### **Preferential Factors**

Subject to the requirements of Chapter 372 of the Texas Local Government Code, inclusion of one or more of the following preferential factors in a PID petition will increase the likelihood of approval by the City:



1. **Enhance Master Plan, Thoroughfare Plan and Water and Wastewater plans.** The project includes improvements that enhance the City's Master Plan, including the City's Thoroughfare Plan and water and wastewater plans. Improvements must exceed current subdivision regulations. Projects that least impact City infrastructure or provide enhanced benefits to improve the public roadway network and water and wastewater infrastructure in the City.
2. **Advance Parks and Trail Plans and Preserve Open Space.** Preference will be given to projects that advance the City's trail and park plans and increase pedestrian and trail connectivity. This includes projects that provide for increased recreation, lake access and open space opportunities for public use. Preference will be given to projects that protect and preserve natural amenities and environmental assets such as the rivers, lakes, trees, creeks, ponds, floodplains, slopes, hills, viewscales, aquifer recharge and/or contributing zones, and wildlife habitats.
3. **Exceed Development Requirements.** Preference will be given to projects that exceed City development requirements, including enhanced architectural standards, enhanced landscaping, low impact development (LID) features, greater impervious cover limitations, parking lot shading, floorplan variety, and which provide for a superior design of lots or buildings including green building ratings systems for energy efficiency. High quality projects that exceed the City's subdivision requirements for overall design, building standards and amenities with enhanced landscaping and appealing architecture throughout will be given preference.
4. **Meet Community Needs.** Preference will be given to projects that meet community needs such as enhanced drainage improvements, including land and infrastructure for re-irrigation of treated wastewater.
5. **Economic Development.** Preference will be given to projects that generate economic development benefits to the City beyond what a normal development would provide and satisfy the goals of the City's Economic Development Strategic Plan.
6. **Redevelopment and Historic Preservation.** Preference will be given to projects that create opportunities to redevelop older or underutilized areas of the City, e.g., entryways, gateways, landscaping, xeriscaping, street trees, fountains, specialty lighting, art, decorative and landscaped streets and sidewalks, bike lanes, multi-use trails, signage, terminating vistas, decorative pedestrian lighting, pedestrian safety elements, ADA accessibility, underground utilities, etc. Projects that protect and preserve existing historical buildings, structures, features, or places and preserve the rural and community amenities or features that further the look and feel of the hill country, or which establish a unified architectural or design theme throughout the development that complements the community's character and heritage.
7. **Access to Developer Finances.** Projects providing the City with access to records thereby enabling the City to confirm the developer's ability and financial capacity to deliver the project as proposed.

## **Development Standards**

1. **Pre-Approved Off-Site Improvements.** Any improvements that are offsite or are part of the City's Master Plans must have obtained approval from the City Engineer prior to being included in the PID.
2. **Phasing.** Projects that will be developed in phases must have a phasing schedule for infrastructure and utility needs.

## **Requirements for Development Agreement**

A Development Agreement shall be in place before the PID is created. The Development Agreement shall include, but not be limited to, the following provisions, as the same may be applicable to the type of PID proposed:

1. A development plan that outlines, at a minimum, land use and thoroughfare connections and is consistent with the City's Master Plans, as amended.
2. The proposed PID will substantially contribute to funding the expansion of arterial streets, major collector roadways, and trunk line utility infrastructure, as applicable when necessary to address the projected demand for services and impacts of the development.
3. The proposed PID will be located within the City's existing Water and Wastewater Certificates of Convenience and Necessity (CCNs) or expanded CCNs facilitated by the developer if, in the City's discretion, such expansion is feasible.
4. Plans for the proposed PID shall be prepared and reviewed by the City in compliance with the City's development regulations as relates to land use, infrastructure design, permitting, and inspections and applicants shall seek City development approvals prior to the commencement of any construction.

## **Collection of Assessments**

Prior to the levy of assessments, the City use its best efforts to enter into an agreement with Travis County to include the annual PID installments on the Travis County Tax Bill of each property owner within the PID.

## **Disclosure to Homeowners**

To satisfy disclosure to homeowners, the City will require the developer to comply with the following:

1. Signage at major entryways and exits indicating the existence of the PID.
2. Signage and information flyers (which will be updated at least annually to reflect any changes in such information) in any sales centers within the PID that include:

- a) Frequently Asked Questions
  - b) Total Assessment
  - c) Average Annual Installment
  - d) Equivalent Tax Rate
- 3. Homebuyer disclosure documents in accordance with Section 5.014 of the Texas Property Code, as may be amended, to be signed both at contract signing and at closing with such agreements maintained on file by each homebuilder and available for inspection by the City.
  - 4. Developer contracts with homebuilders must require the homebuilder to disclose the PID on any MLS listing.

### **City Advisors and Consultants**

The City will independently select a Bond Counsel, Financial Advisor, PID Administrator, Trustee, Market Study Analyst and Underwriter. With input by the developer, the City will select an Appraiser. The City's PID Administrator, in conjunction with the developer's PID Consultant, will draft the Service and Assessment Plan and prepare all annual updates.

### **Maximum Assessment**

As a result of the initial bond issue for a new PID, the annual PID assessment shall be the lesser of (1) \$0.50 per \$100 of assessed value, or (2) the rate per \$100 of assessed value such that the combined PID assessment rate and the City's aggregate overlapping property tax rate (City, County, School District, Emergency Services District and any other special taxing district) do not exceed \$3.00 per \$100 of assessed value. A true-up calculation will be performed prior to each bond issuance and upon filing of a final plat to ensure that the maximum assessment is not exceeded, which may result in a reduction in the size of any proposed issuance of PID bonds.

### **Assessment Term/Bond Term**

The maximum term for a PID and related PID assessment is 30 years, and the assessment term must equal the bond term.

### **PID Bonds; Financial Limitations and Performance Standards**

The following minimum performance standards shall apply to PID bonds. Preference will be given to proposed PIDs that exceed these minimum performance standards:

1. For the initial PID bond issue, a minimum appraised value to lien ratio of 3:1 for the proposed PID project,
2. All improvements to be funded with PID bonds must be fully engineered and competitively bid. A competitive bidding process with at least three bids will be required.
3. Developer is required to demonstrate committed capital in the form of cash deposit, proof of bank financing and/or equity capital, or letter of credit to the City with an amount confirmed by an engineer's opinion of probable cost, which represents the difference between budgeted cost to complete the public improvements assumed to be complete in the appraisal and the net proceeds of the PID bonds. The form of committed capital (cash deposit, letter of credit or bank/equity commitment) will be determined by the City on a case-by-case basis with input from its Bond Counsel and Financial Advisor.
4. All PID bonds issued by the City shall be approved by the Texas Attorney General and registered by the Comptroller of Public Accounts of the State of Texas.
5. The developer shall be current on all taxes, assessments, fees, and obligations to the City including without limitation payment of assessments.
6. The developer shall not be in default under any existing PID financing agreement or, with respect to the property within the PID, any other agreement to which developer and the City are parties.
7. No outstanding PID bonds are in default and no reserve funds established for outstanding PID Bonds have been drawn upon that have not been replenished.
8. 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.

### **Qualified Tax-Exempt Obligations**

In any calendar year in which PID bonds are issued, the developer (the "Developer") agrees to pay to the City its additional interest expense ("Additional Interest Expense"), as calculated by the City's financial advisor ("Financial Advisor"), that the City may incur in the issuance of its own public securities or obligations on its own taxing power or municipal revenues (the "City Obligations"), as described in this section, if the City Obligations are deemed not to qualify for the designation of qualified tax-exempt obligations ("QTEO"), as defined in section 265(b)(3) of the Internal Revenue Code, as amended, as a result of the issuance of PID bonds by the City in any given year.

*Issuance of PID bonds prior to City Obligations.* In the event the City issues PID bonds prior to the issuance of City Obligations, the City, with assistance from its Financial Advisor, shall estimate the Additional Interest Expense based on the market conditions as they exist approximately thirty (30) days prior to the date of the pricing of the PID Bonds. Such Additional Interest Expense is an estimate of the increased cost to the City of issuing its City Obligations as non-QTEO instead of



as QTEO. Promptly following the determination of such estimate, the City shall provide a written invoice to the Developer in an amount less than or equal to the estimated Additional Interest Expense. The Developer, in turn, shall remunerate to the City the amount shown on said invoice on or before the earlier of: (i) fifteen (15) business days after the date of said invoice, or (ii) five business days prior to pricing the PID Bonds. The City shall not be required to price or sell any series of PID bonds until the Developer has paid the invoice of estimated Additional Interest Expense related to the PID bonds proposed to be issued.

Upon the City's approval of the City Obligations, the Financial Advisor shall calculate the actual Additional Interest Expense to the City of issuing its City Obligations as non-QTEO. The City will, within five business days of the issuance of the City Obligations, provide written notice to the Developer of the amount of the actual Additional Interest Expense. In the event the actual Additional Interest Expense is less than the estimated Additional Interest Expense, the City will refund to the Developer the difference between the estimated and actual Additional Interest Expense within fifteen (15) business days of the date of the City's notice to the Developer required under this paragraph. If the actual Additional Interest Expense is more than the estimated Additional Interest Expense, the Developer will pay to the City the difference between the actual and estimated Additional Interest Expense within fifteen (15) business days of the date of the City's notice required under this paragraph. If the Developer does not pay the City such difference within fifteen (15) business days of the date of the City's notice required under this paragraph, the Developer shall not be paid any reimbursement amounts under any PID reimbursement agreement related to the development until such payment of excess Additional Interest Expense is made in full.

*Issuance of City Obligations prior to PID Bonds.* In the event the City issues City Obligations prior to the issuance of PID Bonds, the City, with assistance from its Financial Advisor, shall calculate the estimated Additional Interest Expense based on the market conditions as they exist 20 days prior to the date of the pricing of the City Obligations. Promptly following the determination of such estimated Additional Interest Expense, the City shall provide a written invoice to the Developer: (1) in an amount less than or equal to the Additional Interest Expense as calculated by the Financial Advisor, and (2) that includes the pricing date for such City Obligations. The Developer, in turn, shall remunerate to the City the amount shown on said invoice at least 15 days prior to the pricing date indicated on the invoice. If the Developer fails to pay the Additional Interest Expense as required under this paragraph, the City, at its option, may elect to designate the City Obligations as QTEO, and the City shall not be required to issue any PID Bonds in such calendar year.

Upon the City's approval of the City Obligations, the Financial Advisor shall calculate the Additional Interest Expense to the City of issuing non-QTEO City Obligations. The City will, within five business days of the issuance of the City Obligations, provide written notice to the Developer of the Additional Interest Expense. In the event the Additional Interest Expense are less than the estimated Additional Interest Expense, the City will refund to the Developer the difference between the actual Additional Interest Expense and the estimated Additional Interest Expense within fifteen (15) business days of the date of the City's notice to the Developer. If the actual Additional Interest Expense are more than the estimated Additional Interest Expense, the

Developer will pay to the City the difference between the actual and estimated Additional Interest Expense within fifteen (15) business days of the date of the City's notice. If the Developer does not pay to the City such difference as required under this paragraph, then the Developer shall not be paid any reimbursement amounts under any PID reimbursement agreement related to the development until such payment of excess Additional Interest Expense is made in full.

#### **Dissolution Agreement**

A dissolution agreement must be entered into at the time the City considers creation of the PID authorizing dissolution of the PID if assessments are not levied within three years after the creation of the PID.

#### **Applicability**

This PID Policy shall apply to PID applications filed after the effective date of this ordinance.

**EXHIBIT "B"**

**APPENDIX A**

**FEE SCHEDULE**

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**ARTICLE 5.000 SUBDIVISION AND DEVELOPMENT FEES**

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- g) Subdivision construction plans:
- (1) Review fee: \$2,000.00 plus one hundred fifteen percent (115%) of the professional cost (\$5,000 initial escrow account deposit required).
  - (2) Inspection and Testing: 0.5% of approved and certified engineer's estimate plus one hundred fifteen percent (115%) of the professional cost (initial escrow account deposit of 1% of the approved and certified engineer's estimate required).
- h) Special district financing agreements (including a PID, MUD, TIRZ, etc.):
- (1) Application: \$15,000.00 fee (not refundable), plus \$50,000.00 initial deposit for the actual cost of City staff, including the City Attorney, City Engineer and City Planning staff, and professional fees and expenses of third-party consultants and advisors including, but not limited to, bond counsel, financial advisors, agreement administrators, trustees, underwriters, appraisers, and market study analysts.
  - (2) An additional \$25,000 deposit will be required to be deposited by the developer when the deposit balance reaches \$10,000. The unused balance will be returned to the developer when at the sole discretion of the City Manager and City Attorney have confirmed that additional expenses are no longer anticipated.
- i) Site Development Plan Review: (Includes up to 3 reviews) According to Property Size:
- (1) Up to 1 acre: \$1000.00 plus one hundred fifteen percent (115%) of the professional costs (\$1,000 initial escrow account deposit required).
  - (2) Greater than 1 acre and less than 5 acres: \$2,000.00 plus one hundred fifteen percent (115%) of the professional costs (\$5,000 initial escrow account deposit required).
  - (3) 5 or more Acres but less than 15 acres: \$3,000.00 plus one hundred fifteen percent (115%) of the professional costs (\$5,000 initial escrow account deposit required).
  - (4) 15 acres or more: \$6,000.00 plus one hundred fifteen percent (115%) of the professional costs (\$5,000 initial escrow account deposit required).

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EXHIBIT "B"

**APPENDIX A**

**FEE SCHEDULE**

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ARTICLE 5.000 SUBDIVISION ~~AND DEVELOPMENT~~ FEES

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- g) Subdivision construction plans:
- (1) Review fee: \$2,000.00 ~~+~~ **plus one hundred fifteen percent (115%) of the** professional cost ~~+~~ **15%** (\$5,000 initial escrow account deposit required).
  - (2) Inspection and Testing: 0.5% of approved and certified engineer's estimate ~~+~~ **plus one hundred fifteen percent (115%) of the** professional cost ~~+~~ **15%** (initial escrow account deposit of 1% of the approved and certified engineer's estimate required).
- h) Special district **financing agreements (including a PID, MUD, TIRZ, etc.):**
- (1) Application: \$15,000.00 fee (not refundable), plus \$50,000.00 **initial** deposit for the actual cost of City staff, including the City Attorney, City Engineer and City Planning staff, and professional ~~services~~ fees and expenses of third-party consultants and advisors including, but not limited to, bond counsel, financial advisors, agreement administrators, trustees, underwriters, appraisers, and market study analysts. ~~Total fees shall be \$5,000.00 plus the actual cost of professional services plus 15%.~~
  - (2) ~~Amendment of approval: Application: \$2,500.00 fee (not refundable), plus \$2,500.00 deposit for professional services. Total fees shall be \$2,500.00 plus the actual cost of professional services plus 15%. An additional \$25,000 deposit will be required to be deposited by the developer when the deposit balance reaches \$10,000. The unused balance will be returned to the developer when at the sole discretion of the City Manager and City Attorney have confirmed that additional expenses are no longer anticipated.~~
- i) Site Development Plan Review: (Includes up to 3 reviews) According to Property Size:
- (1) Up to 1 acre: \$1000.00 plus **one hundred fifteen percent (115%) of the** professional costs (\$1,000 initial escrow account deposit required) ~~plus 15%.~~
  - (2) Greater than 1 acre and less than 5 acres: \$2,000.00 plus **one hundred fifteen percent (115%) of the** professional costs, ~~plus 15%~~ (\$5,000 initial escrow account deposit required).
  - (3) 5 or more Acres but less than 15 acres: \$3,000.00 plus **one hundred fifteen percent (115%) of the** professional costs, ~~plus 15%~~ (\$5,000 initial escrow account deposit required).

- (4) 15 acres or more: \$6,000.00 plus one hundred fifteen percent (115%) of the professional costs; ~~plus 15% (\$5,000 initial escrow account deposit required).~~

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