



**March 7, 2019**

## Questions and Answers Report



**Mayor Steve Adler**

**Mayor Pro Tem Delia Garza, District 2**

**Council Member Natasha Harper-Madison, District 1**

**Council Member Sabino "Pio" Renteria, District 3**

**Council Member Gregorio Casar, District 4**

**Council Member Ann Kitchen, District 5**

**Council Member Jimmy Flannigan, District 6**

**Council Member Leslie Pool, District 7**

**Council Member Paige Ellis, District 8**

**Council Member Kathie Tovo, District 9**

**Council Member Alison Alter, District 10**

*The City Council Questions and Answers Report was derived from a need to provide City Council Members an opportunity to solicit clarifying information from City Departments as it relates to requests for council action. After a City Council Regular Meeting agenda has been published, Council Members will have the opportunity to ask questions of departments via the City Manager's Agenda Office. This process continues until 5:00 p.m. the Tuesday before the Council meeting. The final report is distributed at noon to City Council the Wednesday before the council meeting.*

## QUESTIONS FROM COUNCIL

**Agenda Item #3:** Approve an ordinance amending the Fiscal Year 2018-2019 Capital Budget (Ordinance No. 20180911-001) to increase appropriations of the following departments for the following municipal purposes: Neighborhood Housing & Community Development Department by \$42,000,000 for affordable housing; Austin Public Library Department by \$3,700,000 for library facility improvements; Economic Development Department by \$500,000 for creative spaces; Parks & Recreation Department by \$28,150,000 for museum facility and parkland improvements; Watershed Protection Department by \$61,650,000 for flood mitigation, open space, and water quality protection; Austin Public Health Department by \$600,000 for a new neighborhood public health facility; Emergency Medical Services by \$7,850,000 for emergency medical services station improvements; Austin Fire Department by \$1,600,000 for fire station improvements; Austin Transportation Department by \$2,550,000 for transportation infrastructure improvements; and Public Works Department by \$2,600,000 for transportation infrastructure improvements. Related to Items #4, #5, and #11.

### **QUESTION/ANSWER:** COUNCIL MEMBER KITCHEN'S OFFICE

1) *Please provide more information to clarify what projects and what categories within each proposition are being drawn from by the proposed appropriation. Please also include the rationale for the amounts proposed.*

The attached spreadsheet lists the projects that will be funded from the proposed appropriation. The detail is summarized by proposition, category, and department. These projects were chosen in alignment with the guidance provided through Council Resolution 20180809-061 which put an emphasis on equity and need. The department-specific rationale is below.

- Austin Public Health—Appropriation will be used to hire a consultant to prepare a preliminary study at the Dove Springs Park site.
- Austin Public Library—The appropriation will cover the professional design services necessary to begin branch renovations. The branches included align directly with the greatest need of repair and SD23. It is anticipated that pre-design will take 5 to 6 months. Construction will be staggered over the remaining bond period to minimize impacts to existing levels of service.
- Austin Transportation—The appropriation will be used to secure street design to construct 10 pedestrian hybrid beacons as part of the CAMPO Pedestrian Safety & Transit Connections Project at high priority crossings based on engineering studies, implement critical safety improvements to at least 10 intersections using a well-established prioritization using historical crash data in conjunction with fatalities and severity of injuries, and provide the City's match for the CAMPO grants to support City of Austin traffic signal technology upgrades. The three CAMPO projects include Emergency Vehicle Preemption and Transit Signal Priority, the installation of vehicle detection capability at 400 signalized intersections

to adjust the signal timing based on the length of the queue at the approach to each intersection, and the installation of traffic monitoring cameras at 275 locations to enable regional sharing of traffic information.

- Economic Development—The \$500,000 in appropriation will allow EDD to begin planning, preliminary design, and cost estimation for identified development opportunities. The funding can also be used to hire a consultant for services to include site selection, site surveying, site feasibility, and land use services as appropriate based on the final staff recommendation informed by stakeholder feedback. The department recognizes stakeholder feedback may inform staff's request for additional funding should final recommendation be to fund multiple projects through a competitive solicitation of these funds.
- EMS—The amount was determined based on stations renovations needs for FY 2018-19. Projects were prioritized based on impact to service delivery, greatest need for repair, and internal and external equity.
- Fire—The department is requesting \$1.6 million in appropriations from the 2018 Bonds to begin the repairs on driveways and deferred maintenance. These projects can begin immediately upon final reviews through DSD and represent the optimum amount of work that can currently be expected to be accomplished by Building Services in FY 2018-19.
- Neighborhood Housing & Community Development—The \$42M in first year appropriations for the Affordable Housing Bonds will fund the first year of our program delivery. We anticipate spending \$20M in land acquisition, \$16M in rental housing development assistance, \$4M in ownership housing development assistance, and \$2M on home repair. We do not have specific investments lined up at this time as our programs are application based.
- Parks & Recreation—
  - PARD's art and cultural facilities projects were prioritized by greatest need for repair and include roof, HVAC, and electrical system renovations for the Carver facilities; the installation of the Zocalo shade structures and planning for design and construction of Phase II improvements for the MACC; and design and construction of a pedestrian bridge linking the overflow parking lot to the south to the Asian American Resource Center parking lot.
  - Aquatics investments will focus on renovations at facilities with the greatest need for reinvestment and renewal and on constructing a new facility in Colony Park District Park, a historically underserved area that was identified as the most critical location for system expansion in the Aquatics Master Plan.
  - Early Building Renovation projects will address critical needs for reinvestment at Givens and Hancock Recreation Centers and Pharr Tennis Center, as well as smaller-scale ADA compliance issues throughout the park system.
  - Infrastructure appropriations will support various efforts across the park system to address urgent reinvestment needs. Early projects will include replacing the playscape at Circle C Ranch Metro Park, the lowest ranked metro park playscape in the system, and non-compliant safety surfaces at various sites, rehabilitating the roads at Austin Memorial Park, and renovating the tennis courts at Rosewood Park.
  - Early Parkland Improvements projects will focus on funding construction for projects that have already progressed through substantial planning and design processes. Among these are Comal Pocket Park, Georgian Acres Neighborhood Park, Colony District Park, and Walsh Boat Landing. Design will commence on the recently completed Givens District Park Master Plan and will begin at Walter E. Long once the Master Plan is approved by Council.

- The Parkland Acquisition program will target strategic acquisitions, citywide, to improve access to parks in deficient areas and to make connections along greenbelts. The \$11 million appropriation will allow the City to aggressively pursue acquisitions earlier in the Bond program. This is imperative given the rising cost of land in Austin.
- Public Works—Street and sidewalk projects are planned to be identified by spring and summer, respectively. Appropriations for the Neighborhood Partnering Program (NPP) are for projects approved by the NPP Board.
- Watershed—The Acquisition of Water Quality Protection Land appropriations will go toward the purchase of 250 acres of entitled land over the recharge zone, approval of which is item 11 on the March 7, 2019 agenda. Remaining funds will be directed toward properties with willing sellers that provide significant protection of water quality and quantity and comprehensive downstream benefits. Drainage/Stormwater Projects appropriations will be used to initiate phase 2 of the Upper Onion Creek buyouts, a low water crossing improvement in the Oak Acres neighborhood, and construction of a detention pond for Waller Creek.

This resolution stands in place until the completion of the overall completion of the 2018 Bond Program. The guidelines and metrics will be our focus in developing the 5-year CIP plan. The communication plan is still in progress.

**QUESTION/ANSWER: COUNCIL MEMBER ALTER’S OFFICE**

*1) Please provide additional information regarding the “community creative centers” including any parameters for criteria that will be used for determining project eligibility for this funding.*

Under the Texas Constitution, City funds must be spent for a City purpose. The City must have controls in place to make sure that the City purpose is being achieved. The City must get a benefit that is roughly equivalent to what it is spending in order to spend City funds.

Any bonds that the City issues must be approved by the Texas Attorney General’s Office as to legality under Texas law. If the bonds are intended to be issued as tax-exempt obligations under the Internal Revenue Code, they must be issued in a way that complies with Federal income tax law. The Bonds also must be issued in a manner that complies with applicable federal securities law regarding disclosure to investors. The City works with bond counsel to address these matters.

Contract with the Voters

Council made commitments to the voters regarding the use of these bond funds. This is referred to as “the contract with the voters.” The Attorney General’s Office will review these commitments to make sure the City is in compliance before the Attorney General’s Office will approve the bonds.

- The bonds must be used for capital projects. This means that they can be used to plan, design, acquire, construct, renovate, improve, and equip cultural arts facilities and museums which include creative spaces dedicated to the creation, exhibition, or preservation or art and creative expression. This includes acquiring land and interests in land and property for these purposes. These funds cannot be used to provide economic development grants for rent for creative spaces, nor can they be used to make

improvements in rented space that the City will not have a property interest in over the life of the bonds.

- Because this funding is part of the \$128 million proposition for libraries, museums, and cultural centers, the more that the projects fit within this type of project, the more likely it is that the Attorney General's Office will approve the use of the bonds for these purposes.

#### General concepts applicable to these bonds

- Projects that have a clear City purpose and that are owned by the City are also more likely to be approved for bond funding than projects that are owned by other entities.
- Projects that are owned by the City and operated by the City, or by a nonprofit that operates the project consistent with the City purpose, are more likely to be approved by the Attorney General than projects that are operated by for-profit entities to benefit those entities. (An example of a currently operated project that is operated by a nonprofit, but owned by the City, is Zach Scott Theatre).
- Projects that are not owned by the City present a higher degree of legal challenges and would need to be reviewed more specifically by bond counsel.
- These bonds were not approved for economic development purposes. Therefore, the process, description, and criteria that staff and commission members are developing should focus on creating long-term city assets that can be used over many decades for creative spaces, not creating projects that are in the nature of economic development projects.

*2) Please providing additional information about how our bond funding will be coordinated and/or integrated into our deferred maintenance needs and spending plan.*

All capital projects are integrated through the development of the annual 5-year Capital Improvement Program (CIP) planning process. The CIP Plan reflects the City's capital program in a manner that considers citywide needs across departments and provides opportunities for interdepartmental collaboration. Departments assess needs holistically and prioritize projects on a number of factors such as availability of funding, project readiness and importance, and the existence and timeline of companion projects. Bond program projects will be planned consistent with the priorities and metrics provided in Resolution 20180809-061.

**Agenda Item #7:** Approve a resolution objecting or not objecting to Travis County's creation of the Velocity Crossing Public Improvement District (PID).

#### **QUESTION/ANSWER: COUNCIL MEMBER TOVO'S OFFICE**

*1) What level of Green Building is included in the PID benefits?*

Per the Travis County PID Policy, § 481.003 Community Benefits states:

“Subject to the requirements of this chapter, the Commissioners Court will consider approval of a petition for a PID only if the PID supports real estate development projects that provide for community benefits to a degree that is superior to the level of community benefits typically generated by real estate development projects that do not involve PID financing, such as, but not limited to the following:”

“(10) Projects that incorporate more than minimal green building standards. “

The Developer plans for the reclaimed water line to be extended to the PID and distribution purple pipes to be installed throughout the PID. Reclaimed water will be stubbed to each individual property affording prospective users' credits toward LEED certification. The Developer will also encourage prospective users to utilize solar panels.

Green Building will be determined as each site plan application for individual properties are filed with the City for review. All City of Austin site plan requirements apply to this development in the City's fully annexed area.

*2) Provide additional information about reclaimed water service to the PID.*

The reclaimed water line will be extended to the PID and distribution purple pipes will be installed throughout the PID. Connections to the reclaimed water line service will be at the option of prospective owners and/or users of individual properties to be built within the PID in the future.

*3) What level of affordable housing is included in the PID benefits?*

Per the Travis County PID Policy, § 481.003 Community Benefits states that:

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“(2) Projects that increase Affordable Housing opportunities for persons of low or moderate incomes. . .”

The Developer will comply with the Travis County PID policy regarding payment of a community benefit fee of 10% of the net PID bond proceeds at each PID bond issuance (bonds sold for each Phase of the development). Travis County is negotiating with the Developer to obtain a mechanism for the purchase of one or two multifamily sites within the development. Travis County's PID policy states that vacant multifamily parcels considered under its PID policy will be valued at the parcel's market value. The opinion of value on the parcels must be established by an appraiser approved by Travis County.

The housing market and demographics will be re-evaluated by the Travis County Affordable Housing Committee as the multifamily parcels are platted and a recommendation regarding Travis County's potential purchase as described above will be made to Commissioners Court at that time. In addition, recommendations on affordability levels will also be made at that time.

**QUESTION/ANSWER: COUNCIL MEMBER ALTER'S OFFICE**

*1) Where will the affordable housing be built? Inside the PID or elsewhere?*

Plan to purchase one or two multifamily sites within the PID development. Please see the response to the previous question for additional information.

**QUESTION/ANSWER: COUNCIL MEMBER ALTER AND COUNCIL MEMBER TOVO'S OFFICE**

*1) Provide a copy of the Travis County Public Improvement District Policy*

See attached twenty-one page document titled Chapter 481. Travis County Public Improvement District Policy and Procedures1.

1 Chapter 81 was adopted by Travis County Commissioners Court on January 26, 2016, item 10, and replace October 17, 2017, item 14. Chapter 81 was renumbered as Chapter 481 on June 1, 2018 (approved May 15, 2018, Item 7).

**Agenda Item #9:** Authorize negotiation and execution of agreements for housing-focused supportive services each for an initial 12-month term with four 12-month extension options with: Austin Recovery, Inc. in an amount not to exceed \$234,474 for the initial term and \$234,474 for each extension option, for a total agreement amount not to exceed \$1,172,370; Austin Travis County Mental Health Mental Retardation Center doing business as Integral Care in an amount not to exceed \$261,668 for the initial term and \$261,668 for each extension option, for a total agreement amount not to exceed \$1,308,340; Communities for Recovery, Inc. in an amount not to exceed \$163,558 for the initial term and \$163,558 for each extension option, for a total agreement amount not to exceed \$817,790; Front Steps, Inc. in an amount not to exceed \$340,300 for the initial term and \$340,300 for each extension option, for a total agreement amount not to exceed \$1,701,500.

**QUESTION/ANSWER: MAYOR ADLER'S OFFICE**

1) *Recent audits of contracts related to homelessness assistance have recommended that vendors are required to:*

- *have a way to prioritize clients,*
- *collect and use client feedback,*
- *track and report on long-term outcomes,*
- *set realistic performance goals, and*
- *include appropriate resources to achieve these efforts*

*Please confirm that these contracts conform to these audit recommendations.*

Yes, all of the proposed agreements will align with the audit recommendations listed here. The housing-focused support services purchased through the agreements included in this item will serve clients that are engaged in the Intensive Case Management (ICM) program at Downtown Austin Community Court (DACC). Referrals to services available through these agreements will take place after prioritization, which is a standard part of the process of the ICM program.

The ICM program is part of DACC's rehabilitation efforts to help clients who have the greatest need and who have the greatest impact on public systems. DACC's prioritization is a tiered approach starting with frequent offenders at DACC, then individuals with any involvement in the criminal justice system, and then anyone experiencing homelessness. This prioritization system was developed to meet the objectives that were created when DACC was established in 1999 and the key to this system is the identification of clients who are willing to engage in services. Clients experiencing homelessness may be connected to DACC through the Homeless Outreach Street Team (HOST), referrals from partner agencies, or may come into DACC seeking case management services.

Client feedback is a cornerstone of service delivery at DACC, which is reflected in the City's Open Government Partnership Action Plan 2019-2020 to include clients in designing service contracts and assessing contract outcomes. Through contract negotiations and ongoing client case management, DACC will work with the agencies providing these services to require incorporation of client feedback to improve services for that individual, as well as inform overall program improvements. DACC staff in the ICM program continue to provide intensive case

management services to clients throughout the duration of receiving services from partner agencies, which enables DACC to collect client feedback directly as well. This allows for close coordination with agencies to improve effectiveness of programming throughout the full term of the agreements.

The scope for the solicitation included proposed long-term outcomes and realistic performance goals, which will be refined as needed during contract negotiations. Additionally, applicants were asked to develop budgets that would meet the needs of the clients to be served by the proposed programs. If these agreements are approved by Council, work will be done during the contract negotiation process to ensure that appropriate resources are provided for the quality of services and number of clients expected to be served, and within the limits of the amount of funding approved through this Request for Council Action.

**Agenda Item #12:** Authorize negotiation and execution of an encroachment agreement with Sixth Street Tower, LLC for the aerial and subsurface encroachment of approximately 800 square feet (aerial) and 2,665 square feet (subsurface) of right-of-way of an existing sky bridge and basement within Lavaca Street and Colorado Street between West 5th Street and West 6th Street, located at 221 West 6th Street. (District 9)

**QUESTION/ANSWER:** COUNCIL MEMBER HARPER-MADISON'S OFFICE

*1) What is the encroachment agreement for?*

The applicant currently has a license agreement in place for the pedestrian bridge. The applicant is requesting to change from a license agreement to an encroachment agreement for more permanent entitlements.

*2) What is the difference between the license agreement and encroachment agreement?*

The license agreement has a 91 day removability clause that the City could enact at any time for any reason. In addition, there is an annual fee assessed each year for these improvements. The encroachment agreement gives a more permanent entitlement for the improvements to be in the right of way.

*3) Is the City able to terminate the encroachment agreement? If so, for what cause?*

The City can terminate the encroachment agreement but since this process only came into existence since 2012, we have not processed a request to terminate an encroachment agreement. The request would be brought back before City Council and Council would make the determination to terminate an encroachment agreement. An example for this particular project could be the need for aerial space for transportation or an underground rail system.

*4) What does Sixth Street Tower, LLC pay for the annual fee?*

This location has two license agreements and is currently paying a combined fee of \$18,047.81 per year annually.

**Agenda Item #13:** Authorize negotiation and execution of a 60-month lease agreement with CCI-Burleson I, a Texas Limited Partnership, for approximately 216,908 square feet of office space for several City departments at the Bergstrom Tech Center, Building 310 and Building 312, located at 6800 Burleson Road, with one five-year extension option, in an amount not to exceed \$38,849,923.

**QUESTION/ANSWER: COUNCIL MEMBER FLANNIGAN'S OFFICE**

*1) What are the cost-savings of ending/moving leases to co-locate at this location? Are we receiving economies of scale in any other way, such as with the sharing of resources with the new Municipal Court facility (i.e. gym use)?*

Yes, we are receiving additional economies of scale beyond the sharing of resources with the new Municipal Court facility. The City will achieve significant cost savings by collocating departments at this location. The lease rates in South Austin are significantly lower than most of all other sectors of the Austin market. As a result of locating multiple departments together, the landlord has agreed to a discounted rate of \$1.25 per square below the market rate of \$23.00 (\$21.75 vs. \$23.00 per square foot). The base rents will lock at this discounted rate.

Additionally, the landlord has agreed to a \$3.25 per square foot allowance for the Furniture, Fixture and Equipment, and an additional \$2.00 per square foot customization allowance above the standard industry build-out. The property will be delivered turnkey based upon architectural plans according to each department's needs and input. All departments will have access to an on-site gym and other site amenities. An abundance of parking is also offered along with the proposed lease free of charge. The estimated savings for the five-year term will be between \$1,355,675 and \$5,693,835.

**Agenda Item #41:** Conduct a public hearing and consider an ordinance adopting local standards of care for the City of Austin Parks and Recreation Department's Youth Programs.

**QUESTION/ANSWER: COUNCIL MEMBER POOL'S OFFICE**

*1) Please explain how the standards of care outlined in the draft ordinance were established; which local, state, or national resources were used to inform the crafting of these standards?*

Parks and Recreation Department uses both state and national resources to draft the Local Standards of Care:

- Texas Partnership for Out of School Time (TXPOST) – Texas Standards of High Quality Afterschool, Summer and Expanded Learning Programs;
- Inclusive Recreation Resource Center (national provider) – Best practices for providing inclusive programs;
- National Recreation and Park Association's (NRPA) Out-of-School Time Report – Trends/best practice metrics for providing out of school time programs; and
- Weikart Center for Youth Program Quality (national provider)- Youth Program Quality Assessment (YPQA)..



**Council Question and Answer**

<b>Related To</b>	Item #3	<b>Meeting Date</b>	March 7, 2019
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*Additional Answer Information*

Approve an ordinance amending the Fiscal Year 2018-2019 Capital Budget (Ordinance No. 20180911-001) to increase appropriations of the following departments for the following municipal purposes: Neighborhood Housing & Community Development Department by \$42,000,000 for affordable housing; Austin Public Library Department by \$3,700,000 for library facility improvements; Economic Development Department by \$500,000 for creative spaces; Parks & Recreation Department by \$28,150,000 for museum facility and parkland improvements; Watershed Protection Department by \$61,650,000 for flood mitigation, open space, and water quality protection; Austin Public Health Department by \$600,000 for a new neighborhood public health facility; Emergency Medical Services by \$7,850,000 for emergency medical services station improvements; Austin Fire Department by \$1,600,000 for fire station improvements; Austin Transportation Department by \$2,550,000 for transportation infrastructure improvements; and Public Works Department by \$2,600,000 for transportation infrastructure improvements. Related to Items #4, #5, and #11.

**QUESTION/ANSWER:** Council Member Kitchen’s Office

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**QUESTION/ANSWER:** Council Member Alter's Office

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**Council Question and Answer**

<b>Related To</b>	Item #7	<b>Meeting Date</b>	March 7, 2019
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*Additional Answer Information*

Approve a resolution objecting or not objecting to Travis County's creation of the Velocity Crossing Public Improvement District (PID).

**QUESTION/ANSWER:** Council Member Tovo's Office

*1) What level of Green Building is included in the PID benefits?*

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“(10) Projects that incorporate more than minimal green building standards. “

The Developer plans for the reclaimed water line to be extended to the PID and distribution purple pipes to be installed throughout the PID. Reclaimed water will be stubbed to each individual property affording prospective users' credits toward LEED certification. The Developer will also encourage prospective users to utilize solar panels.

Green Building will be determined as each site plan application for individual properties are filed with the City for review. All City of Austin site plan requirements apply to this development in the City's fully annexed area.

*2) Provide additional information about reclaimed water service to the PID.*

The reclaimed water line will be extended to the PID and distribution purple pipes will be installed throughout the PID. Connections to the reclaimed water line service will be at the option of prospective owners and/or users of individual properties to be built within the PID in the future.

*3) What level of affordable housing is included in the PID benefits?*

Per the Travis County PID Policy, § 481.003 Community Benefits states that:

“Subject to the requirements of this chapter, the Commissioners Court will consider approval of a petition for a PID only if the PID supports real estate development projects that provide for community benefits to a degree that is superior to the level of community benefits typically generated by real estate development projects that do not involve PID financing, such as, but not limited to the following:”

“(2) Projects that increase Affordable Housing opportunities for persons of low or moderate incomes. . “

The Developer will comply with the Travis County PID policy regarding payment of a community benefit fee of 10% of the net PID bond proceeds at each PID bond issuance (bonds sold for each Phase of the development). Travis County is negotiating with the Developer to obtain a mechanism for the purchase of one or two multifamily sites within the development. Travis County's PID policy states that vacant multifamily parcels considered under its PID policy will be valued at the parcel's market value. The opinion of value on the parcels must be established by an appraiser approved by Travis County.

The housing market and demographics will be re-evaluated by the Travis County Affordable Housing Committee as the multifamily parcels are platted and a recommendation regarding Travis County's potential purchase as described above will be made to Commissioners Court at that time. In addition, recommendations on affordability levels will also be made at that time.

**QUESTION/ANSWER:** Council Member Alter's Office

*1) Where will the affordable housing be built? Inside the PID or elsewhere?*

Plan to purchase one or two multifamily sites within the PID development. Please see the response to the previous question for additional information.

**QUESTION/ANSWER:** Council Member Tovo and Council Member Alter's Office

*1) Provide a copy of the Travis County Public Improvement District Policy*

See attached twenty-one page document titled Chapter 481. Travis County Public Improvement District Policy and Procedures.

Chapter 81 was adopted by Travis County Commissioners Court on January 26, 2016, item 10, and replaced October 17, 2017, item 14. Chapter 81 was renumbered as Chapter 481 on June 1, 2018 (approved May 15, 2018, Item 7).

# Chapter 481. Travis County Public Improvement District Policy and Procedures<sup>1</sup>

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### ***Subchapter A. [General Provisions]***

#### **481.001 General Provisions**

- (a) A public improvement district (PID) is a tool that provides for the financing of the costs of public improvements or Services that benefit a definable part of Travis County (the County). It allows the costs of PID improvements or Services to be borne by those who receive special benefits from the improvements or Services because they own property in that definable area. At the same time, residents of the county who live outside the definable area also receive some benefit from those improvements or Services.
- (b) The purpose of this chapter is to outline the policies and procedures the Travis County Commissioners Court (the Commissioners Court) will use to consider whether creation of a PID, a levy of PID assessments, or issuance of PID bonds is in the best interest of the County.

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<sup>1</sup> Chapter 81 was adopted by Travis County Commissioners Court on January 26, 2016, item 10, and replace October 17, 2017, item 14. Chapter 81 was renumbered as Chapter 481 on June 1, 2018 (approved May 15, 2018, Item 7).

- (c) For purposes of the several filing requirements of Chapter 372, Local Government Code (Chapter 372), the person performing the functions of a municipal secretary for the County is the assistant Travis County Clerk responsible for maintaining the minutes and other records of the Commissioners Court.
- (d) The Commissioners Court may, on a case-by-case basis, waive a requirement of this chapter if it does not conflict with state or federal law or regulations. Any requirements waived shall be noted in the resolution approving the PID petition or other relevant document and must include a finding that the waiver is in the best interest of the County.
- (e) PID bonds under this Chapter may be issued by either the County or a development authority or corporation created by the County. If one of the latter entities issues the PID bonds, references to the County and Commissioners Court in the provisions of this chapter related to bond issuance shall be interpreted as a reference to the entity and its governing body.

#### **481.002 Definitions**

In this chapter

- (1) “Affordable Housing” means, in general, housing for which the occupant is paying no more than 30 percent of his or her gross income for housing costs, including utilities, as established by the federal Department of Housing and Urban Development.
- (2) “Approved Master Plans” means master and regional plans approved by the Commissioners Court, such as the Land Water and Transportation Plan, the Colorado River Corridor Plan, and the Eastern Creeks Greenbelts Plan.
- (3) “ETJ” means the extraterritorial jurisdiction of a municipality.
- (4) “Market Feasibility Study” means a study that examines the likelihood that a proposed real estate development project supported by a PID will be financially successful and generate sufficient PID assessments based on historical and projected real estate demand and supply trends.
- (5) “Owners” means owners of real property in the PID.
- (6) “Petitioners” means the Owners signing the PID petition and their successors and assigns.
- (7) “PID assessments” means special assessments levied on property within the PID under Chapter 372 to pay for PID improvements.
- (8) “PID bonds” means special assessment revenue bonds issued by the County under Chapter 372 payable by PID assessments from, and secured by special assessment liens on, property in the PID.

- (9) "PID improvements" means landscaping, lighting, signs, sidewalks, roads, streets, pedestrian malls, libraries, off-street parking, public transit, water, wastewater, stormwater management, parks, development and improvement of Affordable Housing, services for improvement and promotion of the PID, payment of expenses for creating and operating the PID, and any other improvements authorized by Chapter 372.
- (10) "PID petition" means a petition for creation, modification, dissolution, or renewal of a PID.
- (11) "Service and Assessment Plan" means an ongoing plan approved by the Commissioners Court that covers a period of five years from the date of approval that defines the annual installments on the total PID assessment and the projected cost for PID improvements, and that is updated annually by the Commissioners Court to establish the annual installments and budget for the PID.
- (12) "Services" means special supplemental services for improvement, promotion, and maintenance of a PID, including services for health and sanitation, water and wastewater, public safety, recreation, and any other services authorized by Chapter 372.

#### **481.003 Community Benefits**

- (a) Subject to the requirements of this chapter, the Commissioners Court will consider approval of a petition for a PID only if the PID supports real estate development projects that provide for community benefits to a degree that is superior to the level of community benefits typically generated by real estate development projects that do not involve PID financing, such as, but not limited to the following:
  - (1) Projects that will generate primary employment or other long-term economic development benefits to the County, above and beyond the economic development benefits generated by hiring short-term workers to construct the project supported by the PID.
  - (2) Projects that increase Affordable Housing opportunities for persons of low or moderate incomes.
  - (3) Improvements or Services that advance Approved Master Plans.
  - (4) Projects that create or enhance parks, hike and bike trails, recreational facilities, open space benefits, etc. that exceed what is required by applicable development regulations.
  - (5) Projects that improve environmental protection, stormwater quality, and flood control benefits in ways that exceed what is required by applicable development regulations.

- (6) Projects that increase or enhance mass transit, bicycle, pedestrian, carpooling, or any transportation options other than single-occupant vehicles.
  - (7) Projects that improve public educational or health programs and/or facilities.
  - (8) Projects that provide innovative, exceptional benefits to improve the public roadway network in the County other than the projects internal streets.
  - (9) Projects featuring excellence in community design, including well-connected streets, humane public spaces, on-site amenities, and a mix of land uses in walking distance.
  - (10) Projects that incorporate more than minimal green building standards.
- (b) PIDs must provide multiple community benefits. Affordable Housing opportunities are especially important to the Commissioners Court, so the County will examine each PID petition for Affordable Housing opportunities. Creation of a PID without an Affordable Housing element will generally be appropriate only where the area surrounding the PID has a greater need for community benefits other than Affordable Housing.
  - (c) It is not necessary that all community benefits be funded by PID assessments or PID bonds. If a community benefit is not eligible for PID financing based on section 372.003, Local Government Code, the petitioner must ensure ongoing financing of the benefit from other sources.

**481.004 PIDs within Municipal Limits or ETJs**

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

- (d) For proposed PIDs in an ETJ, Travis County will consider the municipality's annexation plan before creating the PID in an area already identified in the plan.

**481.005 Minimum Requirements for a PID**

- (a) For a PID petition to be approved by the Commissioners Court, the real estate development project supported by the PID must meet the following minimum requirements.
  - (1) The petitioner must submit acceptable evidence of the feasibility of the real estate development project and the PID, taking into account both the market for the proposed product types and the petitioner's capacity to deliver the project. Acceptable evidence includes a market study, Phase 1 environmental site analysis, and a feasibility study, all of which must have been prepared no earlier than 90 days before the date the PID petition is filed with the assistant Travis County Clerk responsible for maintaining the minutes and other records of the Commissioners Court.
  - (2) The petitioner must provide the County with evidence of its committed sources of funding for the private improvements and any public improvements not being funded by the PID bond proceeds.
  - (3) The petitioner must agree either to reimburse the County or directly pay for the County's one-time administrative or operational costs, such as costs of:
    - (A) reviewing the PID petition;
    - (B) publishing related notices;
    - (C) reviewing the appraisal, the initial Service and Assessment Plan, and the Market Feasibility Study, including the cost of services provided by County consultants, bond counsel, and financial advisors;
    - (D) bond issuance;
    - (E) review and approval of plans for and inspection of construction of PID improvements;
    - (F) PID administration and operation, collection of assessments, foreclosures, etc., whether provided by staff or consultants.
- (b) The County's ongoing administrative and operational costs related to an approved PID, such as collection of PID assessments, review and approval of Service and Assessment Plan updates, and other costs shall be reimbursed from PID assessments. The County's costs will be determined on an annual basis.
- (c) Administration and management of ongoing PID responsibilities, such as preparation and updating of the Service and Assessment Plan, issuance of notices for annual Commissioners Court action on the Service and

Assessment Plan, operation and maintenance of PID improvements, and other related matters shall be paid by PID assessments and performed by a third party administrator under contract with the County.

- (d) The County will authorize PID bond proceeds only to pay the costs of PID improvements that have been designed and constructed to the applicable standards of the government entity responsible for them. For construction of PID improvements, the petitioner will be paid for costs incurred as construction progresses, but no more frequently than monthly.
- (e) Before the County will levy a PID assessment or authorize issuance of PID bonds, the PID Petitioners and the County must enter into a PID agreement that establishes:
  - (1) the basic terms and conditions for creation of the PID, including the provision of community benefits, compliance with the requirements of this policy, and monitoring and enforcement of those requirements;
  - (2) payment or reimbursement to the County of both the County's one-time and ongoing administrative and operational costs;
  - (3) the financing of the PID improvements and the payment of assessment revenue or PID bond proceeds to pay the costs of the PID improvements;
  - (4) the planning, development, construction, management, and maintenance of the PID improvements, including review and approval by, and any interlocal agreements between the County and, the government entities ultimately responsible for the PID improvements;
  - (5) terms and conditions for ongoing PID administration, operation, and management, including collection of PID assessments;
  - (6) any Services to be funded by the PID; and
  - (7) other related matters.
- (f) Before the County will levy PID assessments or authorize issuance of PID bonds, the petitioners must provide the following.
  - (1) A fair market value appraisal of property in the PID by an independent third-party appraiser acceptable to the County.
  - (2) A Market Feasibility Study.
  - (3) A description of the method of assessment, including a comparison of the combined PID assessment and *ad valorem* tax burden on Owners in the PID with comparable combined burdens on Owners in nearby developments.
  - (4) Any plan for phasing of both the real estate development supported by the PID and construction of public improvements in the development.

- (5) Any reports prepared by independent, third-party subject matter experts (e.g., engineers) as agreed upon by the County, PID Petitioner, and underwriter.
- (g) Before the County will levy PID assessments or authorize issuance of PID bonds, contracts must be executed for:
  - (1) Collection of PID assessments; and
  - (2) Third party administration and management of the PID.
- (h) With regard to use of historically underutilized businesses, provision of performance and payment bonds, and other requirements, contracts for design and construction of the PID improvements shall substantially conform to the requirements the County applies to design and construction contracts for roads built pursuant to public/private participation agreements.
- (i) In addition, construction of improvements financed by PID assessments or PID bond proceeds must comply with the following construction worker-protection standards:
  - (1) Payment of the prevailing wage to construction workers, provided the Travis County living wage is preferred when it is the higher of the two.
  - (2) Provide OSHA-10 training for construction workers and OSHA-30 for construction safety managers.
  - (3) Provide workers compensation insurance for construction workers.
  - (4) Provide independent monitoring of the construction sites by on-site monitors approved by the County.
  - (5) Recruit 30% of its construction workforce from local, Department of Labor-certified apprenticeship programs that provide bilingual instruction or other training programs that provide bilingual instruction approved by the County.
- (j) The PID agreement and/or other documentation acceptable to the County must be recorded in the County Clerk's Official Public Records to notify any prospective owner of the existence of PID assessments on the property.
  - (1) All closing statements and sales contracts for property in the PID must disclose responsibility for payment of PID assessments and the amount of the PID assessments and must be acknowledged by the purchaser through a signature.
  - (2) Each grantor who conveys property that is subject to PID assessments must
    - (A) include a notice in the instrument of conveyance that the property is subject to PID assessments until the PID assessment is paid in full,
    - (B) obtain the grantee's written acknowledgement of the notice,

- (C) record the instrument in the Official Public Records of Travis County, Texas, and
  - (D) provide a certified copy of the instrument to the County's third party PID administrator.
- (3) The petitioners must erect and maintain or cause to be erected and maintained for the duration of the PID signage disclosing the existence of the PID in a form and condition acceptable to the County along the main entries and exits at the boundaries of the PID that is clearly visible to all motorists entering and exiting the PID.
- (k) Property in the PID owned by Travis County shall not be subject to PID assessments. Property in the PID owned by another governmental entity may be assessed only pursuant to an interlocal agreement between the entity and the County.
  - (l) The PID may not finance improvements or Services within a gated community or a development in which PID improvements would not be accessible to the general public.
  - (m) A PID may not overlap the boundaries of another PID.
  - (n) Development of property within the PID may not require variances from applicable development regulations that result in a significantly lower standard of development.
  - (o) Billing and collection of PID assessments by the County Tax Assessor Collector is required.

**481.006 Preferential Requirements**

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

- (A) constitute more than 50% of all record Owners of property liable for PID assessments; or
  - (B) own taxable property that constitutes more than 50% of the area of all taxable property in the PID that is liable for PID assessments.
- (c) PIDs in which the private construction of improvements meets the requirements of 481.005(i) are preferred.

**481.007 Contents and Filing of Petition**

- (a) The petitioners shall notify in writing the County Judge, the Commissioner of any precinct in which a proposed PID is located, and the County Executive of Planning and Budget at least 45 days in advance of their intent to file a PID petition. The petitioners may be required to attend one or more pre-filing meetings or Commissioners Court presentations scheduled by the County.
- (b) The petition must include the following:
  - (1) A description of the community benefits to be provided by the project under 481.005.
  - (2) A legal description of the boundaries of the PID and a black and white map of the PID boundaries suitable for publication.
  - (3) The general nature of the proposed improvements.
  - (4) The estimated cost of the improvements.
  - (5) The proposed method of assessment.
  - (6) Whether the PID will be managed and administered by the County, the private sector, or a partnership between the two.
  - (7) The proposed apportionment of costs between the PID and governmental entities.
  - (8) A statement that the petitioners request or concur with the establishment of the PID.
  - (9) A statement that a PID advisory body may be appointed, and whether the petitioners propose one.
  - (10) A current tax roll of the Owners in the PID, including a separate list of any property that is designated as a homestead.
  - (11) Letters from at least two banks or financial institutions confirming that the petitioner is in good financial standing.
  - (12) Information regarding the financial history of the petitioner, including:
    - (A) Information as to whether the petitioner or its officers has been, is currently, or contemplates being in receivership;
    - (B) Information as to whether the petitioner or its officers has ever defaulted on any loans or financial obligations; and

- (C) Information as to whether the petitioner or its officers has any loans or other financial obligations on which payments are not current.
- (13) A statement certifying that the petitioner and its officers are not currently delinquent with respect to payment of city, county, state, and federal taxes.
- (14) Any other information required by Chapter 372.
- (c) The petitioners must include with the PID petition a certified check for a filing fee which will be used to defer the County's approximate internal staffing and overhead costs of processing and reviewing the PID petition. The County Executive for Planning and Budget shall determine the filing fee and update it from time to time. Until the County Executive determines the fee, the fee shall be \$36,000. In addition, petitioners must pay all direct costs of processing the PID petition, such as newspaper advertisements, postage, and contractors.

**481.008 Notice, Public Hearing, and Approval of Petition**

- (a) County staff will assess the adequacy of the PID petition and the petitioner's compliance with this chapter and Chapter 372 and recommend to the Commissioners Court whether to proceed with a public hearing on the PID petition.
- (b) If the Commissioners Court approves setting a public hearing on the PID petition, County staff will:
  - (1) publish notice of the hearing in a newspaper of general circulation in the County and in a community newspaper;
  - (2) mail the notice to property Owners as required by Chapter 372;
  - (3) post notice of the public hearing date on a free community notification electronic application (e.g., Next Door);
- (c) The hearing may be continued from time to time. After the final adjournment of the public hearing, the Commissioners Court has six months to adopt a resolution making the findings required by Chapter 372.
- (d) The Commissioners Court may authorize a PID only if a majority of all members of the Commissioners Court approve a resolution to establish a PID.
  - (1) If a PID is located entirely outside the corporate limits and ETJ jurisdiction of all municipalities and none of the improvements will be undertaken in the ETJ of any municipality, the Commissioners Court's resolution authorizing the PID takes effect when the resolution has been published one time in a newspaper of general circulation in the County.
  - (2) Except as provided in Section 481.008(d)(3), if any part of a PID is located within a municipality's corporate limits or ETJ or if any part of

the improvements is to be undertaken in a municipality's ETJ, the Commissioners Court's resolution authorizing the PID takes effect when the resolution has been published one time in a newspaper of general circulation in the County and one time in a newspaper of general circulation in the part of the ETJ in which the PID is located or in which the improvements are to be undertaken.

- (3) If any part of a PID is located within a home rule municipality's corporate limits or ETJ, the Commissioners Court's resolution authorizing the PID will not take effect if, within 30 days after the County's action to approve the PID, the home rule municipality objects to the establishment of the PID within its corporate limits or ETJ.
- (e) The Commissioners Court will consider written protests regarding the creation of a PID if the protests are submitted:
- (1) During the 20-day period after PID creation takes effect;
  - (2) To the assistant Travis County Clerk responsible for maintaining the minutes and other records of the Commissioners Court;
  - (3) By at least two-thirds of the record Owners in the PID or the Owners of at least two-thirds of property in the PID.
- (f) Issuance of PID bonds and construction of PID improvements may not begin until the later of the 21<sup>st</sup> day after PID creation takes effect or final resolution of any PID protest.

#### **481.009 Financial Limitations and Performance Standards**

- (a) Before levying PID assessments or authorizing issuance of PID bonds, the Commissioners Court shall:
- (1) publish and mail notice of intention to consider proposed assessments and hold a public hearing as required by Chapter 372 and announce such public hearings as described in Section 481.008(b);
  - (2) determine the total cost of PID improvements;
  - (3) approve a final Service and Assessment Plan and appraisal roll;
  - (4) levy an assessment; and
  - (5) establish a separate PID fund in the County treasury.
- (b) The following limitations and performance standards shall apply to PID bonds.
- (1) The minimum appraised value-to-lien ratio for each bond issue shall be 3:1.
  - (2) The maximum maturity for each series of bonds shall be 30 years.
  - (3) The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund:
    - (A) actual costs of the qualified PID improvements;

- (B) required reserves and capitalized interest during the period of construction; however, interest shall not be capitalized for more than 12 months after the completion of construction and in no event for a period greater than 3 years from the date of the initial delivery of the bonds; and
  - (C) costs of issuance, arbitrage, rebate compliance, administrative fees, third party fees, or other costs related to issuance.
- (c) The PID bond reserve fund shall be funded from bond proceeds, letter of credit, or a surety policy at the time bonds are issued, as negotiated by the County and the bond underwriter.
- (d) The County will apply to PID bonds the same post-issuance compliance requirements the County applies to its general obligation and certificate of obligation debt.
- (e) The timing of reimbursement of construction costs (during the construction period or after construction is complete) will be established by the County and petitioner based on financial considerations specific to the PID.

**481.010 PID Administration and Management**

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

### **481.011 Audit Requirements**

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

### **481.012 Boundary Modifications, Supplemental Assessments, Renewal, or Dissolution**

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

### ***Subchapter B. Affordable and Fair Housing Requirements***

#### **481.101 Affordable and Fair Housing Policy**

- (a) The Travis County Commissioners Court supports the use of long term affordability mechanisms to create housing in Travis County that:
  - (1) is affordable to individuals and families earning a wide range of incomes,
  - (2) is geographically dispersed throughout the County, and
  - (3) to the greatest extent possible, supports diverse housing types and mixed income neighborhoods.
- (b) In general, the Commissioners Court supports the creation of public improvement districts that will increase Affordable Housing opportunities for persons whose income is 80% or below the Area Median Income.
- (c) In general, the Commissioners Court supports the creation of Public Improvement Districts that will improve Very Low to Low Opportunity Areas or areas of racial, ethnic, and/or low income concentrations.
- (d) The Commissioners Court will comply with the Affirmatively Furthering Fair Housing requirements of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, 42 United States Code 3601-3619) when creating public improvement districts and will consider racial, ethnic, and economic segregation patterns in a given census block group.

As a community eligible for the Community Development Block Grant (“CDBG”) Program, Travis County may not contribute to segregation patterns, but will instead seek to improve racial, ethnic, and economic balance through Affirmative Marketing, improving access to opportunity, and other appropriate strategies.

Commissioners Court will comply with the Fair Housing Act, which prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion,

sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

Commissioners Court will comply with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

Additionally, Commissioners Court will comply with:

- (1) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability in any program or activity receiving federal financial assistance;
- (2) Section 109 of Title I of the Housing and Community Development Act of 1974, which prohibits discrimination on the basis of race, color, national origin, sex, or religion in programs and activities receiving financial assistance from HUD's CDBG Program;
- (3) Title II of the Americans with Disability Act of 1990, which prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities as it relates to state and local public housing, housing assistance, and housing referrals;
- (4) the Architectural Barriers Act of 1968, which requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 be accessible to and useable by handicapped persons;
- (5) the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance;
- (6) Executive Order 11063, which prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds; and
- (7) Executive Order 13166, which eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.

#### **481.102 Definitions**

In this Subchapter:

- (1) "Affirmatively Furthering Fair Housing" or "Affirmatively Further Fair Housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, "affirmatively furthering fair housing" means taking meaningful actions

that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.

- (2) "Affirmative Marketing" means an outreach and marketing strategy to identify and reach populations, who, absent targeted outreach efforts, are least likely to apply for Affordable Housing in a public improvement district.
- (3) "Area Median Income" and "AMI" mean the current area median income as established by the US Department of Housing and Urban Development.
- (4) "Capital Economic Progress Corporation" and "CEPC" mean the Texas nonprofit corporation formed by the Commissioners Court.
- (5) "Diverse Housing Types" means a balanced mix of housing options including multi-family property, garden homes, condominiums, town homes, duplexes, tri-plexes, quad-plexes, and single-family detached homes.
- (6) "Long-Term Affordability" means a contractual or legal requirement for a housing product to remain affordable to a specific Area Median Income for the longest timeframe extending beyond the initial lease or purchase of the housing product to 99 years for homeownership and 40 years for rental property.
- (7) "Mixed Income Housing" means housing that includes products at a variety of price points and affordability ranging from 30% of the Area Median Income to 140% of Area Median Income and above.
- (8) "Moderate to High Opportunity Area" and "High Opportunity Area" mean a community as defined by the Kirwan Institute maps or their equivalent/replacement (a) with good to excellent access to jobs, amenities, social and medical services, transit, high-performing schools, (b) has low crime rates, and (c) is free of environmental hazards.
- (9) "PID Community Benefit Fee" means a fee paid by a PID Petitioner in lieu of providing on-site Affordable Housing.
- (10) "Travis County Affordable Housing Policy Committee" and "Committee" mean the County's inter-departmental group working on the development of Affordable Housing policies that support the County's commitment to housing affordability and its obligation to Affirmatively Further Fair Housing.

- (11) “Very Low to Low Opportunity Area” and “Low Opportunity Area” mean a community as defined by the Kirwan Institute maps or their equivalent/replacement with a combination of (a) poor to fair access to jobs, amenities, social and medical services, transit, and high-performing schools, (b) high crime rates, and (c) environmental hazards.

**481.103 Affordability, Opportunity, and Fair Housing Analysis**

- (a) The Travis County Affordable Housing Policy Committee or a subcommittee of the Committee will conduct an affordability, opportunity, and fair housing analysis regarding all housing units proposed in a PID petition.
- (b) Except as provided in Subsection (d), each analysis required by this Section will include at least the following and be submitted to the County’s Economic Development & Strategic Investments Office:
- (1) a project and benefit overview;
  - (2) an assessment of the availability of affordable and accessible housing in the public improvement district and the surrounding areas, including:
    - (A) the availability of rental and owner housing, including the availability of units in larger sizes,
    - (B) household incomes, and
    - (C) local demographics, including persons with disabilities;
  - (3) an assessment of whether the housing proposed for the public improvement district will Affirmatively Further Fair Housing; and
  - (4) recommendations, if any, regarding the proposed public improvement district, including recommendations as to:
    - (A) whether the PID Petitioner should be:
      - (i) required to provide on-site Affordable Housing;
      - (ii) allowed to pay a PID Community Benefit Fee in lieu of providing on-site Affordable Housing; or
      - (iii) required to provide a highly desirable community benefit other than Affordable Housing, such as donating land for a community health care clinic.
    - (B) whether Affirmative Marketing should be required.
- (c) Because opportunity levels in a public improvement district may change based on new investments in public improvements or changes in market conditions, the Committee will, before each issuance of PID revenue bonds and before each subsequent phase of implementation, conduct another affordability, opportunity, and fair housing analysis of the public improvement district.
- (d) An analysis is not required to include the information described in Subsection (b) if a relevant environmental impact is located within an unacceptable

proximity to the public improvement district area, in which case, a memorandum identifying the environmental impact of concern is sufficient.

**481.104 Housing Affordability**

- (a) Affordability levels vary by program and product type and may range from 30% to 140% Area Median Income. Affordability targets may vary from PID to PID and will be outlined in any analysis described in Section 481.103(b).
- (b) Where appropriate, the use of long-term affordability mechanisms will be encouraged to maintain Affordable Housing stock in an area.
- (c) Long-term affordability of the housing units may be maintained through mechanisms that include but are not limited to:
  - (1) low income housing tax credits,
  - (2) deed restrictions,
  - (3) the public ownership of housing lots,
  - (4) the nonprofit ownership of housing lots,
  - (5) gap financing at the project level,
  - (6) gap financing for individual homebuyers, and
  - (7) other programs as they become available.

**481.105 PIDs in Low Opportunity Areas**

- (a) If the County determines that a PID is located in a Low Opportunity Area, the PID Petitioner must pay a PID Community Benefit Fee in lieu of providing on-site Affordable Housing. At the County's discretion, a PID Petitioner may be allowed to offset all or a part of the PID Community Benefit Fee if the PID Petitioner agrees to provide one or more alternative highly desirable community benefits as listed in Section 481.003.
- (b) The PID Community Benefit Fee will be equal to 10% of net PID bond proceeds at each issuance. A PID Petitioner who seeks an exception or reduction to this requirement must provide whatever detailed financial information the County determines is necessary for the County to perform an analysis as to what amount, if any, by which the PID Community Benefit Fee should be reduced.
- (c) The PID Community Benefit Fee must be paid to the Capital Economic Progress Corporation.
- (d) CEPC, in consultation with CDBG staff, will use the PID Community Benefit Fee to support programs and projects that provide Affordable Housing and/or Affirmatively Further Fair Housing in Travis County, as approved by the Commissioners Court and CEPC's Board of Directors.

**481.106 PIDs in High Opportunity Areas**

- (a) The PID Petitioner must provide on-site Affordable Housing if:
  - (1) the Committee determines that a proposed PID is located in a High Opportunity Area,
  - (2) the County agrees with the Committee's determination, and
  - (3) the proposed PID includes housing.
- (b) If the Committee determines that a proposed PID is located in a High Opportunity Area, the County agrees with that determination, and the proposed PID does not include any housing, the County may allow the PID Petitioner to provide on-site Affordable Housing in a comparable High Opportunity Area if the PID Petitioner can demonstrate to the satisfaction of the county that the land uses proposed within the PID are problematic for siting housing. Alternatively, the County may allow the Petitioner to pay the Community Benefit Fee.
- (c) If the opportunity level in a PID changes based on new investments in public improvements or changes in market conditions, the County may require the PID Petitioner to provide on-site Affordable Housing in a subsequent phase of the PID development.
- (d) A PID Petitioner that is required to provide on-site Affordable Housing must execute binding legal agreements with all subdevelopers and subcontractors to provide the housing in accordance with the schedule set forth by the County.
- (e) The value of on-site Affordable Housing contributed by the PID Petitioner will be calculated pursuant to Section 481.106(f) and shall equal 10% of the net PID bond proceeds at each issuance. A PID Petitioner who seeks an exception or reduction to this requirement must provide whatever detailed financial information the County determines is necessary for the County to perform an analysis as to what amount, if any, by which the on-site Affordable Housing contribution should be reduced.
- (f) The Committee will recommend the type of contribution appropriate for both multi-family and single family affordable units.
  - (1) Vacant single family lots donated to the CEPC or other nonprofit partner designated by Travis County will be valued at the market value of the lot if it were sold to a for-profit homebuilder. The opinion of value on the parcels must be established by an appraiser approved by the County.
  - (2) Single family homes donated to the CEPC or other nonprofit partner designated by Travis County will be valued at the market value of the home if it were sold on the open market. The opinion of value must be established by an appraisal. If the appraisal is provided by the PID

Petitioner, it will be subject to an independent third party review at the County's request.

- (3) Vacant multi-family parcels donated to the CEPC or other nonprofit partner designated by Travis County will be valued at the market value of the parcel. The opinion of value on the parcels must be established by an appraiser approved by the County.
- (4) Multifamily rental properties will be valued at the average price per unit for Texas Department of Housing and Community Affairs allocations in Region 7 in the tax credit year immediately prior to the date of bond issuance multiplied by the following amounts:
  - 120% for units offered at 60% AMI
  - 130% for units offered at 50% AMI
  - 140% for units offered at 40% AMI
  - 150% for units offered at 30% AMI

**481.107 Affirmative Marketing**

- (a) A PID Petitioner must create and implement an Affirmative Marketing plan if the County, after conducting an analysis described in Section 481.103(b), determines that the PID Petitioner should engage in Affirmative Marketing to inform targeted communities regarding housing opportunities in the PID. Each PID Petitioner that is required to engage in Affirmative Marketing must obtain the County's written approval of the PID Petitioner's Affirmative Marketing plan before implementing the plan.
- (b) The County will provide a standard form for the Affirmative Marketing plan and will make it available to PID Petitioners electronically.
- (c) The County will evaluate each Affirmative Marketing plan on an annual basis to determine whether the property is affirmatively furthering fair housing. The PID Petitioner must implement any changes the County recommends regarding the Affirmative Marketing plan.
- (d) The County will require the Petitioner to institute an Affirmative Marketing Plan in subsequent years for a PID that is required to have an Affirmative Marketing Plan under Section 481.107(a).

**481.108 Affordable Housing Development Agreement**

- (a) If the Commissioners Court determines that a PID Petitioner must provide on-site Affordable Housing or pay the PID Community Benefit Fee, the PID Petitioner must enter into an Affordable Housing development agreement, in a form provided by the County, that sets forth the terms and conditions of those requirements.
- (b) The Affordable Housing development agreement will include a provision that requires that the PID Petitioner execute any and all documents deemed

necessary by the County and in a form established by the County, including, without limitation, deed restrictions and related instruments to ensure the Long-Term Affordability of Affordable Housing products within the PID.

- (c) Among other things, the County may require that the Affordable Housing development agreement include:
- (1) Standards for determining affordable rent or affordable ownership cost;
  - (2) The location, unit size in square feet, and number of bedrooms for Affordable Housing types to ensure affordable units are not isolated from market rate units and affordable units include a mix of sizes that can accommodate families with children, or senior citizens or single persons, or persons with disabilities, as appropriate;
  - (3) A schedule for completion and occupancy of Affordable Housing units in relation to construction of market rate units;
  - (4) A description of remedies for breach of the development agreement;
  - (5) Provisions that require the PID Petitioner to maintain an inventory of Affordable Housing in the PID;
  - (6) Provisions requiring that the PID Petitioner maintain records to demonstrate compliance with this Subchapter and to allow the County or someone designated by the County, to audit the PID Petitioner's records; and
  - (7) Any other provisions to ensure implementation and compliance with this Chapter.

**481.109 Program Oversight, Monitoring, and Enforcement**

- (a) The County will monitor each PID Petitioner's compliance with this Subchapter. The County may use a third party administrator to oversee and monitor PID agreements.
- (b) The PID third party administrator, in consultation with the PID Petitioner and County staff or Travis County Development Authority staff, will maintain an inventory of all Affordable Housing units within the PID.

**481.110 Limitations on Use of PID Bond Proceeds**

- (a) Any payments of a PID Community Benefit Fee, either in the form of a direct payment per Section 481.105(b) or a contribution per Section 481.106(d) is not considered an Authorized Improvement as defined in Section 372.003(15) of the Texas Local Government Code.
- (b) Unless a PID petition specifies that one of the primary purposes of the proposed public improvements is to develop, rehabilitate, or expand Affordable Housing, PID bond proceeds are not allowed to be used to pay for:
  - (1) The PID Community Benefit Fee,

- (2) On-site Affordable Housing, or
- (3) Any highly desirable community benefit recommended by the Committee to be paid by the PID Petitioner pursuant to Section 481.103(b)(4)(A).



**Council Question and Answer**

<b>Related To</b>	Item #9	<b>Meeting Date</b>	March 7, 2019
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*Additional Answer Information*

Authorize negotiation and execution of agreements for housing-focused supportive services each for an initial 12-month term with four 12-month extension options with: Austin Recovery, Inc. in an amount not to exceed \$234,474 for the initial term and \$234,474 for each extension option, for a total agreement amount not to exceed \$1,172,370; Austin Travis County Mental Health Mental Retardation Center doing business as Integral Care in an amount not to exceed \$261,668 for the initial term and \$261,668 for each extension option, for a total agreement amount not to exceed \$1,308,340; Communities for Recovery, Inc. in an amount not to exceed \$163,558 for the initial term and \$163,558 for each extension option, for a total agreement amount not to exceed \$817,790; Front Steps, Inc. in an amount not to exceed \$340,300 for the initial term and \$340,300 for each extension option, for a total agreement amount not to exceed \$1,701,500.

**QUESTION/ANSWER:** Mayor Adler’s Office

1) *Recent audits of contracts related to homelessness assistance have recommended that vendors are required to:*

- *have a way to prioritize clients,*
- *collect and use client feedback,*
- *track and report on long-term outcomes,*
- *set realistic performance goals, and*
- *include appropriate resources to achieve these efforts*

*Please confirm that these contracts conform to these audit recommendations.*

Yes, all of the proposed agreements will align with the audit recommendations listed here. The housing-focused support services purchased through the agreements included in this item will serve clients that are engaged in the Intensive Case Management (ICM) program at Downtown Austin Community Court (DACC). Referrals to services available through these agreements will take place after prioritization, which is a standard part of the process of the ICM program.

The ICM program is part of DACC’s rehabilitation efforts to help clients who have the greatest need and who have the greatest impact on public systems. DACC’s prioritization is a tiered approach starting with frequent offenders at DACC, then individuals with any involvement in the criminal justice system, and then anyone experiencing homelessness. This prioritization system was developed to meet the objectives that were created when DACC was established in 1999 and the key to this system is the identification of clients who are willing to engage in services. Clients experiencing homelessness may be connected to DACC through the Homeless Outreach Street Team (HOST), referrals from partner agencies, or may come into DACC seeking case management services.

Client feedback is a cornerstone of service delivery at DACC, which is reflected in the City’s Open Government Partnership Action Plan 2019-2020 to include clients in designing service contracts and assessing contract outcomes. Through contract negotiations and ongoing client case management, DACC will work with the agencies providing these services to require incorporation of client feedback to improve services for that individual, as well as inform overall program improvements. DACC staff in the ICM program continue to provide

intensive case management services to clients throughout the duration of receiving services from partner agencies, which enables DACC to collect client feedback directly as well. This allows for close coordination with agencies to improve effectiveness of programming throughout the full term of the agreements.

The scope for the solicitation included proposed long-term outcomes and realistic performance goals, which will be refined as needed during contract negotiations. Additionally, applicants were asked to develop budgets that would meet the needs of the clients to be served by the proposed programs. If these agreements are approved by Council, work will be done during the contract negotiation process to ensure that appropriate resources are provided for the quality of services and number of clients expected to be served, and within the limits of the amount of funding approved through this Request for Council Action.



**Council Question and Answer**

<b>Related To</b>	Item #12	<b>Meeting Date</b>	March 7, 2019
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*Additional Answer Information*

Authorize negotiation and execution of an encroachment agreement with Sixth Street Tower, LLC for the aerial and subsurface encroachment of approximately 800 square feet (aerial) and 2,665 square feet (subsurface) of right-of-way of an existing sky bridge and basement within Lavaca Street and Colorado Street between West 5th Street and West 6th Street, located at 221 West 6th Street. (District 9)

**QUESTION/ANSWER:** Council Member Harper-Madison’s Office

*1) What is the encroachment agreement for?*

The applicant currently has a license agreement in place for the pedestrian bridge. The applicant is requesting to change from a license agreement to an encroachment agreement for more permanent entitlements.

*2) What is the difference between the license agreement and encroachment agreement?*

The license agreement has a 91 day removability clause that the City could enact at any time for any reason. In addition, there is an annual fee assessed each year for these improvements. The encroachment agreement gives a more permanent entitlement for the improvements to be in the right of way.

*3) Is the City able to terminate the encroachment agreement? If so, for what cause?*

The City can terminate the encroachment agreement but since this process only came into existence since 2012, we have not processed a request to terminate an encroachment agreement. The request would be brought back before City Council and Council would make the determination to terminate an encroachment agreement. An example for this particular project could be the need for aerial space for transportation or an underground rail system.

*4) What does Sixth Street Tower, LLC pay for the annual fee?*

This location has two license agreements and is currently paying a combined fee of \$18,047.81 per year annually.



**Council Question and Answer**

<b>Related To</b>	Item #13	<b>Meeting Date</b>	March 7, 2019
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*Additional Answer Information*

Authorize negotiation and execution of a 60-month lease agreement with CCI-Burleson I, a Texas Limited Partnership, for approximately 216,908 square feet of office space for several City departments at the Bergstrom Tech Center, Building 310 and Building 312, located at 6800 Burleson Road, with one five-year extension option, in an amount not to exceed \$38,849,923.

**QUESTION/ANSWER:** Council Member Flannigan’s Office

*1) What are the cost-savings of ending/moving leases to co-locate at this location? Are we receiving economies of scale in any other way, such as with the sharing of resources with the new Municipal Court facility (i.e. gym use)?*

Yes, we are receiving additional economies of scale beyond the sharing of resources with the new Municipal Court facility. The City will achieve significant cost savings by collocating departments at this location. The lease rates in South Austin are significantly lower than most of all other sectors of the Austin market. As a result of locating multiple departments together, the landlord has agreed to a discounted rate of \$1.25 per square below the market rate of \$23.00 (\$21.75 vs. \$23.00 per square foot). The base rents will lock at this discounted rate.

Additionally, the landlord has agreed to a \$3.25 per square foot allowance for the Furniture, Fixture and Equipment, and an additional \$2.00 per square foot customization allowance above the standard industry build-out. The property will be delivered turnkey based upon architectural plans according to each department’s needs and input. All departments will have access to an on-site gym and other site amenities. An abundance of parking is also offered along with the proposed lease free of charge. The estimated savings for the five-year term will be between \$1,355,675 and \$5,693,835.



**Council Question and Answer**

<b>Related To</b>	Item #41	<b>Meeting Date</b>	March 7, 2019
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*Additional Answer Information*

Conduct a public hearing and consider an ordinance adopting local standards of care for the City of Austin Parks and Recreation Department's Youth Programs.

**QUESTION/ANSWER:** Council Member Pool's Office

*1) Please explain how the standards of care outlined in the draft ordinance were established; which local, state, or national resources were used to inform the crafting of these standards?*

Parks and Recreation Department uses both state and national resources to draft the Local Standards of Care:

- Texas Partnership for Out of School Time (TXPOST) – Texas Standards of High Quality Afterschool, Summer and Expanded Learning Programs;
- Inclusive Recreation Resource Center (national provider) – Best practices for providing inclusive programs;
- National Recreation and Park Association's (NRPA) Out-of-School Time Report – Trends/best practice metrics for providing out of school time programs; and
- Weikart Center for Youth Program Quality (national provider)- Youth Program Quality Assessment (YPQA).Pending.