

ECONOMIC DEVELOPMENT & HOUSING COMMITTEE

DALLAS CITY COUNCIL COMMITTEE AGENDA

REVISED

MONDAY, APRIL 15, 2019

CITY HALL

COUNCIL BRIEFING ROOM, 6ES

1500 MARILLA STREET

DALLAS, TEXAS 75201

9:00 A.M.–10:30 A.M.

Chair, Councilmember Tennell Atkins

Vice Chair, Councilmember Rickey D. Callahan

Councilmember Lee M. Kleinman

Councilmember Scott Griggs

Councilmember Casey Thomas, II

Councilmember B. Adam McGough

Councilmember Mark Clayton

Councilmember Kevin Felder

Councilmember Omar Narvaez

Call to Order

1. Approval of April 1, 2019 Meeting Minutes

BRIEFINGS

- | | |
|---|---|
| 2. Dallas Homebuyer Assistance Program Update | David Noguera, Director
Housing and Neighborhood Revitalization |
| 3. Dallas Housing Rehabilitation Program Overview | David Noguera, Director
Housing and Neighborhood Revitalization |
| 4. Consideration and Approval of Sale of 30 Land Bank Lots from Dallas Housing Acquisition and Development Corporation to Confia Holmes, L.L.C. | David Noguera, Director
Housing and Neighborhood Revitalization |
| 5. Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a Land Transfer Program | Maureen Milligan, Assistant Director
Housing and Neighborhood Revitalization |
| 6. Abandonment Procedures and Fees | Kris Sweckard, Director
Sustainable Development & Construction |
| 7. Briefing on Municipal Management Districts | Robin Bentley, Assistant Director
Office of Economic Development |
| 8. Executive Session to discuss the offer of a financial or other incentive to Project RBG under Section 551.087 of the Texas Gov't Code | Courtney Pogue, Director
Office of Economic Development |

Adjourn



Tennell Atkins, Chair
Economic Development & Housing Committee

Public Notice

1 9 0 3 8 1

POSTED CITY SECRETARY
DALLAS, TX

A quorum of the City Council may attend this Council Committee meeting

RECEIVED

2019 APR 11 PM 4:52

CITY SECRETARY
DALLAS, TEXAS

EXECUTIVE SESSION NOTICE

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex. Govt. Code §551.087]
7. deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices. [Tex. Govt. Code §551.089]

HANDGUN PROHIBITION NOTICE FOR MEETING OF GOVERNMENTAL ENTITIES

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista."

Economic Development & Housing Committee

Meeting Record April 1, 2019

The Economic Development & Housing Committee meetings are recorded. Agenda materials and audiotapes may be reviewed/copied by contacting the Committee Coordinator at 214-670-1686.

Meeting Date: March 18, 2019

Meeting Start time: 9:06 A.M.

<p>Committee Members Present: Councilmember Tennell Atkins (Chair) Councilmember Rickey D. Callahan (Vice-Chair) Councilmember Lee M. Kleinman Councilmember Scott Griggs Councilmember Casey Thomas, II Councilmember B. Adam McGough Councilmember Mark Clayton Councilmember Kevin Felder Councilmember Omar Narvaez</p> <p><u>Other Council Members Present:</u></p> <p><u>Committee Members Absent:</u></p>	<p>Staff Present: Courtney Pogue, Director-Office of Economic Development Robin Bentley, Assistant Director-Office of Economic Development Kevin Spath, Assistant Director-Office of Economic Development David Noguera, Director-Housing and Neighborhood Revitalization</p>
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AGENDA:

Housing Committee Meeting Called to Order by CM Tennell Atkins

1. **Approval of March 18, 2019 Economic Development & Housing Committee Minutes**

Presenter(s): CM Tennell Atkins

Action Taken/Committee Recommendation(s): Motion made to approve the minutes.

Motion made by: CM Mark Clayton	Motion seconded by: CM Casey Thomas, II
Item passed unanimously: <u>X</u>	Item passed on a divided vote: _____
Item failed unanimously: _____	Item failed on a divided vote: _____

Follow-up (if necessary):

2. **Adolphus Tower: City Center TIF District**

Presenter(s): Courtney Pogue, Director of Office of Economic Development/Robin Bentley, Assistant Director of Office of Economic Development/Kevin Spath, Assistant Director of Economic Development/Dorcy Clark, Senior Coordinator of Office of Economic Development

Information Only: __

Action Taken/Committee Recommendation(s)

Motion made by: CM Rickey D. Callahan	Motion seconded by: CM Mark Clayton
Item passed unanimously: <u>X</u>	Item passed on a divided vote: _____
Item failed unanimously: _____	Item failed on a divided vote: _____

Follow-up (if necessary):

3. Continental Gin Redevelopment Project: Deep Ellum TIF District

Presenter(s): Courtney Pogue, Director of Office of Economic Development/Robin Bentley, Assistant Director of Office of Economic Development/Kevin Spath, Assistant Director of Economic Development/Dorcy Clark, Senior Coordinator of Office of Economic Development Jonathan Hubach, Economic Development Analyst of Office of Economic Development

Information Only: _____

Action Taken/Committee Recommendation(s)

Motion made by: CM Rickey D. Callahan	Motion seconded by: CM Mark Clayton
Item passed unanimously: <u>X</u>	Item passed on a divided vote: _____
Item failed unanimously: _____	Item failed on a divided vote: _____

Follow-up (if necessary):

4. Dallas Opportunity Zones Briefing

Presenter(s): Courtney Pogue, Director of Office of Economic Development Robin Bentley, Assistant Director of Office of Economic Development

Information Only: X

Action Taken/Committee Recommendation(s)

Motion made by:	Motion seconded by:
Item passed unanimously: _____	Item passed on a divided vote: _____
Item failed unanimously: _____	Item failed on a divided vote: _____

Follow-up (if necessary):

5. Dallas Homebuyer Assistance Program Update

Presenter(s): David Noguera, Director of Housing and Neighborhood Revitalization

Information Only:

Action Taken/Committee Recommendation(s)

Motion made by:	Motion seconded by:
Item passed unanimously: _____	Item passed on a divided vote: _____
Item failed unanimously: _____	Item failed on a divided vote: _____

Follow-up (if necessary): Briefing will come back to Committee on April 15, 2019 for questions and approval

6. Dallas Housing Rehabilitation Program Overview

Presenter(s): David Noguera, Director of Housing and Neighborhood Revitalization

Information Only:

Action Taken/Committee Recommendation(s)

Motion made by:	Motion seconded by:
Item passed unanimously: _____	Item passed on a divided vote: _____
Item failed unanimously: _____	Item failed on a divided vote: _____

Follow-up (if necessary): Briefing will come back to Committee on April 15, 2019 for questions and approval

Meeting Adjourned: 10:31 A.M.

Approved By _____

Memorandum



DATE April 12, 2019

TO The Honorable Members of the Economic Development & Housing Committee:
Tennell Atkins, Chair, Rickey D. Callahan, Vice-Chair, Lee M. Kleinman,
Scott Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder,
Omar Narvaez

SUBJECT **Dallas Homebuyer Assistance Program**

On Monday, April 1, 2019, you will be briefed on the Dallas Homebuyer Assistance Program proposed changes. The briefing materials are attached for your review.

Summary

Housing and Neighborhood Revitalization (Housing) is proposing changes to the existing Dallas Homebuyer Assistance Program (DHAP), based on program performance since it was last changed in Fall 2017.

Background

The DHAP is designed to assist low- to moderate-income homebuyers with down payment, principal buy down and closing cost assistance for homes purchased in the City of Dallas. Eligible homebuyers' gross income must be between 60% and 80% of the Area Median Family Income (AMFI), adjusted for family size. DHAP participation is limited to the following:

- U.S. citizens and permanent residents purchasing a home as their primary residence,
- Completion of 8 hours of homebuyer education
- Satisfactory employment history for the past six months
- Lender's minimum requirements must be met
- Savings cannot exceed \$10,000 plus two month's gross income after closing
- Qualify for a conventional, FHA, or portfolio mortgage loan from a participating DHAP lender

Issue

While the overall structure of the program is working, there are some operational changes recommended to optimize program performance and ensure the goals of the Comprehensive Housing Policy are being met. Under the current program, loans can exceed \$100,000 increasing the purchasing power of homebuyers, but not addressing sustainability concerns. As property taxes, insurance and maintenance costs rise, there is no consideration given to how the homebuyer will afford to keep the house long-term. The purpose of offering high value DHAP loans

was to address fair housing concerns and encourage homebuyers to purchase in high opportunity areas, however there was no explicit incentive described in the program and based on the households served, DHAP is not achieving this goal. It also became apparent that a loan to value requirement is necessary to ensure lenders are fully invested in the purchase of DHAP-assisted homes. Under current program rules DHAP can exceed the homebuyer's primary mortgage placing the City's investment at greater risk. Lastly, DHAP does not address occupancy standards which help ensure homebuyers are purchasing appropriately sized homes.

Fiscal Impact

The program is funded with HOME and CDBG dollars. Changes to the program guidelines have no financial impact.

Proposed Changes

Housing staff recommend the following changes to address program concerns:

- Establish loan to value ratios with incentives included for high opportunity areas— 60% in high opportunity areas, 80% in the rest of the City.
- Establish assistance caps—\$60,000 in high opportunity areas, \$40,000 in the rest of the City.
- Existing front-end ratio could use additional flexibility to streamline the underwriting process—26-32%, the back-end ratio would remain at 43%.
- Establish property occupancy standards to ensure homes are appropriately sized for buyers—minimum: 2 persons per bedroom, 1 bedroom for single member households, maximum: minimum plus 1 bedroom. If the buyer purchases in excess of need required loan to value increases by 10%.
- Loan rates and terms—forgivable deferred loans with partial repayment triggers if residency or ownership transfer during the affordability period.

Staff Recommendation

Staff recommends that the Economic Development and Housing Committee approve the DHAP proposed changes. With Committee approval, the item will be placed on the City Council agenda for April 24, 2019.

Should you have any questions, please contact me at (214) 670-3619.



David Noguera, Director
Housing and Neighborhood Revitalization

c: Chris Caso, City Attorney (Interim)
Carol A. Smith, City Auditor (Interim)
Billerae Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizzor Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager

Jon Fortune, Assistant City Manager
Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
M. Elizabeth Reich, Chief Financial Officer
Laila Alequresh, Chief Innovation Officer
Directors and Assistant Directors

Dallas Homebuyer Assistance Program Update

**Community Development Commission
Housing Committee
April 15, 2019**

**David Noguera, Director
Housing and Neighborhood Revitalization
City of Dallas**



Presentation Overview

- Background
- Budget and Operational Impact
- Issues
- Fiscal Impact
- Recommendations
- Next Steps



Background

- The Dallas Homebuyer Assistance Program (DHAP) is designed to assist low- to moderate-income homebuyers with down payment, principal buy down and closing cost assistance.
- Purchased property must be in the City of Dallas
- Eligible homebuyers' gross income must be between 60% and 80% of the Area Median Family Income (AMFI), adjusted for family size
- Eligible homebuyers must:
 - Be a U.S. citizen or permanent resident
 - Complete 8 hours of homebuyer education
 - Occupy the home as a primary residence
- The sales price of the home may not exceed \$241,000 for new construction and \$212,000 for existing structure/home

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Background (cont.)

Homebuyer:

- Must have satisfactory employment history for the past six months
- Lender's minimum requirements must be met
- Savings--no more than \$10,000 plus two month's gross income after closing
- Qualify for a conventional, FHA, or portfolio mortgage loan from a participating DHAP lender
- No cash back at closing

Mortgage Qualification:

- No adjustable rate mortgages
- Mortgage to income ratio no less than 28% and no more than 30%
- Debt Ratio not to exceed 43% at loan approval

Budget & Operational Impact

Fiscal Year 2017-2018	Numbers
Total Applicants	230
Total Households Served	42
Withdrawn/Expired/Denied	188

Fiscal Year 2018-2019	Numbers
Total Applicants	45
Total Households Served	14
Withdrawn/Expired/Denied	31
To be Submitted	2

Fiscal Year 2017-2018	Budget
CDBG	\$1,320,341.50
HOME	\$451,952.50
TOTAL	\$1,772,294

Fiscal Year 2017-2018	Budget
CDBG	\$562,015.72
HOME	\$147,147.28
TOTAL	\$709,163

Budget and Operational Impact cont.

Fiscal Year 2018-2019		
Assistance by Council District	No. of Households Served	Total Amount of Assistance
Council District 1	11	\$ 704,271.00
Council District 2	3	\$ 100,741.00
Council District 3	2	\$ 154,445.00
Council District 4	5	\$ 132,464.00
Council District 5	1	\$ 17,000.00
Council District 6	2	\$ 104,300.00
Council District 7	7	\$ 239,045.00
Council District 8	11	\$ 320,028.00
Council District 9	0	\$ -
Council District 10	0	\$ -
Council District 11	0	\$ -
Council District 12	0	\$ -
Council District 13	0	\$ -
Council District 14	0	\$ -
	42	\$ 1,772,294.00

Fiscal Year 2019-2020		
Assistance by Council District	No. of Households Served	Total Amount of Assistance
Council District 1	3	\$ 162,641.00
Council District 2	1	\$ 39,750.00
Council District 3	0	\$ -
Council District 4	0	\$ -
Council District 5	0	\$ -
Council District 6	1	\$ 41,000.00
Council District 7	5	\$ 201,088.00
Council District 8	4	\$ 264,684.00
Council District 9	0	\$ -
Council District 10	0	\$ -
Council District 11	0	\$ -
Council District 12	0	\$ -
Council District 13	0	\$ -
Council District 14	0	\$ -
	14	\$ 709,163.00

Issues

- No cap on assistance, loans can exceed \$100,000.
- No property occupancy standard.
- DHAP does not have a loan to value requirement.
 - DHAP loans can exceed the Primary Mortgage.
 - Rising property taxes, insurance and maintenance costs impact homeownership sustainability.
- No incentive to purchase in high opportunity areas, most purchases are in high poverty areas.

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Fiscal Impact

DHAP is funded with federal entitlement grants

- Community Development Block Grant
- HOME Investment Partnerships Program

The proposed changes will have no fiscal impact.

Recommendations

- Establish loan to value ratios:
 - High Opportunity Areas: 60%
 - Non-high Opportunity Areas: 80%
- Assistance determined by underwriting criteria:
 - Front end ratio of 26-32%
 - Back end ratio of 43%
- Establish property occupancy standards to ensure homes are appropriately sized for buyers.
 - Minimum: 2 persons per bedroom, 1 bedroom for single member households.
 - Maximum: Minimum plus 1 bedroom. If the buyer purchases in excess of need required LTV increases 10%.

Recommendations (cont.)

- Establish assistance caps
 - High Opportunity Areas: \$60,000
 - Non-high opportunity areas: \$40,000
- Loan Rates and Terms: Forgivable deferred loans with partial repayment triggers if residency or ownership transfer during loan term.



Next Steps

- Call the public hearing on April 24, 2019
- Hold public hearing and Council approval of program changes on June 12, 2019
- Implementation June 17, 2019



Dallas Homebuyer Assistance Program Update

**Community Development Commission
Housing Committee
April 15, 2019**

**David Noguera, Director
Housing and Neighborhood Revitalization
City of Dallas**



Memorandum



CITY OF DALLAS

DATE April 12, 2019

TO Members of the Economic Development & Housing Committee: Tennell Atkins, Chair, Rickey D. Callahan, Vice-Chair, Lee M. Kleinman, Scott Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder, Omar Narvaez

SUBJECT **Dallas Housing Rehabilitation Program Overview**

On Monday, April 1, 2019, the Economic Development and Housing Committee will be briefed on proposed changes to the comprehensive housing policy related to the Home Improvement and Preservation Program (HIPP).

Summary

On May 9, 2018, via Resolution 180704, the Dallas City Council adopted a comprehensive housing policy (Policy). The Policy created or amended program statements for the Dallas Homebuyer Assistance Program, the Home Improvement and Preservation Program and the New Development and Substantial Rehabilitation Program and set forth underwriting standards for reviewing both homeowner and rental housing development project proposals. These program statements contain detailed information related to applicant eligibility, terms of assistance, and credit standards, among other items.

On November 28, 2019, the Dallas City Council adopted amendments to the Policy that resolved inconsistencies in program requirements, corrected items that were inadvertently included in or omitted from the Policy and modified requirements that had created programmatic constraints.

This memorandum serves to provide an overview of the proposed changes to the comprehensive housing policy related to the Home Improvement and Preservation Program (HIPP).

Background

As it is currently designed, the HIPP provides an all-inclusive repair and rehabilitation program for single-family owner-occupied housing units and single family (1-4) rental units. Under HIPP, homeowners with incomes up to 120% of AMFI may apply for a loan to finance home improvements that address health, safety, accessibility modification, reconstruction and structural/deferred maintenance deficiencies. The terms of assistance for homeowners vary between a deferred 0% interest loan for the lowest-income eligible homeowners, to a 3% interest loan with monthly payments for the highest income eligible homeowners. Landlords who participate in the program may also apply for a loan and, after the repairs are completed, must lease the unit to a household with an annual gross income at or below eighty percent (80%) of the Area Median Family Income (AMFI) during the term of

affordability. The terms of assistance for the eligible landlords are a 3% interest loan with monthly repayments.

Proposed Terms of the Minor Home Repair Grant Program

- Grant assistance of up to \$10,000 (city contributes \$5,000)
- Partner with non-profit providers to conduct rehabilitation work
- Partners are required to provide 1:1 match of funds
- Repair health and safety hazards
- Accessibility repairs for disabled

Proposed Terms of the Home Improvement and Preservation Program

- Loan of up to \$40,000
- 85% loan to value; 80% loan to assessed building value
- Loan funds used for construction and soft costs
- Adoption of “eligible improvements” list

Proposed Terms of Housing Reconstruction Program

- Maximum loan of \$160,000
- 85% loan to value
- Loan funds used for construction and soft costs

Issues

If the Committee does not support the proposed changes to the HIPP, the department will continue to operate in accordance with the existing HIPP program statement. However, as discussed above, HIPP solved one problem by increasing the amount of assistance available, but it created others, including:

- **Lack of contractor participation:** Small contractors cannot afford to meet the insurance requirements, while large contractors are not interested in the low volume;
- **Rehabilitation caps:** Assistance provided has no relationship to value of home
- **Loan to Value:** Current assistance creates potential for homeowners to end up upside-down in their homes as a result of participating in the program; and
- **Financing Flexibility:** Value of HIPP repairs requires assistance to be provided on a loan basis; no grant options.

Fiscal

There is no cost consideration to the City. H&NR proposes to allocate \$1 million in CDBG funds to each of the following proposed programs: Minor Home Repair Grant Program and the Home Improvement and Preservation Program. H&NR proposes to allocate \$1 million in CDBG/HOME funds to the proposed Housing Reconstruction Program. Non-federal funds will be used to assist homeowners between 81%-120% of AMFI.

DATE April 12, 2019
SUBJECT Dallas Housing Rehabilitation Overview

Staff Recommendation

The Housing and Neighborhood Revitalization Department recommends that the Committee forward the proposed changes to the full City Council for approval.

Should you have any questions, please contact me at (214) 670-3619.



David Noguera
Director
Housing and Neighborhood Revitalization

c: Chris Caso, City Attorney (Interim)
Carol A. Smith, City Auditor (Interim)
Biliera Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager

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M. Elizabeth Reich, Chief Financial Officer
Laila Alequresh, Chief Innovation Officer
Directors and Assistant Directors

Department of Housing & Neighborhood Revitalization

Dallas Housing Rehabilitation Program Overview April 15, 2019

David Noguera, Director
Housing and Neighborhood Revitalization
City of Dallas



Presentation Overview

- Background/History
- Issues
- Proposed Program Changes
- Fiscal Impact
- Next Steps



Background/History

- Dallas adopted the Comprehensive Housing Policy in May 2018 which created the Home Improvement and Preservation Program (HIPP).
- HIPP was intended to address minor and major repairs as well as full reconstruction.
- Community input combined with operational experience resulted in a re-evaluation of HIPP to enhance the program's success.

Issues

HIPP solved one problem by increasing the amount of assistance available per unit, but it created others including a lack of

- **Contractor Participation:** Small contractors cannot afford to meet the insurance requirements, while large contractors are not interested in the low volume.
- **Rehabilitation Caps:** Assistance provided has no relationship with value of home.
- **Financing Flexibility:** Value of HIPP repairs requires assistance to be provided on a loan basis, no grant options.

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Proposed Program Changes

Summary of Housing Rehabilitation Programs:

Minor Home Repair Grant Program (NEW)	Home Improvement and Preservation Program	Housing Reconstruction Program
\$1,000,000 CDBG	CDBG	HOME/CDBG
Grant assistance of up to \$10,000 (\$5,000 City portion)	Loan of up to \$40,000	Maximum loan of \$160,000
Partner w/non-profit providers to conduct rehab work	85% Loan to Value 80% Loan to Assessed Building Value	85% Loan to Value
Partners required to provide 1:1 match of funds	Loan funds used for construction and soft costs	Loan funds used for construction and soft costs
Repair health and safety hazards and accessibility repairs for disabled	Adoption of Eligible Improvements List	Loan to assessed building value

Proposed Program Changes (cont.)

The Minor Home Repair Grant Program represents a new program designed to:

- Assist in repair or elimination of health and safety hazards and accessibility modifications for elderly and disabled
- City will budget \$1 Million/year in CDBG funds for program
- Grant assistance of up to \$5,000, with 1:1 matching grant provided by non-profit partner (up to \$10,000 total)

Proposed Program Changes (cont.)

Property Eligibility:

- Must be single-family (1 unit) within the City of Dallas City Limits

Applicant Eligibility:

- Must be the owner of the property to be rehabilitated
- Must have household income at or below 80% of AMI, adjusted for household size
- Priority provided to applicants who have not previously participated in Minor Home Repair or HIPP Program

Proposed Program Changes (cont.)

Program Administration - City

- City to conduct applicant intake to determine applicant and property eligibility and monitor for compliance
- Coordinate assignment of applicant to appropriate program.

Program Implementation – Non-profit Partners

- City will utilize non-profit partners experienced in rehabilitation of housing to conduct rehabilitation
 - Provide an open program for non-profits partners to apply for funds throughout the year
 - Funding available on a rolling basis until program funds are exhausted

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Proposed Program Changes (cont.)

Other Elements of the Program :

- Divide City into “Service Areas” whereby non-profits partners provide services in assigned area of City;
- Incorporate M/WBE requirements for evaluating non-profits and contractors in coordination with the City Office of Business Diversity;

Proposed Program Changes (cont.)

The Minor Home Repair Grant Program provides for repairs such as:

- Roofing (patching leaky roofs);
- Entry Doors and Windows;
- Heating and Cooling Systems;
- Plumbing and Gas System;
- Electrical;
- Accessibility Repairs (ramps, handrails, walkway repairs); and
- Other items approved by the screening committee.

Proposed Program Changes (cont.)

Changes proposed for the Home Improvement and Preservation Program (single family and rental) are summarized as follows:

	Existing	Recommended
Maximum Assistance	Loan of up to 47.5% of the HUD HOME Value Limits	Loan of up to \$40,000
Loan to Value	No LTV Standard	85%
Loan to Assessed Building Value	No Prior Standard	80%

Proposed Program Changes (cont.)

Changes proposed for the Home Improvement and Preservation Program (HIPP) are as follows:

	Existing	Recommended
Limitation on use of Loan Funds	Not previously addressed	Construction Costs only
Project Soft Costs		Covered by delivery costs
Re-Application Priority		Priority to applicants that have not previously participated in HIPP or Minor Repair

Proposed Program Changes (cont.)

Examples of eligible repairs under HIPP:

- Correction of code violations and health and safety items
- Incipient Building Code violations
- Cost effective energy conservation
- Testing/treatment of lead based paint/asbestos
- Handicapped improvements and removal of barriers to handicapped
- Roofing
- Plumbing, Mechanical, Electrical
- Windows and Insulation
- Foundation and structural repairs (limited)

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Proposed Program Changes (cont.)

Changes proposed for the Housing Reconstruction Program are summarized as follows:

	Existing	Recommended
Maximum Assistance	Loan of up to 75% of the HUD HOME Value Limits for New Construction	Loan of up to \$160,000
Loan to Value	No LTV Standard	85%
Limitation on use of Loan Funds	Not previously addressed	Construction Costs only

Proposed Program Changes (cont.)

Changes proposed for the Housing Reconstruction Program are summarized as follows:

	Existing	Recommended
Project Soft Costs	Not previously addressed	Covered by delivery costs
Re-application Priority	Not previously addressed	One lifetime loan per property

Fiscal Impact

- No fiscal impacts will result from the adoption of the proposed changes.

Next Steps

- April 24, 2019 – Call the Public Hearing for Substantial Amendment to the Action Plan
- June 12, 2019 – Hold the public hearing and Council approval of the program changes
- 90-day preparation period for implementation
- September 16, 2019 – Implementation Target Date

Department of Housing & Neighborhood Revitalization

Dallas Housing Rehabilitation Program Overview April 15, 2019

David Noguera, Director
Housing and Neighborhood Revitalization
City of Dallas



Memorandum



CITY OF DALLAS

DATE April 12, 2019

TO Members of the Economic Development & Housing Committee: Tennell Atkins, Chair, Rickey D. Callahan, Vice-Chair, Lee M. Kleinman, Scott Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder, Omar Narvaez

SUBJECT Consideration and Approval of the Sale of Land Bank Lots to One Qualified Participating Developer

On Monday, April 15, 2019, the Economic Development and Housing Committee will be briefed on the proposed sale of Land Bank lots to one qualified participating developer.

Summary

The Dallas Urban Land Bank Demonstration Program (Land Bank), which is managed by the Dallas Housing Acquisition and Development Corporation (DHADC), currently has an inventory of 103 lots that are offered for sale.

Recently, the DHADC Board of Directors approved the sale of 30 Land Bank lots to one qualified participating developer. This memorandum provides an overview of how the developer's proposal was evaluated and describes the development terms that will apply to each Land Bank lot that is approved for sale.

Background

On June 18, 2003, Governor Perry signed the Urban Land Bank Demonstration Program Act. The Act allows the governing body of a municipality to adopt an Urban Land Bank Demonstration Program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale to a land bank for the purpose of affordable housing development. The City Council designated the DHADC as its land bank for the purpose of acquiring, holding and transferring unimproved real property under Subtitle A, Title 12, Local Government Code, Chapter 379C on January 28, 2004.

In February 2019, one developer submitted a proposal to purchase a collective total of 30 Land Bank lots. Land Bank staff evaluated the proposal pursuant to the standards set forth in the Land Bank application, which included determining whether the developer met the eligibility standards to be deemed a "Qualified Participating Developer" and underwriting the proposal. The proposal was determined to be "complete" and was assigned a score by Land Bank staff. Land Bank staff negotiated with the qualified participating developer regarding the terms of sale of the vacant lots as well as the terms related to the construction and subsequent sale of single-family housing on the vacant lots.

DATE April 12, 2019
SUBJECT Consideration and Approval of Land Bank Lots to One Qualified Participating Developer

The developer, Confia Homes, L.L.C. was organized in Texas in 2015. The president of the organization is Kenneth Roberts and the CEO is Ricardo Alonso-Carrillo. The Developer builds single-family homes in the Dallas area with a number of homes completed in West Dallas and Pleasant Grove. The Developer has previously participated in the Land Bank program and, from 2016 to 2018, successfully completed the lot acquisition, development, and sale of 17 homes to income-qualified home buyers on Land Bank lots. Past performance strongly suggests that the Developer will continue to construct quality affordable housing units on Land Bank lots while meeting the requirements of the Land Bank Program.

On February 21, 2019, the DHADC Board of Directors approved the terms of sale and development, subject to City Council approval, for the 30 lots proposed to be sold to one qualified participating developer. The development terms applicable to each lot are as follows:

- **Vacant Lot Sales Price:** Attached as Exhibit A.
- **Single-Family Home Sales Price:** The sales price of the home cannot exceed the 2018 HUD HOME homeownership sales price for the Dallas, TX HUD Metro FMR Area and must be affordable based on the income of the targeted homebuyer.
- **Targeted Income of Homebuyer:** Attached as Exhibit A.
- **Construction Timeframe:** Developer must apply for a construction permit and close on any construction financing within three years of purchase from the Land Bank.
- **Restrictive Covenants:** Developer must: (1) sell each lot to a low-income household as specified in the applicable Exhibit A and (2) prior to the sale, must provide to DHADC written documentation of the income of the proposed purchaser and the sales price. After sale of the home, the property must be occupied as a low-income household's principal residence during the entire term of the affordability period.
- **Affordability Period:** Once the property is sold to a low-income household, it must be occupied as the household's principal place of residence for at least five years. If the original purchaser re-sells the property during the affordability period, the property may only be sold to another low-income household.
- **Right of Reverter:** Title to the property may revert to the DHADC if Developer does not apply for a construction permit and close on any construction financing within three years of purchase from the Land Bank.

Next Steps

Upon receiving Committee approval, staff will place this item on the next available City Council agenda.

DATE April 12, 2019
SUBJECT Consideration and Approval of Land Bank Lots to One Qualified Participating Developer

Issues

If the Committee does not approve forwarding to the City Council approval of the sale of 30 vacant lots owned by DHDAC to Confia Homes, L.L.C., the DHADC will be required to continue expending funds to maintain the unsold inventory. Furthermore, the City will be challenged in meeting its annual housing production goals of 3,733 affordable homeownership units and 2,933 affordable rental units.

Fiscal Impact

The City Council recently allocated \$1.5 million in bond funding to support the acquisition and disposition of unimproved tax foreclosed properties by the Land Bank. There is no additional fiscal impact.

Departments/Committee Coordination

The DHADC Board of Directors considered and approved the sale of Land Bank lots on February 21, 2019.

Staff Recommendation

Staff recommends that the Economic Development and Housing Committee move this item forward to the City Council so that it may consider and approve of the sale of 30 vacant lots owned by DHDAC to one Qualified Participating Developer pursuant to the terms of development set forth in this memorandum and as further described on Exhibit

A.


Michael Mendoza

Chief of Economic Development and Neighborhood Services

c: Chris Caso, City Attorney (Interim)
Biliera Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager
Jon Fortune, Assistant City Manager

Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
Michael Mendoza, Chief of Economic Development and Neighborhood Services
M. Elizabeth Reich, Chief Financial Officer
Laila Aleqresh, Chief Innovation Officer
Directors and Assistant Directors

Exhibit A

PARCEL NUMBER	STREET ADDRESS LEGAL DESCRIPTION	COUNCIL DISTRICT	QUALIFIED PURCHASER	SALE AMOUNT	AMI Target	BED/BATH	AMOUNT OF NON-TAX LIENS
1	2222 Moffatt NE Part of Lot 4B, Oak Cliff Gardens Addition Blk 8/5850	4	Confia Homes, LLC	\$1,700.00	81% - 115%	3/2	\$8,124.20
2	335 Leads SE Part of Lot 5, Original Town of Oak Cliff Addition Blk 119/3102	4	Confia Homes, LLC	\$2,000.00	Not greater than 60%	4/2	\$9,910.69
3	4322 Cicero Lot 15, R.M Hurts Addition Blk 1/6084	4	Confia Homes, LLC	\$1,700.00	81% - 115%	3/2	\$17,774.39
4	516 Ave H Lot 45, Skyline Heights Addition Blk 5/4655	4	Confia Homes, LLC	\$1,700.00	61% - 80%	3/2	\$13,106.22
5	1503 Iowa Lot 34, Trinity Heights Addition Blk 50/3724	4	Confia Homes, LLC	\$2,000.00	61% - 80%	4/2	\$7,512.54
6	1514 Alaska Lot 1, Trinity Heights Addition Blk C/3759	4	Confia Homes, LLC	\$2,000.00	61% - 80%	4/2	\$22,213.21
7	1915 Duluth Lot A, Duluth & Harston Addition Blk 7238	6	Confia Homes, LLC	\$2,000.00	Not greater than 60%	4/2,5	\$12,482.84
8	1819 Leath Lot 24, Roosevelt Manor 1st Inst., Addition Blk 13/7130	6	Confia Homes, LLC	\$2,000.00	61% - 80%	4/2	\$12,959.47
9	2021 Nomas Lot 4, Victory Gardens No. 5 Addition Blk 20/7127	6	Confia Homes, LLC	\$2,000.00	61% - 80%	4/2	\$10,756.70
10	3626 Pueblo Lot 7, Westmoreland Park Addition Blk 7/7144	6	Confia Homes, LLC	\$2,000.00	61% - 80%	4/2	\$11,529.20
TOTAL				\$19,100.00			\$ 126,369.46

Exhibit A

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11	4010 Furey Lot 3, Westmoreland Park No. 3 Addition Blk 20/7146	6	Confia Homes, LLC	\$2,000.00	81% - 115%	4/2	\$15,473.47
12	6205 Carlton Garrett Lot 4, Bou Tou Addition Blk 1/7077	7	Confia Homes, LLC	\$1,700.00	61% - 80%	3/2	\$849.71
13	6207 Carlton Garrett Lot 3, Bou Tou Addition Blk 1/7077	7	Confia Homes, LLC	\$1,700.00	61% - 80%	3/2	\$12,106.98
14	3006 Carpenter Part of Lot 20A, R.O. Plipps Addition Blk 1771	7	Confia Homes, LLC	\$2,000.00	81% - 115%	4/2	\$13,075.88
16	2823 Troy Lot 1, Crosby Addition Blk 2424	7	Confia Homes, LLC	\$1,700.00	Not greater than 60%	3/2	\$3,903.09
16	2743 Bethurum Lot 23, Ideal Addition Blk 1/2505	7	Confia Homes, LLC	\$1,700.00	Not greater than 60%	3/2	\$9,798.79
17	2441 Starks Lots 19 & 20, Lincoln Manor Addition Blk 1/2538	7	Confia Homes, LLC	\$1,700.00	Not greater than 60%	3/2	\$8,506.60
18	2527 Wells Lot 35 & Part of Lot 36, Lincoln Manor2 Addition Blk 25/2567	7	Confia Homes, LLC	\$2,000.00	61% - 80%	3/2	\$6,312.40
19	2723 Choice Lot 20, Lincoln Manor No. 3 Addition Blk 3/7075	7	Confia Homes, LLC	\$1,700.00	Not greater than 60%	3/2	\$9,255.28
20	4002 Marshall Lot 10, Parish Addition Blk B/2385	7	Confia Homes, LLC	\$1,700.00	61% - 80%	3/2	\$19,355.28
TOTAL				\$17,900.00			\$98,637.48

Exhibit A

PARCEL NUMBER	STREET ADDRESS LEGAL DESCRIPTION		QUALIFIED PURCHASER	SALE AMOUNT	AMI Target	BED/BATH	AMOUNT OF NON-TAX LIENS
21	4103 Marshall Lot 5, Calhoun J. I. Addition Blk 2/1839	7	Confia Homes, LLC	\$2,000.00	61% - 80%	3/2	\$24,760.05
22	2711 Rochester Lot 25, Rochester Park Addition Blk 2/7072	7	Confia Homes, LLC	\$1,700.00	61% - 80%	3/2	\$6,268.01
23	2726 Valentine Lot 14, O. E. Taylor Addition Blk C/7071	7	Confia Homes, LLC	\$1,700.00	Not greater than 60%	3/2	\$4,850.60
24	2926 Valentine Lot 14, Rochester Park Addition Blk 6/7072	7	Confia Homes, LLC	\$1,700.00	Not greater than 60%	3/2	\$6,045.28
25	4727 Baldwin Lot 6, W.G. Bowlings Addition Blk 2/436	7	Confia Homes, LLC	\$1,700.00	Not greater than 60%	3/2	\$12,335.23
26	4807 Silver Lot 12, White Rock Heights No. 2 Addition Blk A/2622	7	Confia Homes, LLC	\$2,000.00	81% - 115%	4/2.5	\$7,495.75
27	2521 Birmingham Lots 29 & 30, South Park Addition Blk 31/1307	7	Confia Homes, LLC	\$1,700.00	Not greater than 60%	3/2	\$1,969.17
28	2700 Birmingham Lots 1 & 2, South Park Addition Blk 25/2567	7	Confia Homes, LLC	\$1,700.00	61% - 80%	3/2	\$19,309.00
29	2931 Birmingham Lots 33 & 34, Winchester Place Addition Blk 17/1370	7	Confia Homes, LLC	\$1,700.00	81% - 115%	3/2	\$12,618.81
30	2630 Camel Lot 27, Caver Heights Addition Blk 7/3889	8	Confia Homes, LLC	\$2,000.00	81% - 115%	4/2	\$5,693.68
TOTAL				\$17,900.00			\$101,345.58
GRAND TOTAL				\$54,900.00			\$326,352.52

Consideration and Approval of Sale of 30 Land Bank Lots from Dallas Housing Acquisition and Development Corporation to Confia Homes, L.L.C.

**Economic Development and Housing Committee
April 15, 2019**

**Maureen Milligan, Assistant Director
Housing & Neighborhood Revitalization
City of Dallas**

**David Drury, Land Bank Manager
Housing & Neighborhood Revitalization
City of Dallas**



Presentation Overview

- Summary
- Background
- Issues
- Recommendation



Summary

- Urban Land Bank Demonstration Program Act signed by Governor Perry on June 18, 2003.
- The Act, as amended, gives municipalities the right to establish land bank programs to:
 - reclaim vacant real property from tax delinquency status and
 - use such land to develop affordable housing for low income households or for commercial purposes.
- The Act allows home sales to households earning as much as 115% of Area Median Income.
- The Act requires residential lots to be sold to qualified participating developers who:
 - have built one or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank and
 - have a development plan approved by the municipality for the land bank property
- In 2004, the City of Dallas designated the Dallas Housing Acquisition and Development Corporation (DHADC) to administer the Land Bank.



Background

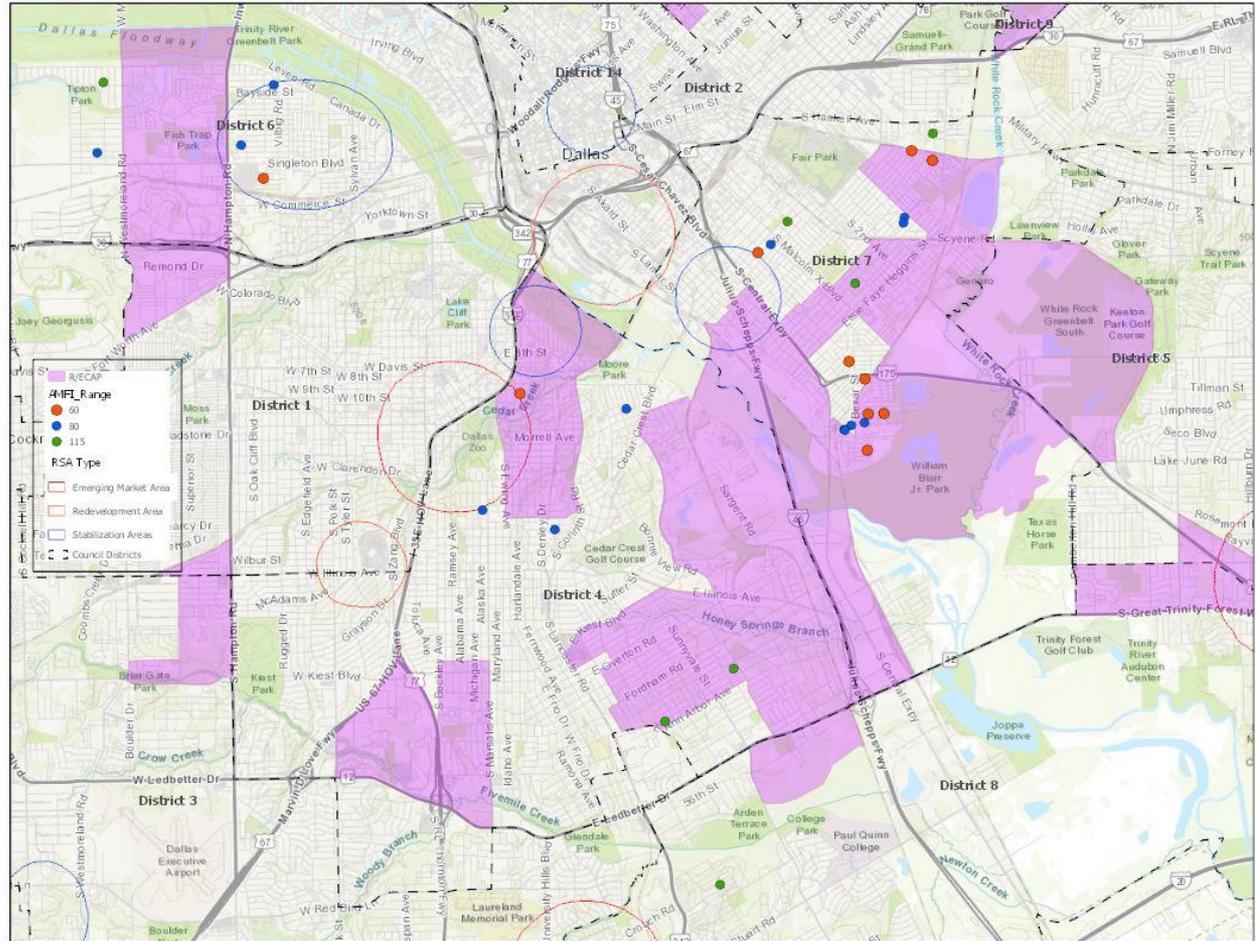
- An application was received from Confia Homes, L.L.C. requesting 30 lots
 - Two of the 30 lots are being requested as a swap for two previously purchased Land Bank lots that are undevelopable
- At the February 21, 2019 DHADC Board meeting, staff recommended selling 30 lots to the qualified participating developer Confia Homes, L.L.C.
- Board approved the sale of all 30 lots
- Consulted with the Equity and Human Rights Office which determined;
 - The intent of the Land Bank program is consistent with our goal to affirmatively further fair housing
 - The development of the 30 lots will provide positive benefits to the communities in which they are located

Background

- Confia Homes, L.L.C. is a Texas limited liability corporation formed in 2015
- The president of the organization is Kenneth Roberts and the CEO is Ricardo Alonso-Carrillo
- Confia Homes, L.L.C. has previously participated in the City's Land Bank Program and successfully completed the lot acquisition, development, and sale of 17 homes to income-qualified homebuyers on land bank lots from 2016 to 2018
- Past performance strongly suggests that the Confia Homes, L.L.C. will continue to construct quality affordable housing units on the lots while meeting the requirements of the Land Bank Program

Background

Location of
Land Bank
lots proposed
for sale



Issues

- If the Committee does not approve forwarding to the City Council approval of the sale of 30 vacant lots owned by DHDAC to Confia Homes, L.L.C., the DHADC will be required to continue expending funds to maintain the unsold inventory
- City will be challenged in meeting its annual housing production goals of 3,733 affordable homeownership units and 2,933 affordable rental units.

Terms of Sale and Development

Vacant Lot Sales Price: See Exhibit A.

Single-Family Home Sales Price: The sales price of the home cannot exceed the 2018 HUD HOME homeownership sales price for the Dallas, TX HUD Metro FMR Area and must be affordable based on the income of the targeted homebuyer.

Targeted Income of Homebuyer: See Exhibits A.

Construction Timeframe: Developer must apply for a construction permit and close on any construction financing within three years of purchase from the Land Bank.

Restrictive Covenants: Developer must (1) sell each lot to a low-income household as specified in Exhibit A and (2) prior to the sale, must provide to Land Bank staff written documentation of the income of the proposed purchaser and the sales price. After sale of the home, the property must be occupied as a low-income household's principal residence during the entire term of the affordability period.

Terms of Sale and Development

Affordability Period: Once the property is sold to a low-income household, it must be occupied as the household's principal place of residence for at least **five years**. If the original purchaser re-sells the property during the affordability period, the property may only be sold to another low-income household.

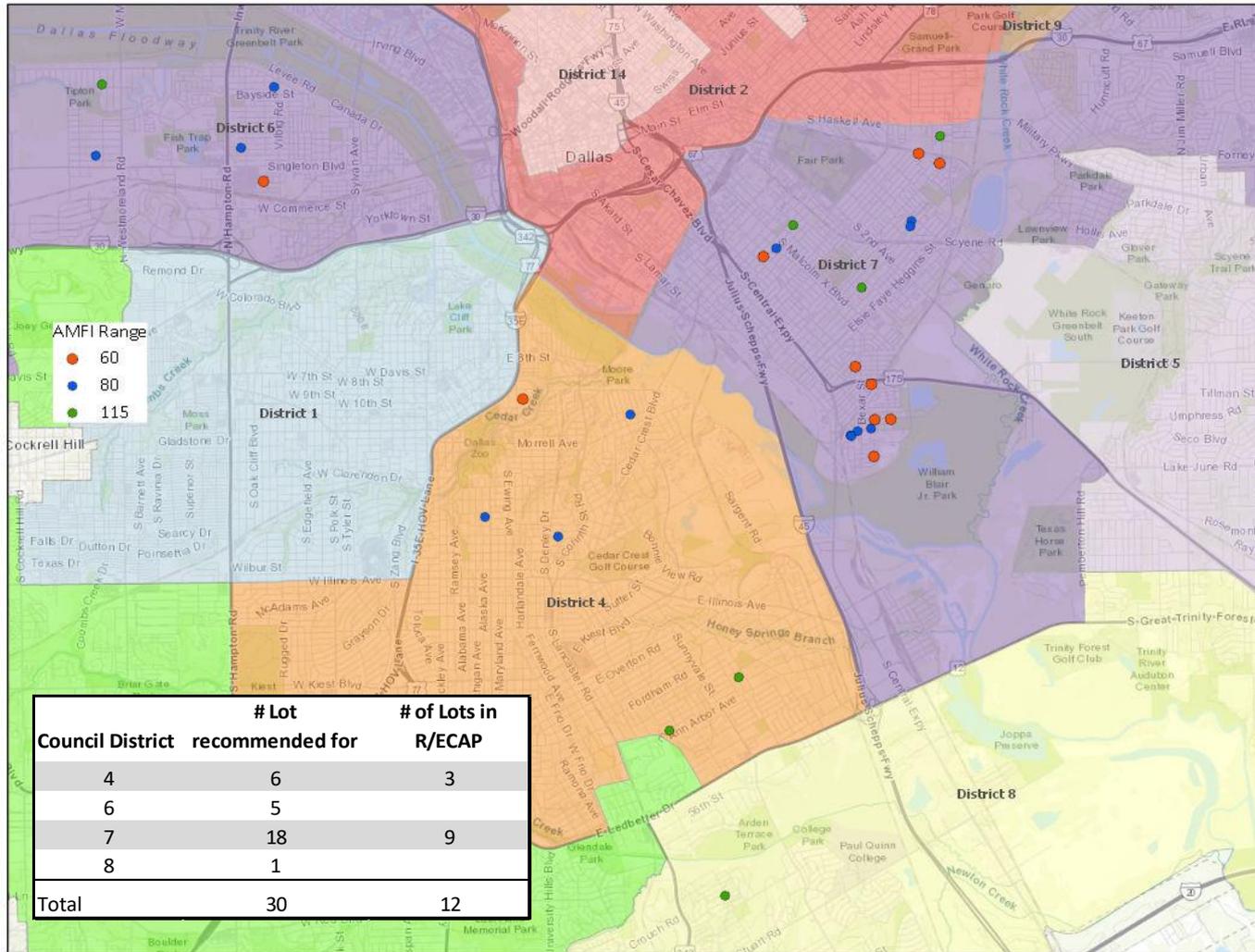
Right of Reverter: Title to the property may revert to the DHADC if the developer does not (1) apply for a construction permit and close on any construction financing within three years of purchase from the Land Bank, or (2) sell the property to a low-income household as specified in Exhibit A within four years of the transfer of the deed without warranty from DHADC to the developer. Title to the property may also revert to the DHADC if the property is not occupied by a low-income household as their principal residence during the entire term of the affordability period.

Recommendations

Staff recommends that the Economic Development and Housing Committee vote to forward to the City Council approval of the sale of 30 vacant lots owned by DHDAC to Confia Homes, L.L.C. pursuant to the terms of development as further described on Exhibit A.

Appendix

Location of Land Bank lots by Council District



Location of Land Bank lots and MVA

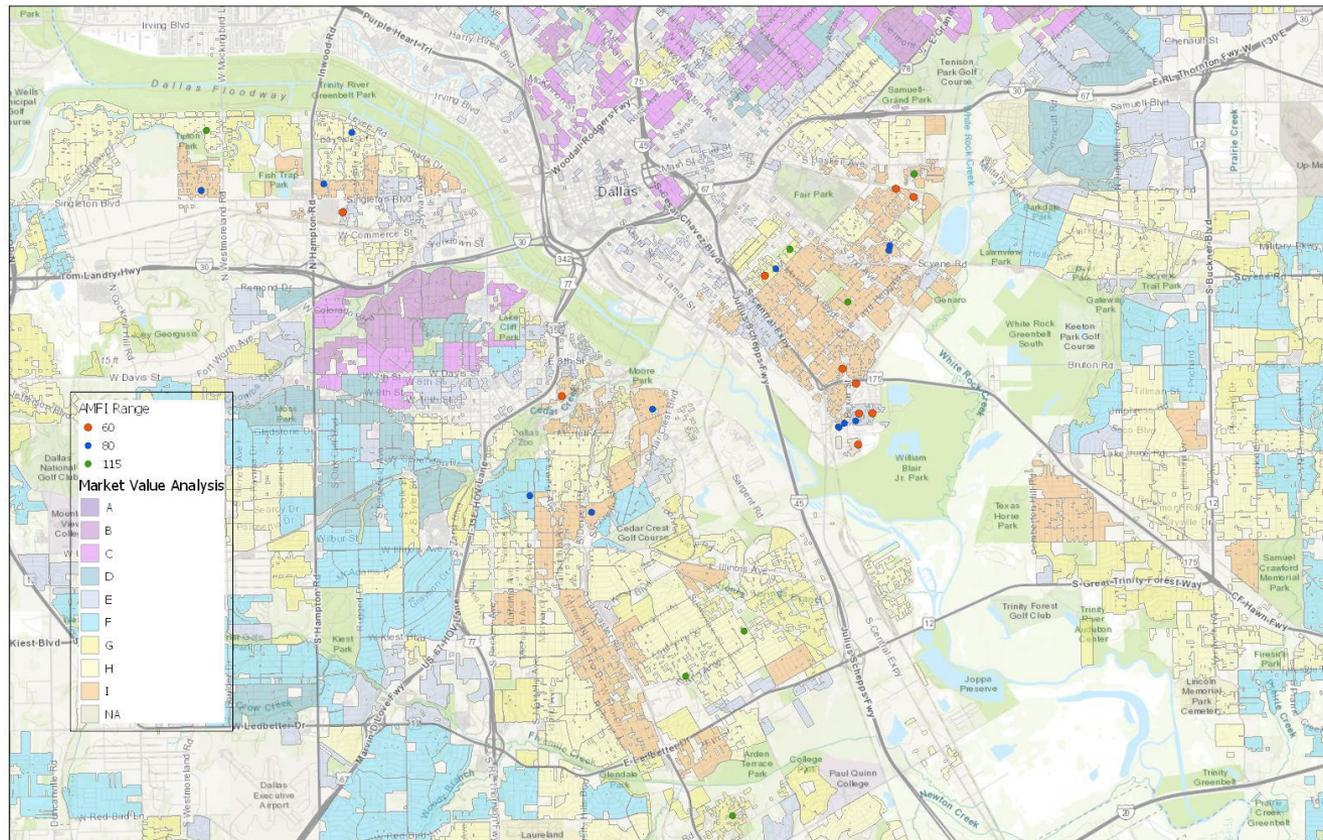


Exhibit A

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Exhibit A Continued

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TOTAL				\$17,900.00			\$101,345.58
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Consideration and Approval of Sale of 30 Land Bank Lots from Dallas Housing Acquisition and Development Corporation to Confia Homes, L.L.C.

**Economic Development and Housing Committee
April 15, 2019**

**Maureen Milligan, Assistant Director
Housing & Neighborhood Revitalization
City of Dallas**

**David Drury, Land Bank Manager
Housing & Neighborhood Revitalization
City of Dallas**



Memorandum



CITY OF DALLAS

DATE April 12, 2019

TO Members of the Economic Development & Housing Committee: Tennell Atkins, Chair, Rickey D. Callahan, Vice-Chair, Lee M. Kleinman, Scott Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder, Omar Narvaez

SUBJECT **Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a Land Transfer Program**

On Monday, April 15, 2019, the Economic Development and Housing Committee (Committee) will consider a proposal to amend the comprehensive housing policy to add a Land Transfer program.

Summary

This memorandum summarizes the Department of Housing and Neighborhood Revitalization's (H&NR) proposal to amend the comprehensive housing policy (CHP) to add a Land Transfer program, as no such program currently exists in the CHP. The purpose of the Land Transfer program is to incentivize: (1) the development of quality, sustainable housing that is affordable to the residents of the City and (2) the development of other uses that complement the City's comprehensive housing policy, economic development policy, or redevelopment policy. Specifically, this program would authorize the City to sell qualifying city-owned real property and resell tax-foreclosed real property to for-profit and non-profit developers in a direct sale at less than fair market value of the land.

The sale of real property pursuant to the Land Transfer program will enable the City to facilitate the development of housing units that will be offered for sale, rental or lease-purchase to low- and moderate-income households and, on appropriate parcels of land, enable the City to facilitate the development of commercial uses such as neighborhood retail.

In order to fully implement the Land Transfer program, the City will need to enter into an interlocal agreement with the local taxing entities.

Background

In 1997, the Texas State Legislature enacted House Bill 110, which allowed a municipality to adopt an ordinance providing that land acquired by a municipality following foreclosure of a tax lien may be sold to non-profit organizations for the development of affordable housing for low-income households. In 1997, via Resolution 971504, the City Council approved general procedures for the resale of tax foreclosed and seized properties to Community Housing Development Organizations (CHDOs) and other qualified non-profit

DATE April 12, 2019

SUBJECT **Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a Land Transfer Program**

organizations. The next year, the City Council codified and expanded upon the procedures via Ordinance 23713 that added Dallas City Code Section 2-26 Division 2—Alternative Manner of Sale of Real Property to Non-Profit Organizations for Affordable Housing. Later, in 2001, the City Council adopted a Land Transfer program statement for the housing department that provided procedures for the resale of tax-foreclosed land as well as the sale of City-owned seized or surplus land for the purpose of developing affordable housing. The City Council adopted minor changes to the program statement from 2001-2004.

On May 9, 2018, the Dallas City Council adopted the comprehensive housing policy by Resolution No. 18-0704. The CHP created or amended program statements for the Dallas Homebuyer Assistance Program, the Home Improvement and Preservation Program and the New Development and Substantial Rehabilitation Program. These program statements contain detailed information related to applicant eligibility, terms of assistance, and credit standards, among other items. The CHP did not include a Land Transfer Program.

On November 28, 2018, the Dallas City Council adopted amendments to the CHP that resolved inconsistencies in program requirements, corrected items that were inadvertently included in or omitted from the CHP and modified requirements that had created programmatic constraints.

Issues

While the CHP does not currently include a Land Transfer program, state law provides opportunities for the City to develop a policy that allows H&NR to facilitate both large- and small-scale strategic projects that align with the CHP and leverage our aggregated holdings.

The State of Texas (State) governs how a municipality may buy and sell, exchange or transfer real property. Pursuant to Texas Local Government Code Section 253.008, a city may sell land via public auction or private sealed bid. However, the State has created several exceptions to this general requirement when a city is seeking to accomplish a public purpose, such as the creation of affordable housing.

Three separate statutes create exceptions related to affordable housing development and neighborhood redevelopment and are summarized below:

Texas Local Government Code Section 253.010—This provision is commonly known as “House Bill 110” or “HB 110.” It allows any land acquired by a municipality to be sold to specific types of non-profit organizations to be redeveloped with affordable housing units for low-income individuals or to religious organizations to be developed in accordance with a city-approved revitalization plan. The statute does not define “low-income” but provides that a municipality may adopt an ordinance that defines the term and “shall consider median income of individuals and median family income in the area.”

DATE April 12, 2019
SUBJECT **Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a Land Transfer Program**

As stated above, the City adopted Dallas City Code Sections 2-26.4 through 2-26.14, as authorized by TLGC Section 253.010. This section of the Dallas City Code limits the entities eligible to purchase tax-foreclosed land to certain types of non-profit organizations and defines low-income households as “an individual or family whose annual income does not exceed 80 percent of the median income for the Dallas Standard Metropolitan Statistical Area, as determined annually by HUD, with adjustments for smaller and larger families.”

Texas Property Tax Code Section 34.051—This provision authorizes a municipality to resell tax foreclosed property that has a tax delinquency of six or more years to be developed “for a purpose consistent with the municipality's urban redevelopment plans or the municipality's affordable housing policy.” Such land may be sold for “less than the market value specified in the judgment of foreclosure or less than the total amount of the judgments against the property.” Before a City may implement a resale program pursuant to this statute, it is required to enter into an interlocal agreement with each taxing unit that is a party to the foreclosure judgment. The statute requires that the resales should primarily be focused on providing housing for families of low- or moderate-income. The statute does not define “low- or moderate-income.”

Texas Local Government Code Section 272.001(g)—This provision authorizes a municipality to sell land except land acquired by condemnation to “an entity” for the development of low- or moderate-income housing. Much like TLGC 253.010, this provision provides latitude to the municipality to determine the terms of the sale, including the definitions of “low-“ and “moderate-income” individuals. It specifically states that if the sale of the land serves a public purpose, the land may be sold for less than its fair market value.

Previously, H&NR resold tax-foreclosed properties exclusively to non-profit entities pursuant to the terms of Texas Local Government Code Section 253.010 and Dallas City Code Sections 2-26.4 through 2.26-14. H&NR also sold a limited number of city-owned property via Texas Local Government Code Section 272.001(g). However, H&NR has never utilized Texas Property Tax Code Section 34.051 to resell tax-foreclosed properties. By adopting a comprehensive Land Transfer Program that takes advantage of all opportunities to strategically sell land, H&NR will be able to facilitate both large- and small-scale strategic projects that align with the CHP and leverage our aggregated holdings.

Attached to this memo is a draft program statement for the Land Transfer program. Below is a summary of the key components of the proposed Land Transfer program.

Eligible Land:

The program will set procedures for H&NR to resell tax-foreclosed land and sell qualifying city surplus land that was not acquired by eminent domain and land specifically purchased for affordable housing/redevelopment purposes.

DATE April 12, 2019

SUBJECT **Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a Land Transfer Program**

Authorizing Statutes:

Staff will re-sell tax-foreclosed land pursuant to Texas Property Tax Code Section 34.051 or Dallas City Code 2-26.4.

Staff will sell qualifying city-owned land pursuant to Texas Local Government Code Section 272.001(g).

Eligible Developers:

For-profit, non-profit and religious organizations will be eligible to purchase land, subject to the requirements of the authorizing statutes.

Eligible Uses:

Organizations who purchase land via the program will be required to develop affordable housing units on the land. In limited instances and in compliance with the authorizing statute, organizations who purchase land via the program will be allowed to develop commercial uses on the land.

Eligible End-Users:

Housing units developed on land sold via the program may be sold/rented to households earning up to 120% AMI, unless the City is operating under Dallas City Code Section 2-26.4.

Sale price:

Re-sale of tax foreclosed land—\$1000 for the first 7,500 sq. ft. then \$0.13 per sq. ft. of the entire purchase.

Sale of city-owned land—Offered at fair market value and developer may demonstrate through its proforma that a discount is necessary.

Restrictive covenants and Right of Reverter:

For-sale housing units must remain affordable for a minimum of 5 years and rental units must remain affordable for a minimum of 20 years.

Commercial development must be used for the purposes outlined in the development agreement for a minimum of 20 years.

Land acquired by a developer pursuant to the Land Transfer program may revert to the City if the city manager or his/her designee determines that the developer has not abided by the terms of the Land Transfer program or the development agreement.

Finally, in order to fully implement the Land Transfer program, the City will need to enter into an interlocal agreement (ILA) with the local taxing entities in order to operate under 34.051 of the Tax Code. The ILA will authorize the City to resell tax-foreclosed properties, to be used for a purpose consistent with the City's urban redevelopment plan and/or the CHP, that meet the following criteria: (1) the City took title as trustee for the taxing units

DATE April 12, 2019
SUBJECT **Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a Land Transfer Program**

because no bid was received at the public sale of the property and (2) the property is vacant or distressed and has a tax delinquency of six or more years. The ILA will allow land to be sold at less than the market value specified in the judgment of foreclosure or less than the total amount of the judgments against the property. Pursuant to the ILA, the City will be required to notify the taxing entities of the properties it intends to sell pursuant to the ILA and will allow any taxing entity to disapprove the resale of a property or properties.

Fiscal Impact

The Land Transfer program will allow the City to sell real property at less than fair market value and to release any City non-tax liens that may have been filed on the real property in order to accomplish the public purpose of creating affordable housing and fostering neighborhood redevelopment. Therefore, for each sale, the City is foregoing revenue that could have been realized had the real property been offered for sale at fair market value. However, staff anticipates that a significant percentage of the parcels of real property transferred pursuant to the Land Transfer program will be unproductive tax-foreclosed parcels for which the City is not likely to receive bids at or above fair market value. The development of housing units or a commercial use on the land will add the unproductive land back on the tax rolls.

Departments/Committee Coordination

In order to develop the Land Transfer program statement, the Department of Housing and Neighborhood Revitalization (H&NR) coordinated with the Real Estate Division of the Department of Sustainable Development and Construction, the Office of Equity and Human Rights, and the City Attorney's Office. Additionally, H&NR consulted with staff at the Dallas Independent School District (DISD) and Dallas County.

Staff sought feedback from non-profit and for-profit developers, as well as other local stakeholders at the following meetings:

January 29, 2019/Single-Family NOFA feedback session: 50 attendees

February 5, 2019/Single-Family NOFA feedback session: 43 attendees

February 13, 2019/HB 110 feedback session: 30 attendees

Discussed at Housing Policy Taskforce Infrastructure and Development Process meetings.

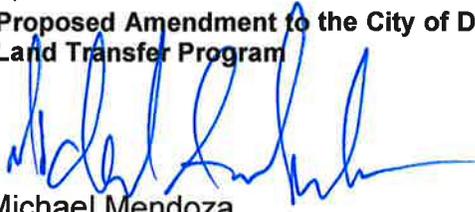
Staff Recommendation

Staff recommends that the Economic Development and Housing Committee vote to forward the proposed comprehensive housing policy amendment and proposed interlocal agreement to the City Council for consideration.

Should you have any questions, please do not hesitate to call me.

DATE April 12, 2019

SUBJECT **Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a
Land Transfer Program**



Michael Mendoza

Chief of Economic Development and Neighborhood Services

c: Chris Caso, City Attorney (Interim)
Billerae Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager
Jon Fortune, Assistant City Manager

Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
Michael Mendoza, Chief of Economic Development and Neighborhood Services
M. Elizabeth Reich, Chief Financial Officer
Laila Alequresh, Chief Innovation Officer
Directors and Assistant Directors

DEVELOPER PROGRAMS

Land Transfer Program

Purpose of Program

The purpose of this program is to incentivize: (1) the development of quality, sustainable housing that is affordable to the residents of the City and (2) the development of other uses that complement the City's comprehensive housing policy, economic development policy, or redevelopment policy. Specifically, this program authorizes the City to sell qualifying city-owned real property and resell tax-foreclosed real property to for-profit and non-profit developers in a direct sale at less than fair market value of the land.

The sale of real property pursuant to the Land Transfer program will enable the City to facilitate the development of housing units that will be offered for sale, rental or lease-purchase to low- and moderate-income households and, on appropriate parcels of land, enable the City to facilitate the development of commercial uses such as neighborhood retail.

Consistency with City's Affordable Housing Development Goals

The operation of the Land Transfer program shall align with the City's existing affordable housing production goals as outlined in the adopted comprehensive housing policy. The portfolio of real property sold under this program shall be developed to serve the range of income bands as well as the percentage of each income band identified in the production goals of the comprehensive housing policy.

When seeking City Council approval to sell a parcel or parcels of real property pursuant to this program, staff must identify the proposed developer, indicate the income band for which the parcel(s) of real property is reserved, and provide the City Council with a map depicting the location of the real property that contains the current Market Value Analysis (MVA) and Racially and Ethnically Concentrated Areas of Poverty (R/ECAP) data layers. The map must also depict the location of all parcels of real property previously sold to the proposed developer pursuant to this program or any other City affordable housing program in the past two years and the income bands for which each parcel of real property was reserved.

On an annual basis, the Housing and Neighborhood Revitalization Department, or its successor department, shall brief the appropriate City Council committee regarding the year-to-date production data for the program.

Consistency with Fair Housing Laws

On an annual basis, the Land Transfer program will be reviewed by the Office of Equity and Human Rights, or its successor department, to ensure that the program is being operated in a manner that is consistent with fair housing laws. The City will collect and maintain data regarding the location of parcels of real property sold via the program and demographic information regarding the eligible households who occupy housing units developed pursuant to the program.

Application Process for Submitting a Proposal to Purchase Parcels of Real Property

The City will create, and will periodically update, an application that is consistent with this program statement to be used by developers who are interested in purchasing real property pursuant to the Land Transfer program. The City may accept proposals to purchase lots on a rolling basis or may solicit purchase proposals through a competitive solicitation process. Only proposals that meet or exceed the minimum

developer and project eligibility criteria will be referred to the appropriate City Council Committee for approval. The full Dallas City Council must approve all sale of real property through the Land Transfer program.

Developer Eligibility Criteria

To be eligible to purchase real property pursuant to the Land Transfer program, a developer must meet all the following criteria:

1. Developer may be an individual, or may be organized as a corporation, partnership, joint venture or other legal entity, regardless of whether for-profit or non-profit.
2. Developer must be in good standing with the State of Texas and the City, including that the City has not issued a charge against the developer for violating Chapter 20A or Chapter 46 within the past 5 years, may not be debarred under the federal System for Award Management (SAM), may not have uncured violations of Chapter 27 for which it has received notice, may not be indebted to the City or delinquent in any payment owed to the City under a contract or other legal obligation, and must be current on payment of taxes and liens owed to any other affected taxing unit under the Texas Property Tax Code.
3. If Developer seeks to purchase two or more parcels of real property for the purpose of constructing housing units, Developer must have constructed one or more housing units within the three-year period preceding the submission of the proposal to acquire the parcels of real property via the program. If Developer seeks to purchase one or more parcel of real property for the purpose of developing a multifamily or commercial use, Developer must demonstrate that it has developed at least one comparable use within the three-year period preceding the submission of the proposal to acquire the parcel of real property via the program.
4. Developer must submit a development plan for all parcels of real property Developer seeks to acquire via the program.
5. Developer must demonstrate that it has the financial capacity and staffing/sub-contractor capacity to develop and complete the sale, lease or lease-purchase, within a two-year period, of its inventory of parcels of real property acquired through the program. The City Manager may grant up to a one-year extension of the development agreement due to delays related to installation or improvement of infrastructure or zoning/platting issues. Any other extension of the development agreement must be approved by the City Council.

Staff may impose additional eligibility criteria that are consistent with this program, state statute and city ordinance.

Project Eligibility Criteria

To be eligible to purchase real property pursuant to the Land Transfer program, the proposed project must meet all the following criteria:

1. Parcels of real property must be developed with: (1) a housing unit or units that are offered for sale, rental or lease-purchase, or (2) a commercial use that will complement the City's comprehensive housing policy, economic development policy, or redevelopment policy.

2. Housing units developed on the parcels of real property may only be sold, leased, or offered as a lease-purchase to households whose incomes are within the income bands prioritized by the adopted comprehensive housing policy.
3. Housing units developed on the parcels of real property may be either a single family, duplex, or multi-family housing use.

Staff may impose additional eligibility criteria that are consistent with this program, state statute and city ordinance.

Identification of Eligible Households, Affirmative Fair Housing Marketing and Other Policies

Developers of for-sale housing units must comply with all the terms of the Mixed Income Housing Program as set forth in Chapter 20A, as amended, unless such terms clearly do not apply to for-sale housing units or to the Land Transfer program in general. Such exemptions will be clearly set forth in the development agreement. Developers of for-sale housing units may only sell to homebuyers who meet the eligibility criteria set forth in the City of Dallas Homebuyer Assistance Program (DHAP), or a successor program.

Developers of rental housing or lease-purchase units must comply with all the terms of the Mixed Income Housing Program as set forth in Chapter 20A, as amended, unless such terms clearly do not apply to the Land Transfer program. Such exemptions will be clearly set forth in the development agreement.

Sales Price of Parcels of Real Property Sold via the Land Transfer Program

City owned real property: Properties will be initially offered at fair market value ("FMV"), as determined by a comparative market analysis. A discount will be available if project underwriting indicates that the discount is needed either to ensure the viable sale, rental or lease-purchase to an income-qualified buyer or the viable development of a commercial use.

Tax-foreclosed real property: A fixed price of \$1,000 for up to 7,500 square feet of land purchased under a single proposal, plus \$0.133 for each additional square foot of land purchased under the proposal.

Sales Price of For-Sale Housing Units Developed via the Land Transfer Program

For-sale units produced under the Land Transfer program must be sold at the fair market value as determined by an "as-completed" or "subject to completion" appraisal completed by an independent state-licensed appraiser. However, the terms of the development agreement for each parcel of real property purchased pursuant to the program will include any seller-discount that must be provided to the eligible purchaser so that the amount paid by the eligible purchaser is affordable based on their income.

Rental Rates for Rental Housing Units Developed via the Land Transfer Program

Rental units produced under the Land Transfer program must be rented at affordable rental rates in accordance with the approved development agreement and Chapter 20A, as amended.

Term of Affordability

The term of affordability for for-sale housing units is 5 years.

The term of affordability for rental units and commercial uses is 20 years.

The term of affordability for lease-purchase units will be negotiated on a case-by-case basis in accordance with the goals of this program.

Deed Restrictions and Right of Reverter

The City will impose restrictive covenants on all parcels of real property its sells pursuant to the Land Transfer program. The restrictive covenants will require the parcels of real property to be developed and maintained in accordance with the development agreement and all applicable city, state and federal laws. These restrictions will include that housing units developed on the parcels of real property be offered for sale, rental or lease-purchase to low- and moderate-income households and be occupied by low- and/or moderate-income households for the entire term of the affordability period.

Land acquired by a developer pursuant to the Land Transfer program may revert to the City if the city manager or his/her designee determines that the developer has:

1. failed to take possession of the land within 90 calendar days after receiving the deed or quitclaim to the parcels of real property;
2. failed to complete construction of all required housing units or other required development on the real property, or failed to ensure occupancy by eligible households within the development timeframe set forth in the development agreement;
3. incurred a lien on the property because of violations of city ordinances and failed to fully pay off the lien within 180 days of the City's recording of the lien; or
4. sold, conveyed, or transferred the land without the consent of the City.

Upon determination by the city manager or his/her designee that a condition described above has occurred, the city manager is authorized to execute an instrument, approved as to form by the city attorney, exercising against the parcel of real property the City's possibility of reverter with right to reentry. The city manager or his/her designee shall file notice of the reverter and reentry of the land by the City in the real property records of the county in which the parcel of real property is located, which notice must specify the reason for the reverter and reentry. The City Manager or his/her designee shall provide a copy of the notice to the developer in person or by mailing the notice to the developer's post office address as shown on the tax rolls of the City or of the county in which the land is located.

Release of Non-Tax Liens, Release of Restrictive Covenants and Right of Reverter

Pursuant to this program, and in consideration for developers agreeing to construct affordable housing units or other approved uses on parcel(s) of real property, the city manager is authorized to execute instruments, approved as to form by the city attorney, releasing any non-tax liens that may have been filed by the City on the applicable parcels of real property.

Additionally, the city manager is authorized to execute instruments, approved as to form by the city attorney, releasing the city's possibility of reverter with right of reentry and terminating the restrictive covenants on the land upon compliance with all terms and conditions of the development agreement and this program.

Type of Transfer

The City will transfer all City-owned parcels and resell all tax-foreclosed parcels via a deed without warranty, approved as to form by the City Attorney.

Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a Land Transfer Program

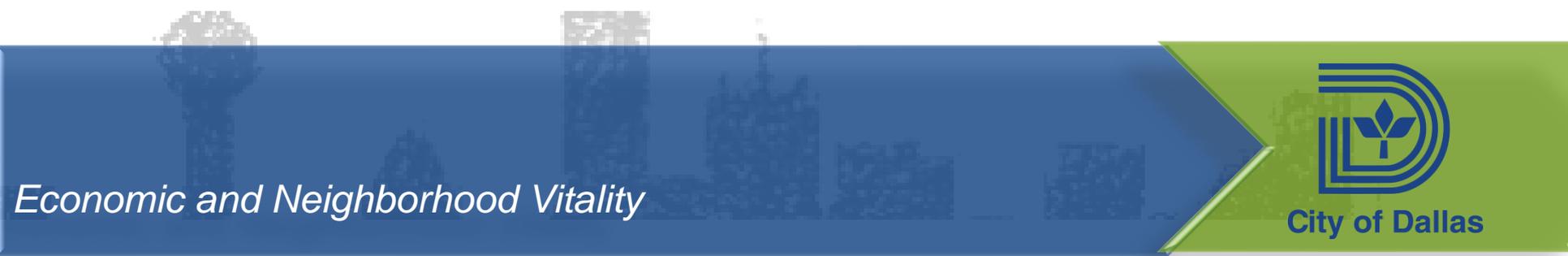
**Economic Development and Housing Committee
April 15, 2019**

**Maureen Milligan, Assistant Director
Housing & Neighborhood Revitalization
City of Dallas**



Presentation Overview

- Purpose
- Background
- Overview of stakeholder feedback and staff recommendations
- Issues
- Recommendation



Purpose

- Brief the Committee on proposals to:
 - amend the comprehensive housing policy to add a Land Transfer program
 - enter in an interlocal agreement with the taxing entities related to the proposed Land Transfer program
 - allow proposers who respond to the upcoming Single-Family Notice of Funding Availability (NOFA) to apply to purchase land based on eligibility criteria set forth in the proposed Land Transfer program statement
- Seek Committee approval to:
 - forward comprehensive housing policy amendment and proposed interlocal agreement to City Council for consideration

Background—Sale of Land by Cities

General requirement:

- Texas Local Government Code Section 253.008 provides the mechanism for municipalities to buy and sell land

Exceptions Related to Affordable Housing Development and Neighborhood Redevelopment:

- Pursuant to Texas Local Government Code Section 272.001(g), the City may 1) sell, exchange or otherwise convey land to an entity for the development of low-income or moderate-income housing, and 2) may sell the land at below market prices if found to accomplish a public purpose.
- Pursuant to Texas Property Tax Code Section 34.051, the city may: 1) resell tax foreclosed land to an entity to be used for a purpose consistent with the municipality's urban redevelopment plans or the municipality's affordable housing policy, and 2) may sell the land at less than the market value specified in the judgment of foreclosure or less than the total amount of judgments against the property.
- Pursuant to Texas Local Government Code Section 253.010, the city may: 1) sell land acquired by the city to a non-profit entity for the development of low-income housing, and 2) may sell the land at below market prices.

Background

Purpose of a Land Transfer Program:

Adoption of a Land Transfer program allows the Department of Housing and Neighborhood Revitalization to incentivize the creation of affordable housing units through:

- selling qualifying city-owned land or interests at below market prices, subject to an approved development plan, and
- reselling tax-foreclosed land at below market prices, subject to an approved development plan

Current Status of Land Transfer Program:

- On May 9, 2018 the Dallas City Council adopted the Comprehensive Housing Policy (CHP)
- City Council amended the CHP on November 28, 2018
- The CHP does not include a Land Transfer program

Prior History of Land Transfer Program:

- In 1997, City Council first adopted a policy specifically related to resale of tax-foreclosed land
- In 1998, City Council codified the procedures in Dallas City Code Sections 2.26-4 through -14
- In 2001, City Council adopted a Land Transfer program that encompassed the sale of city-owned surplus and seized land as well as tax-foreclosed land
- City Council last amended the Land Transfer program in 2004

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Background – Methods of Sale

	Type of Property	Type of Developer	Definition of "affordability"	Use term low/mod income	Define targeted incomes	Currently used by Dallas	Add'l state statutory requirements
DCC 2-26	Tax-foreclosed or seized	Nonprofit	Yes	Low-income	80% AMFI or below	Yes	Enabling Statute: TLGC 253.010
TLGC 253.010 (aka HB 110)	Any land acquired by municipality	Non-profit (limited) and religious organizations	None	Low-income	Municipality may determine; Should consider AMFI	Yes	
TLGC 272.001(g)	Any city-owned land except land acquired by condemnation	No limitation	None	Low- and Mod-income	No	Yes	
TPTC 34.051	Tax-foreclosed land	No limitation	None	Primarily Low- and Mod-income	No	No	Interlocal agreement among taxing entities; sale consistent with City urban redevelopment or affordable housing plan; land must be vacant/distressed & tax-delinquent 6+ years

Issues

Proposed Land Transfer program seeks to address 3 major issues related to the sale of land for affordable housing development and neighborhood redevelopment:

1. Section 2-26 of the Dallas City Code is more restrictive than the authorizing state statute (“HB 110”)
 - Eligible developers are limited to non-profit organizations (defined by ordinance)
 - Developer must sell/rent to 80% AMI or below
2. City has not entered into an interlocal agreement with the taxing entities that would allow resale of tax-foreclosed land pursuant to Texas Property Tax Code Section 34.015, which does not limit the resale of tax foreclosed land to non-profit developers
3. City Council has not adopted a policy that governs H&NR’s sale of city-owned properties for affordable housing development.

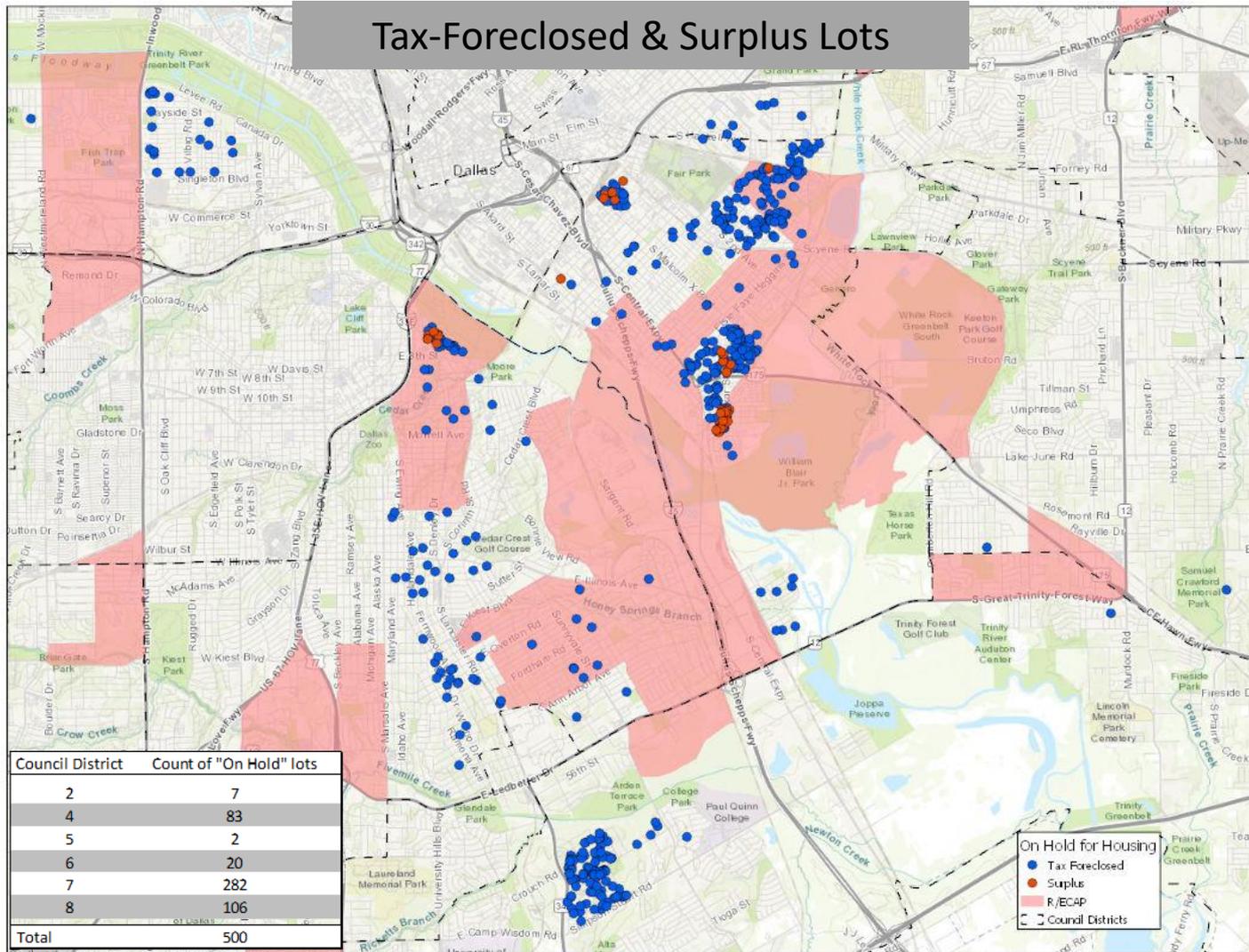
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Issues (cont.)

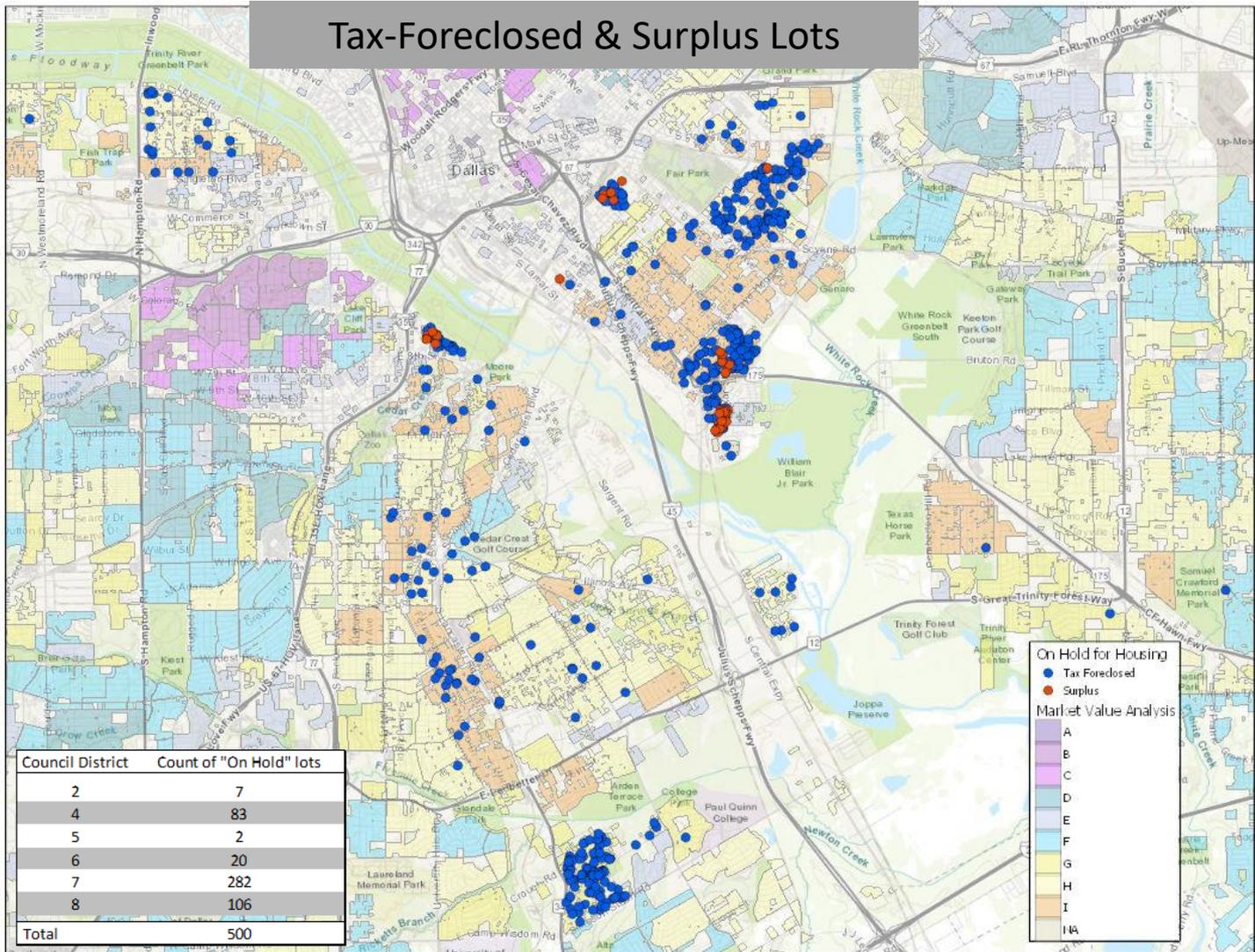
Lack of comprehensive land transfer policy is impacting H&NR's attainment of goals outlined in the CHP:

- 500+ lots currently “on hold” by H&NR
- Majority of tax-foreclosed land is located in high-poverty neighborhoods; significant number of lots located in R/ECAPs
- Use of land is restricted to affordable housing
- Pool of non-profit developers is limited; capacity of non-profit developers is limited
- H&NR is not able to facilitate large-scale, strategic projects that align with the CHP and leverage our aggregated holdings

Tax-Foreclosed & Surplus Lots



Tax-Foreclosed & Surplus Lots



Stakeholder Feedback

- Department of Housing and Neighborhood Revitalization held meetings where feedback was solicited regarding the Land Transfer program
 - January 29, 2019
 - Single-Family NOFA feedback session
 - 50 attendees
 - February 5, 2019
 - Single-Family NOFA feedback session
 - 43 attendees
 - February 13, 2019
 - HB 110 feedback session
 - 30 attendees
 - Discussed at Housing Policy Taskforce Infrastructure and Development Process meetings

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Stakeholder Feedback

- **Feedback:**

- Allow land to be developed and sold/rented to households earning a range of incomes
 - But provide safeguards so that not all land is developed for sale/rent to highest income and no one developer sells/rents to the highest income
- Allow for-profit developers and religious organizations to purchase land
- Retain current sales price of \$1,000 for up to 7,500 square feet of land then \$0.13 per sq. ft. of the entire purchase
- Transfer via a method other than quitclaim
- Provide more information regarding other costs/issues (i.e. delinquent taxes, current zoning)

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Staff Proposal

- **Land Transfer Program**

- Will apply to the resale of tax-foreclosed land and the sale of qualifying city surplus land that was not acquired by eminent domain and land specifically purchased for affordable housing/redevelopment purposes
 - Staff will re-sell tax-foreclosed land pursuant to Texas Property Tax Code Section 34.051 or Texas Local Government Code Section 253.010
 - Staff will sell qualifying city-owned land pursuant to Texas Local Government Code Section 272.001(g)
- Will allow for-profit and non-profit organizations to purchase land
- Will require affordable housing to be developed on the land
 - In limited instances, allow commercial uses to be developed on land
- Housing units developed on land may be sold/rented to households earning up to 120% AMI
 - City portfolio & developer's portfolio—Targeted AMIs should align with production goals outlined in comprehensive housing policy
 - For each sale to a developer, staff must provide Council with a map that contains MVA and R/ECAP layers along with location of lots sold to developer and AMIs targeted in past 2 years of sales

Staff Proposal (cont.)

- **Land Transfer Program:**

- Sale price:
 - Re-sale of tax foreclosed lots—\$1000 for the first 7,500 square feet then \$.13 per sq. ft. of the entire purchase
 - Sale of city-owned land—Offered at fair market value and developer may demonstrate through its proforma that a discount is necessary
- Restrictive covenants:
 - For-sale housing units remain affordable for a minimum of 5 years and rental units remain affordable for a minimum of 20 years
 - Commercial development must be used for purposes outlined in development agreement for a minimum of 20 years
 - Right of reverter

Staff Proposal (cont.)

- Additional step needed so that the resale of tax-foreclosed land can be included in Land Transfer program
- Enter into an interlocal agreement (ILA) with Dallas County (and related entities) and DISD
 - Allow City of Dallas to resell tax-foreclosed land in a direct sale and at a price less than the foreclosure judgement for the purpose of developing affordable housing or other uses that support community redevelopment.
 - ILA will authorize the City to resell tax-foreclosed properties that meet the following criteria: (1) the City took title as trustee for the taxing units because no bid was received at the public sale of the property and (2) the property is vacant or distressed and has a tax delinquency of six or more years.
 - City will be required to notify the taxing entities of the properties it intends to sell pursuant to the ILA and will allow any taxing entity to disapprove the resale of a property or properties.

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Staff Proposal

- **Upcoming Single-Family NOFA**

- Staff intend to release the Single-Family NOFA within the next few weeks
- The NOFA will be released prior to final approval of Land Transfer program by City Council
- Staff will accept proposals that align with the proposed Land Transfer program; however, the NOFA will include a disclaimer that the proposed Land Transfer program has not yet been approved by City Council and that any sale of land pursuant to the NOFA is expressly contingent upon City Council approval of the Land Transfer program, adoption of an interlocal agreement by the other taxing entities, and approval of each NOFA proposal
- The NOFA will be structured so that Proposers can apply: (1) for funding only, (2) for funding and to purchase city-owned/tax-foreclosed land, or (3) apply to purchase city-owned/tax-foreclosed land

Staff Proposal

Combined Policy for Selling Tax-Foreclosed and City-Owned Land for Affordable Housing Purposes

Land Bank

- Authorized by TLGC Ch. 379C
- ILA with taxing entities (required)
- Tax-foreclosed land is sold directly to Land Bank
- Land Bank may resell land to for-profit and non-profit developers
- May serve households up to 115% AMI

Land Transfer (Tax-Foreclosed)

- Authorized by TPTC 34.01
- ILA with taxing entities
- Tax-foreclosed land is offered first at Sheriff's sale; eligible for resale pursuant to program if struck off to City
- City may resell land to for-profit or non-profit developers
- City sells lots for \$1000 sq. ft. for first 7500 sq. ft.
- May serve households up to 120% AMI

Land Transfer (City-Owned)

- Authorized by TLGC 272.001(g)
- No ILA
- City may identify eligible land
- City may resell land to for-profit or non-profit developers
- City offers land at fair market value with discount offered if necessary
- May serve households up to 120% AMI

**City may also continue to operate under DCC 2-26.4-.14

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Recommendation

Staff recommends that the Economic Development and Housing Committee vote to:

- Forward proposed comprehensive housing policy amendment and proposed interlocal agreement to City Council for consideration

Proposed Amendment to the City of Dallas Comprehensive Housing Policy to Add a Land Transfer Program

**Economic Development and Housing Committee
April 15, 2019**

**Maureen Milligan, Assistant Director
Housing & Neighborhood Revitalization
City of Dallas**



Memorandum



CITY OF DALLAS

DATE April 12, 2019

Honorable Members of the Economic Development and Housing Committee
TO Tennell Atkins, (Chair), Rickey D. Callahan, (Vice-Chair), Casey Thomas, II,
Scott Griggs, Mark Clayton, Lee M. Kleinman, B. Adam McGough, Kevin Felder,
Omar Narvaez

SUBJECT **Abandonment Procedures & Fees**

On Monday, April 15, 2019, the Committee will be briefed on the Abandonment Procedures and Fees. The briefing material is attached for your review.

Please feel free to contact myself or Kris Sweckard, Director of the Department of Sustainable Development and Construction, if you have any questions or need additional information.

A handwritten signature in blue ink, appearing to read 'Majed Al-Ghafry'.

Majed Al-Ghafry, P.E.
Assistant City Manager

c: Honorable Mayor and Members of the City Council
T.C. Broadnax, City Manager
Chris Caso, City Attorney (Interim)
Biliera Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Jon Fortune, Assistant City Manager

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Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
Michael Mendoza, Chief of Economic Development and Neighborhood Services
M. Elizabeth Reich, Chief Financial Officer
Laila Aleqresh, Chief Innovation Officer
Directors and Assistant Directors

Abandonment Procedures and Fees

**Economic Development
& Housing Committee**

April 15, 2019

**Kris Sweckard, Director
Sustainable Development &
Construction**

**Ashley Eubanks, Assistant Director
Sustainable Development &
Construction**



Presentation Overview

- Discuss current regulations and fees
- Review specific concerns
- Review possible issues
- Review Alternative
- Next Steps

Abandonment Types

- Most common types of abandonment requests:
 - Street, Alley or Storm Water Management Area
 - Utility Easement (utility, water, wastewater, etc.), Drainage Easement or Other Easement Areas (fire lane, etc.)

Current Process

- Applicant submits written request and initial fees
 - \$4,250 application fee, non-refundable
 - \$50 minimum recording fee
 - Additional appraisal fees, if required
- Request routed to departments and outside agencies for review
- Notices to property owners within 300 ft (if applicable)
- Market value of property is determined

Determination of Market Value

- If estimated abandonment fee is less than \$20K, DCAD value can be used as the market value
- If estimated abandonment fee is \$20K or more, an independent appraisal is used to determine market value
 - Applicant submits \$2,500 minimum deposit for appraisal fee
 - If appraisal bid exceeds \$2,500, applicant pays difference; if less, applicant refunded difference
- The abandonment fee is the greater of:
 - The market value or \$5,400

Allowable Credits and Discounts

- If City needs additional property owned by an applicant in the area of the proposed abandonment, a square foot for square foot credit may be given against the area to be abandoned
- If area dedicated to City exceeds the area abandoned, the applicant will only be charged a processing fee of \$5,400
- If easements are retained by the City, appraiser may discount up to 15 percent

Fees Charged for Other Abandonments

- Utility, drainage or other easements:
 - If originally dedicated to City at no cost:
 - 0-5 Easements: processing fee of \$5,400
 - Additional fee of \$1,000 for each easement after the 5th one

Specific Concern

- Are abandonment fee amounts appropriate in residentially zoned areas?
- Can fees be reduced for abutting residential owners
- Adjacent owners desire to improve and/or utilize parkway area for private purposes

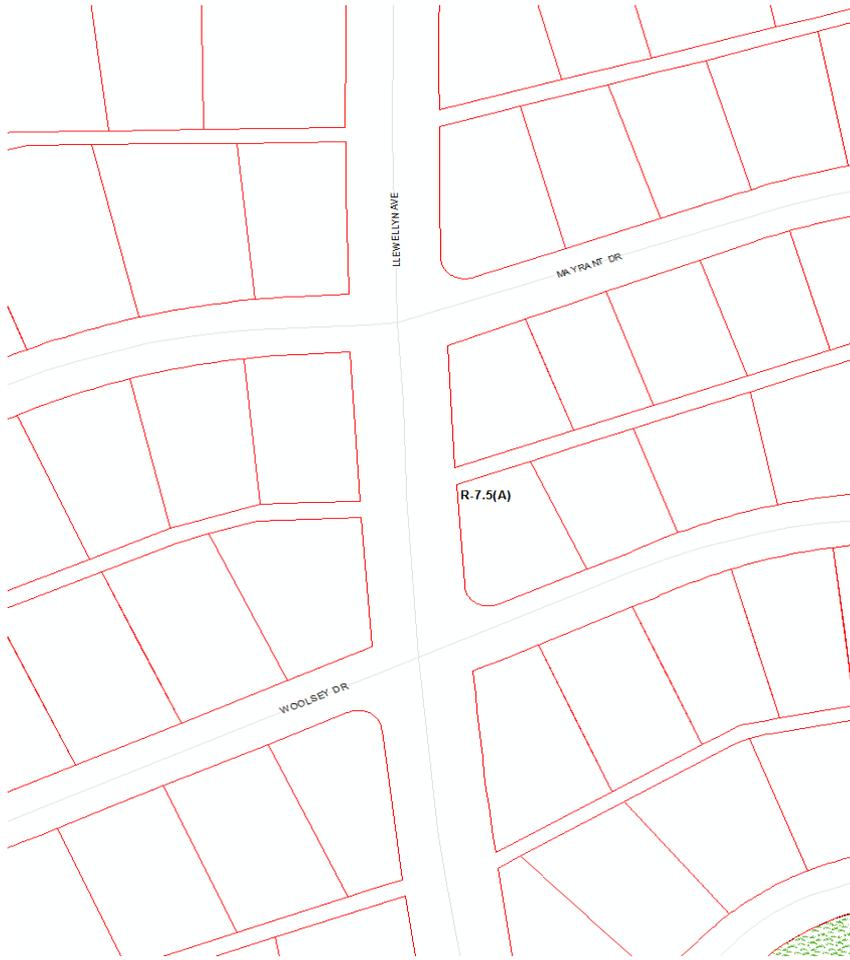
Issues

- State law requires City to receive fair market value for property transactions
- Texas Constitution prohibits gifts of public funds exclusively for private benefit
- Possible equal protection issues in treating commercial and residential owners differently
- Revenue impact to general fund

Issues (Cont'd)

- Limits the City's future options and flexibility (bike lanes, trails, sidewalks)
- Individual abandonments may result in “saw-toothing” of right-of-way property lines
- Potential for setback issues and neighborhood disputes
- Creation of inconsistent block faces
- Potential change in street character

Example



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Example



Alternative

- Credit 85 percent of \$4250 application fee for residential abandonments if:
 - Request is in an single family or duplex zoned area adjacent to a residential dwelling unit
 - Minimum ROW required by Thoroughfare Plan or Code is maintained
 - Standard review by utilities and City departments clears with no objections
- Existing procedures provide for a 300 ft. notification to adjacent property owners

Next Steps

- If changes are requested by the Committee, staff would work with the City Attorney's Office on amendments to Chapter 2-26.2 "Abandonment of Public Rights-of-Way" for future Council consideration.

Abandonment Procedures and Fees

**Economic Development
& Housing Committee**

April 15, 2019

**Kris Sweckard, Director
Sustainable Development &
Construction**

**Ashley Eubanks, Assistant Director
Sustainable Development &
Construction**



Memorandum



DATE April 12, 2019

TO The Honorable Members of the Economic Development & Housing Committee:
Tennell Atkins (Chair), Rickey D. Callahan (Vice-Chair), Lee M. Kleinman,
Scott Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder,
Omar Narvaez

SUBJECT **Municipal Management Districts**

Summary

On April 15, 2019, the Committee will be briefed on Municipal Management Districts (MMDs). Specifically, staff will review three pending MMD bills, and propose modifications to the bills to allow for more City oversight.

Background

In 2018, the Texas House Committee on Special Purpose Districts issued an Interim Report proposing “template language” for future MMD bills. The template is missing many of the City approval rights and protections contained in the legislation that created our existing MMDs.

Three MMD bills have been filed this legislative session utilizing the template form, and more are expected in the future. The briefing is intended to review the template, propose Dallas-specific amendments to the template, and establish a staff directive regarding City of Dallas support for pending and future MMD creation bills.

Financing

There is no City financing associated with this matter.

Recommendation

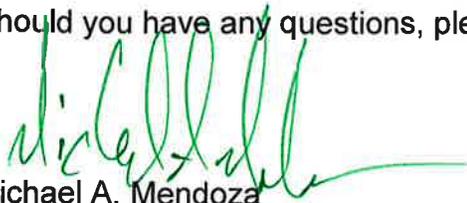
Staff recommends modifications to the MMD bill template for proposed and future MMDs in the City of Dallas to allow for municipal oversight.

Municipal Management Districts

April 12, 2019

Page 2

Should you have any questions, please contact me at (214) 671-5257.



Michael A. Mendoza

Chief of Economic Development and Neighborhood Services

- c: Chris Caso, City Attorney (Interim)
Carol A. Smith, City Auditor (Interim)
Billierae Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager
- Jon Fortune, Assistant City Manager
Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
M. Elizabeth Reich, Chief Financial Officer
Laila Aleqresh, Chief Innovation Officer
Directors and Assistant Directors

Municipal Management Districts

Economic Development and Housing Committee

April 15, 2019

**Courtney Pogue, Director
Office of Economic Development
City of Dallas**



Purpose of Briefing

- In 2018, the Texas House Committee on Special Purpose Districts issued an Interim Report proposing “template language” for future MMD bills.
- The template is missing many of the City approval rights and protections contained in the legislation that created our existing MMDs.
- Three MMD bills have been filed this legislative session utilizing the template form, and more are expected in the future.
- This briefing is intended to review the template, propose Dallas-specific amendments to the template, and establish a staff directive regarding pending and future MMD creation bills.

Overview

- Municipal Management Districts (MMDs) are special districts formed by state legislation. Each MMD covers a defined geographic area, and may be used to finance improvements and pay for services within that area.
- The scope of each MMD is limited by its creating legislation. MMDs may impose ad valorem taxes, impact fees, special assessments, bonds, or other fees in accordance with the legislation creating the district.
- MMDs are governed by a board of directors. Board eligibility, election procedures, and other management information is dependent upon the creation legislation's language.

Overview

- In general, MMDs generate revenue by issuing bonds for public improvements. MMD bond debt is not City debt, and does not impact City bonding capacity.
- Bond debt may be supported by ad valorem taxes, property assessments, impact fees, or other revenue methods permitted in the MMD's creation legislation.
- Bond debt may also be supported by City incentives such as Tax Increment Financing (TIF), as permitted by the MMD's creation legislation.

Creation

- Municipal Management Districts (MMDs) can be created in two ways:
 - By the Texas Commission on Environmental Quality (TCEQ) pursuant to Texas Local Government Code Chapter 375, which requires a resolution of the municipality in support of the creation, or
 - Special legislation codified into the Texas Special Districts Local Laws Code
- All existing Dallas MMDs have been formed under one-off legislation under the Special Districts Local Laws Code.
- Three bills are pending this legislative session to create additional MMDs pursuant to special legislation under the Special Districts Local Laws Code, and others are anticipated to be filed.

Existing Dallas MMDs

Four MMDs currently existing in the City of Dallas:

1. **Trinity River West MMD** – Chapter 3871, Texas Special District Local Laws Code. Formed in 2009.
2. **Cypress Waters MMD** - Chapter 3874, Texas Special District Local Laws Code. Formed in 2009.
3. **North Oak Cliff MMD** - Chapter 3884, Texas Special District Local Laws Code. Formed in 2009.
4. **University Hills MMD** - Chapter 3947, Texas Special District Local Laws Code. Formed in 2017.

MMD Template Language

In October of 2017, House Speaker Joe Strauss issued four interim charges to the House Committee on Special Purpose Districts. The fourth charge was to identify best practices in the creation of MMDs, and to study and make recommendations for standard language for the creation of MMDs through special law.

In December 2018, the Committee issued an Interim Report (attached as **Addendum A**) which set out “template language” for future MMD bills. The template is intended to establish common language to allow for simplified review of MMD bills.

The guidance in the Interim Report makes clear that MMD bills are not required to conform to the template, and recognizes that districts are unique and must satisfy local citizens.

Pending and Potential MMD Bills

- **SoGood Cedars MMD** (SB 2446 – West)
 - Map of proposed MMD area in *Addendum 3*. All properties in the proposed boundary are owned by Cedar East Phase I, LLC, an entity affiliated with Hoque Global. The site is in an Opportunity Zone.
- **New Park MMD** (SB 2445 – West)
 - Map of proposed MMD area in *Addendum 4*. All of the parcels are owned by entities affiliated with Hoque Global. The site is in an Opportunity Zone.
- **Oak Farms MMD** (HB 4733 - Gonzalez)
 - This bill was filed on April 11, 2019. We do not yet have a map of the proposed MMD boundaries.
- **Walden Pond MMD** (no bill filed)
 - On January 22, 2019 the City Secretary's Office received legal notice of intent to form the Walden Pond MMD, but no bill has been filed to date. We do not yet have a map of the proposed MMD boundaries, but the location is in Kaufman County.

Local Oversight

- In the past, cities have maintained oversight of MMDs in several ways, such as:
 - Appointing board members
 - Municipal consent required for MMD bond issuances
 - Approval of construction within municipal right of way
 - Municipal consent required for MMD boundary changes
 - Ability to dissolve the MMD
- Local control has been removed from the template language.

Dallas Amendments

In keeping with the Interim Report's guidance that bills are not required to conform to the template, and that districts must serve local citizens, staff recommends several "Dallas-specific" amendments to the template language.

A redlined document is attached as **Appendix B** showing the Interim Report's template language as modified by the Dallas-specific amendments.

Dallas Amendments

Proposed amendments include:

1. No MMD shall take any action other than holding a formation meeting with its initial board members until:
 - a. Passage of a resolution by the City Council approving a development agreement between the City, the MMD, and other parties deemed necessary by the City such as the master developer; and
 - b. Execution of such development agreement.

2. If no development agreement is signed within 48 months of the effective date of the MMD legislation, the MMD will automatically terminate. The effective date must be within the same calendar year as the date of the legislative vote.

Dallas Amendments

3. The following types of properties will not be subject to any assessment, tax, fee, or other revenue source charged by the MMD:
 - i. Property owned by a governmental entity;
 - ii. Any property with one of the following property tax exemptions:
 - a) Residence Homestead Exemption
 - b) Age 65 or Older Homestead Exemption
 - c) Surviving Spouse of Person Who Received the 65 or Older Exemption
 - d) Disabled Person Homestead Exemption
 - e) Surviving Spouse of a Person who Received the Disability Exemption
 - f) Residence Homestead Exemption for Disabled Veteran with 100% Disability
 - g) Donated Residence Homestead of Partially Disabled Veteran or Surviving Spouse of Disabled Veteran who qualified for Donated Residence Homestead
 - h) Surviving Spouse of Member of Armed Forces Killed in Action
 - i) Disabled Veteran or Survivors of a Disabled Veteran
 - j) Tax Deferral for 65 or Older or Disabled Homeowner
 - k) Charitable Exemption
 - l) Religious Exemption

Dallas Amendments

4. The MMD may not carry out law enforcement services without the consent of the City.
5. The MMD may not amend its boundaries without the consent of the City.
6. The MMD may not subdivide into more than one MMD.
7. The MMD creation legislation may not be amended without the consent of the City.
8. The MMD may not assess a sales and use tax, and may not utilize navigation district powers.
9. Assessment liens shall not be superior to any City lien.

Dallas Amendments

10. Board meetings must be held at locations accessible to the general public, and notice of each board meeting must be filed with the City Secretary's Office at least 72 hours prior to the meeting time.
11. The city manager, city auditor, and city attorney (or a designee of each) shall serve as an ex-officio board member.
12. The MMD is subject to the City charter and City land use regulations. All improvement projects must comply with any applicable codes and ordinances of the City.
13. The MMD may not provide, conduct, or authorize an improvement project on the city streets, highways, rights-of-way, or easements without the consent of the City.

Next Steps

1. With the committee's approval, staff will attempt to have the three pending bills modified to include the Dallas-specific template modifications.
2. Staff will attempt to have all future bills include the Dallas-specific template modifications.

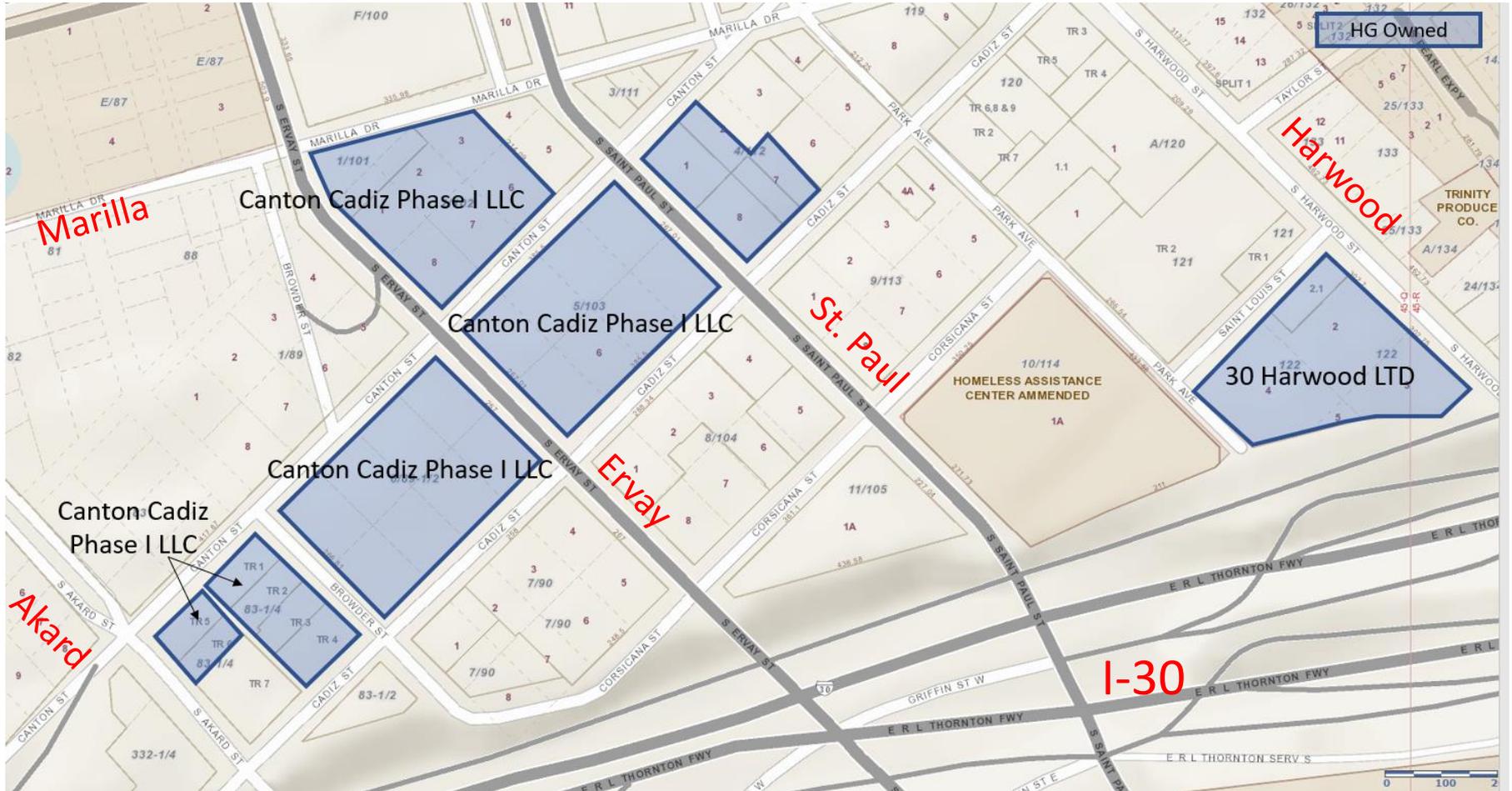
Addendum A – 2018 Interim Report

See attachment

Addendum B – Dallas Template

See attachment

Addendum D – New Park MMD Map



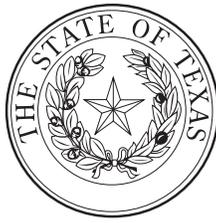
Municipal Management Districts

Economic Development and Housing Committee

April 15, 2019

**Courtney Pogue, Director
Office of Economic Development
City of Dallas**





INTERIM REPORT *to the 86th Texas Legislature*



HOUSE COMMITTEE ON SPECIAL PURPOSE DISTRICTS

December 2018

**HOUSE COMMITTEE ON SPECIAL PURPOSE DISTRICTS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2018**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
86TH TEXAS LEGISLATURE**

**JIM MURPHY
CHAIRMAN**

**COMMITTEE CLERK
LAURIE MCANALLY**



Committee On
Special Purpose Districts

December 11, 2018

Jim Murphy
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Joe Straus
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Special Purpose Districts of the Eighty-fifth Legislature hereby submits its interim report including recommendations for consideration by the Eighty-sixth Legislature.

Respectfully submitted,


Jim Murphy


Mary Ann Perez


Philip Cortez


Mike Lang


Cecil Bell, Jr.


Scott Cosper


Ben Leman

Mary Ann Perez
Vice-Chairman

Members: Cecil Bell, Jr., Philip Cortez, Scott Cosper, Mike Lang, Ben Leman

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INTRODUCTION

At the beginning of the 85th Legislature, the Honorable Joe Straus, Speaker of the Texas House of Representatives, appointed seven members to the House Committee on Special Purpose Districts. The committee membership included the following: Jim Murphy, Chairman; Mary Ann Perez, Vice Chair; Cecil Bell, Jr., Philip Cortez, Scott Cosper, Mike Lang, and Leighton Schubert. Schubert resigned his seat in January, 2018, and the remainder of his term was filled by special election by Ben Leman. Leman was subsequently appointed to this committee by Speaker Straus.

The committee was given jurisdiction over all matters pertaining to:

- The creation of any special purpose district not otherwise assigned by these rules to other standing committees, including a crime control and prevention district, library district, public improvement district, municipal management district, municipal development district, irrigation district, water improvement district, water control and improvement district, river authority, or navigation district; and
- Any other local government special purpose district authorized or created under law that as the result of its creation may levy or impose a tax, assessment, or fee for a special purpose.

INTERIM STUDY CHARGES

In October of 2017, House Speaker Joe Straus issued the following interim charges to the House Committee on Special Purpose Districts:

1. Evaluate the impact of Hurricane Harvey on residential communities within special purpose districts and districts' capacity to respond. Review the role and adequacy of the districts in emergency preparedness and response. Make recommendations for strengthening districts' emergency operations.
2. Review the statutes and procedures related to state approval and oversight of water district bonds that finance utility, infrastructure, and other projects. Identify opportunities for improving the state's oversight of bond issuance and make recommendations for statutory changes.
3. Investigate the feasibility of dissolving special purpose districts and determine if there are criteria that would make dissolution acceptable. Make recommendations for codifying the dissolution requirements and procedures.
4. Identify best practices in the creation of municipal management districts. Study the feasibility of and make recommendations for creating standard language for the creation of municipal management districts through special law.
5. Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 85th Legislature.

All charges were studied by the committee as a whole.

Charges 1 and 2 were authored by Laurie McAnally.

Charges 3 and 4 were authored by Jason Briggs.

Charge 1
Disaster Preparedness

Charge 1: Disaster Preparedness

A State of Disaster

*"I am only nervous because...Katrina...started kind of similarly. It wasn't on anybody's radar to be anything too crazy, and then all of a sudden it unfolded to be worse and worse."*¹

*The colors the National Weather Service uses to show rainfall on its weather map couldn't represent the deluge in southeastern Texas, so the NWS added two more purple shades to its map. The old scale topped out at more than 15 inches; the new limit tops 30 inches.*²

2016 was an unusual year for weather disasters. Right, **2016**.

There were 15 weather and climate events with losses exceeding \$1 billion across the United States. The eight severe storms, four inland floods, a tropical cyclone, drought, and wildfire led to 138 fatalities and caused \$46 billion in direct costs.³

The sea level continues to rise. Population (and wealth) continues to cluster on the coasts. And Texas has a lot of coast.

We don't have blizzards. Wildfires touch us occasionally. We have suffered through numerous droughts and heat waves. But flooding and severe storms are our bugbear. Our monster under the bed.

Between 1980 to 2016, the U.S. South/Central and Southeast regions experienced a higher frequency of billion-dollar disaster events than any other region. And at the dead center of this region sits Texas; an apocalyptic target. On the map of the United States disaster incidents at climate.gov, Texas is depicted as the reddest of the red, the state most likely to suffer a disastrous weather event. If the giant meteor strikes, it will probably be here.

And we achieved this fabulous designation in 2016. Before Harvey.

So it's not a question of whether or not this will happen again. The question is how we will be prepared to face it when it does.

What's Your Plan?

*"You can't prevent every horrible scenario for every individual within an area."*⁴

We should all have a plan for what to do when all hell breaks loose. Most of us don't. Or our plans are vague: "I'll put everyone in the car and drive away." "I'll head up to the attic with bottled water and a chainsaw." "I'll hit the supermarket and arm wrestle someone for the last can of Spam."

It's time like these that we appreciate governmental entities that employ experts to help steer all of us through disaster. It's tax money well spent. Thankfully, special purpose districts are also

required to prepare more thoroughly for unthinkable situations, especially in the Houston area. Thanks to Hurricane Ike.

Ike

On September 13, 2008, Hurricane Ike made landfall over the east end of Galveston Island, and then headed into Houston. The major wind event decimated electric utilities, leaving many without power for weeks. The lack of power created a major health hazard by affecting waste and sewer services, creating backups in the system and overflow into homes, businesses, and water supplies.⁵ Many communities were forced to issue boil water advisories for public drinking water systems.

Life is miserable in Texas without power and air conditioning. It's impossible without water.

According to the report from the House Select Committee on Hurricane Ike Devastation to the Texas Gulf Coast, although public utilities are required to have generators in the event of an emergency, only 85 percent of affected retail public utilities were in compliance with current state rules when Ike struck. Of those who were in compliance, 25 percent of those generators failed to function or ran out of fuel. One week after Ike, 250,000 residents remained without water. Another 625,000 residents' status could not be determined due to poor communications between the TCEQ and public utility providers.

Senate Bill 361

SB 361, passed in 2009, requires utilities in Harris County and adjacent counties with a population greater than 400,000 (Fort Bend and Montgomery Counties) to ensure the emergency operation of its water system during an extended power outage as soon as safe and practicable following the occurrence of a natural disaster.⁶ These utilities must submit their emergency plan to the TCEQ for approval.

The rule allows a financial waiver for systems that can demonstrate implementation of an emergency plan would result in a financial burden to their customers. The affordability standards, developed by the Environmental Protection Agency, allow for a waiver if such services are considered "unaffordable." The waiver application adds the annual cost of purchasing and maintaining equipment to meet the requirements of the rule to the average annual water cost per connection. If the total of these two factors is equal to or greater than 2% of the area median household income, implementing the rule is considered a financial burden for the affected utilities' customers, and the affected utility will be eligible for a waiver.

Fifty-four utilities in the Houston-Fort Bend area were allowed to opt out after meeting affordability criteria for public water systems. Of those fifty-four, twelve could be classified as a special purpose district.

The Texas Commission on Environmental Quality developed a template to assist affected utilities in the development of their emergency plan. And although utilities outside the Houston-Fort Bend area are not required to develop such a plan, many of them have requested the TCEQ's template for their own use.⁷

The Test

*"I'm a 5th generation Houstonian. I've been here, my family's been here a long time. Obviously, we've never seen water like this."*⁸

*"No one knows how well you've structured a system until it's stressed."*⁹

How well would SB 361's provisions work? Everyone was about to find out.

Harvey started as a typical weak August tropical storm that affected the Lesser Antilles and dissipated over the central Caribbean Sea. However, after re-forming over the Bay of Campeche, Harvey rapidly intensified into a category 4 hurricane before making landfall along the middle Texas coast. The storm then stalled, with its center over or near the Texas coast for four days, and became the most significant tropical cyclone rainfall event in United States history, both in scope and peak rainfall amounts, since reliable rainfall records began around the 1880's.¹⁰

The Texas Commission on Environmental Quality began calling groundwater and surface water systems along the south coastal regions to ensure that they were preparing themselves and to offer the agency's assistance.¹¹ Because many drinking water chemicals are manufactured in the Houston area, the TCEQ began contacting other chemical drinking water companies around the United States to ensure enough supplies were on hand to send to Texas. In addition, the agency touched base with manufacturers of hand-held water testing equipment and water testing labs to make sure they could handle the extra demand.

After landfall, water and wastewater facilities were contacted for an update of their operational status, focusing on public water systems that were having operational issues and were damaged. The TCEQ tracked 2200 drinking water systems serving about 11 million people in the 58 counties of the disaster declared area. Of those, about 738 were public water systems owned by districts. Of those 738, eight systems reported inoperable conditions at the peak of the disaster due to equipment failures caused by wind damage and storm surge. The majority of those systems were back up within a week. None of the twelve special utility districts that received a financial waiver for emergency preparedness reported outages.

As a comparison, nine days after Ike, nearly 250,000 people living in Harris County still lacked running water.

Hurricane Harvey was a different kind of storm than Ike. Ike was a windstorm, Harvey was inundation. But utilities are already considering changes to adapt to future events. For already constructed facilities, utilities are discussing moving or elevating control panels and generators. For facilities that are still in design, many utilities are carefully considering whether design changes should be made to elevate facilities higher than previously contemplated.¹²

The Statistics

"Almost all of the Houston area experienced a 1,000-year storm with some areas receiving rain equivalent to a 40,000-year event. GPS calculations showed that the weight of the water covering the Houston area was sufficient to cause the very land beneath the city to subside by a quarter inch."¹³

According to a study of the impact of Hurricane Harvey produced by the Texas Association of Water Board Directors, 190,000 homes, or 9 percent of the Houston MSA's housing stock, experienced flooding. Less than 20 percent of those flooded units were located within the utility districts that provide water, wastewater and storm water services.

- 65% of flooded homes located within MUDs are located in districts platted before 1981--the first year FEMA made flood plain maps available for Harris County.
- of the 1,096 wastewater treatment plants in the Houston MSA tracked by the TCEQ, only three were destroyed by the storm, and none of those three were operated by MUDs.
- the 63 MUDs which experienced flooding of 200 or more houses have \$195 million collectively in cash reserves; meaning that these MUDs could pay three years of debt service collectively without collecting a single dollar of tax revenue.¹⁴

The data shows that districts are taking potential flooding events into account when considering development and emergency response plans and are working to ensure that reserves are adequate to continue payment on obligations in case of an emergency. Future planning by districts must continue to be adaptable and responsive to different types of severe weather events to ensure that, no matter the type of storm, the needs of taxpayers within the district can be met quickly and sufficiently.

Flood Pools

There is considerable debate as to the exact definition of the term "flood pool." It is not recognized by most dictionaries. When a query is made to dictionary.com, the server offers up the word "clodpoll." The U.S. Department of the Interior defines it as "reservoir volume above active conservation capacity and joint use capacity that is reserved for flood runoff and then evacuated as soon as possible to keep that volume in readiness for the next flood."¹⁵ The Brazos River Authority defines it as "a specified area within a flood control lake and the surrounding land that may only be inundated during periods of flooding."

Those who use the term with respect to Harvey use it to describe the area flooded by the U.S. Army Corps of Engineers to prevent the reservoirs from overflowing and easing downstream flooding. And the term can vary by the rate of rainfall, prior conditions, and development over time.

Prior to a historical amount of rain falling on the Houston area, no one outside of the Corps of Engineers could have imagined that this term existed. No one could have imagined a scenario where a neighborhood would be purposely flooded. Not the districts, nor the builders. However, the pools definitely exist, and will reoccur.

The Corps of Engineers purposely purchased land around the reservoir considered to be in the 100 year "flood pool" area. Unfortunately, it wasn't nearly enough. Maps need to be updated to take Harvey into consideration, and that information needs to be shared more readily with local officials and property owners.

And as a side note, if there is a choice, neighborhoods should never be deliberately flooded in the middle of the night. That's just basic common courtesy.

A Note About Sprawl

*"The city (is not) the paved-over disaster so often evoked in the media. Houston has more acres of parkland and greenspace than any other large city in America, and it ranks third behind San Diego and Dallas in park acreage per capita. The city has substantially fewer impervious surfaces covered by buildings, roads, and parking lots (39.2 percent) and substantially more absorbent surfaces with trees, grasses, and soils (60.6 percent) than similarly populated American cities."*¹⁶

*"If Harvey happened in 1850 instead of today...the results would be nearly identical in terms of land flooded...No zoning law or ban on parking lot construction would ever have 'fixed' anything about that."*¹⁷

Sprawl is an ugly word. There are those who believe that the answer to saving the world is to pack the middle and lower classes into dense living spaces. In Texas, the land has always been plentiful, and families are able to own a little piece of it, in the form of a house with a backyard.

In a series of articles, the New York Times suggested that the flooding in Houston was partly Houston's fault, because of the "sprawl." The Houston Chronicle, owned by interests in San Francisco, has apparently made it its mission to create stories about the immorality of municipal utility districts; districts that create affordable housing for Houstonians. Affordable housing with space to breathe.

If only, opines the New York Times, Houston hadn't lost so much wetlands to development, the flooding might not have been so disastrous. And it's true, development does tend to cover green space. According to research done by Texas A&M, nearly 25,000 acres of wetlands were lost to development around Houston. That lost acreage would have stored nearly 4 billion gallons of stormwater. However, Harvey dropped an estimated 19 **trillion** gallons of rain on Texas. That lost stormwater storage amounts to 0.2 percent of the water that fell during the storm.¹⁸ Impervious cover, while necessary to drainage, would not have changed the outcome during Harvey.

In fact, New York City, in the middle of an area that relies on dense housing, and lots of green space in the form of Central Park, suffered \$19 billion in damage from Superstorm Sandy, which dropped less than an inch of rain on the city.

It's not the sprawl, y'all.

Recommendations

"Three 500-year floods in three years means either we're free and clear for the next 1,500 years, or something has seriously changed." ¹⁹

Something has seriously changed. Whether or not you believe in global warming, it's hard to ignore that disaster-type weather is happening more often. And there are no indications that the trend is anywhere near abating.

The provisions of SB 361 should be implemented statewide. At the very least, the SB 361 should be extended to include all Texas coastal counties, not just Fort Bend, Harris and Montgomery. Flooding was severe in other counties, such as Galveston, Jefferson, Orange, Hardin, Tyler, Brazoria, Wharton, Chambers, Liberty, San Jacinto, Jasper, Newton and Fayette. Wind damage was extreme in Aransas, Nueces, Refugio and San Patricio counties. Shouldn't those counties have their best chance to ensure reliable water service during an emergency, too?

Obviously, the Houston area needs its long-delayed third reservoir. Reservoirs, unfortunately, are difficult to come by. And if approved, planning and construction can take decades. An interim solution would be to appropriate funds to increase the capacity of the two existing reservoirs and other waterways by dredging silt and debris that have built up over the decades.

When airports are planned, homeowners are bought out. And when airports are expanded, homeowners in the path of the new runways are also bought out. If the federal government is aware of land designated as "flood pools," then that area should be considered an expansion of the existing reservoir's footprint. Landowners should be given updated disclosure information that their property lies in a flood pool and presented with the choice of purchasing flood insurance or having their property purchased.

Harris County Judge Ed Emmett, who is also the county's Director of Emergency Management, has put forth suggestions to help prevent a catastrophic flooding event in the future. Two of them deal with special districts and are worth a mention here:

- The roles and responsibilities of municipal utility districts and other special districts should be clarified to include flood control and storm water management, in cooperation with the Harris County Flood Control District. Existing districts should be studied for untapped capacity, and new districts developed with flood control in mind. Until a true 100-year flood level is defined, the 500-year level should be used for detention purposes.
- The State of Texas should consider authorizing clear rules for approval of development plats in unincorporated areas, specifically those areas in the extraterritorial jurisdiction of a city. Additionally, there should be clear requirements for disclosure of flood risk to homebuyers and renters.

While many people have different ideas about the role special purpose districts in general (and municipal utility districts in particular) should play in flood control, it is important to remember

that more government does not necessarily mean better results. Flood control districts, river authorities, cities, and counties are a few of the governments which already govern and often share responsibilities for flood planning and mitigation. While utility districts can certainly play a part, careful consideration should be given so that duplication of government is limited. Current systems should be evaluated for potential efficiency improvements before any expansion of government is mandated.

Houston is the fourth largest city in the United States. It isn't going anywhere. There is no "safe" place to build a community. California faces wildfires, the northeast has its blizzards, and the midwest its tornadoes. Telling people they "shouldn't build there" is disingenuous. We all have to live somewhere. And Houston made it work. Within days, the city was operational, unlike New Orleans, which took months to reach a fraction of normality. Stay in Houston, a great place to live and work. But buy the flood insurance.

Charge 2

Bonding

Charge 2 : Bonding

Boom

*"There was never any question of budget. The only limit was my imagination."*²⁰

*"Laborers forced out of work in the Rust Belt heard tales about walking up to oil rigs...and going to work for \$12 an hour. By the thousands, they headed west and learned the stories were true."*²¹

*"Whoa, we're half way there... livin' on a prayer."*²²

The 1980's. Big, brash, and in your face. Neon colors, parachute pants, MTV, bands featuring singers with big hair, baby on board signs. And best of all for Texas, a booming oil economy, exemplified by J.R. Ewing.

A decade earlier, OPEC oil embargoes had everyone scrambling. Americans lined up at gas tanks on their appointed day to fill up their tanks before the supply ran out. To encourage production, President Carter deregulated the price of crude. Drilling increased, especially in Texas, and the price jumped from \$16 to \$40 per barrel in one year. Everyone wanted to be a part of it, and everyone wanted to move to Texas.²³

All of these people were going to need a place to live. And municipal utility districts stepped in where cities wouldn't, or couldn't. MUDs could sell bonds and construct facilities to serve homes and development that developers promised to build. Those bonds relied on future tax value projections. And it worked great. The price of oil went up, up, up. So did the economy. And the people kept on coming and buying houses, so there was always new development to count on.

Oil and Texas. They mix well. Until they don't.

Ka-Boom

*"1986 began with OPEC in disarray and the plunge of West Texas intermediate crude oil from \$25 a barrel to \$9 a barrel in the course of a few short months."*²⁴

*"There was general consensus with regard to districts and the real estate business that if you build it, they will come. And they were coming. They were coming by the hundreds of thousands. It was just great. And it worked, until it didn't."*²⁵

Unfortunately, we weren't the only ones drilling. Other countries joined in the fun, and prices began to tumble, taking the Texas economy with it. Other factors, such as trade imbalances, the decline of agriculture, and the Challenger explosion, rocked the state even more; financially and emotionally. King Ranch was struggling. Banks were failing. Savings and Loans disappeared. Business failures in Texas jumped 56.4 percent in 1986, compared with a nationwide increase of

6.9 percent.²⁶ Lawmakers grappled with financial problems during two special sessions. The only industry to show growth was the pawnshop.

Once the jobs started disappearing, the mortgage failures began.

At the time, MUDs issued bonds based on future development, which works great if you are issuing municipal bonds or even hospital bonds. There's a bigger entity to pick up the pieces when things fall apart. But in the case of the MUDs, the only entity to pick up those pieces were existing homeowners. And they weren't enough.

Some MUDs muddled through the bust, restructuring debt service. Some MUD tax rates shot up to pay the debt service. Some MUDs filed for reorganization and didn't pay their bonds. It's important to note that the MUDs themselves, for the most part, didn't fail because of bad developers. They were a casualty of the economy. In an era when companies such as Texaco, RCA, E.F. Hutton and TWA ceased to exist, it's not surprising that a few MUDs found themselves in trouble.

The difference was that these weren't companies, they were homes. And everyone; developers, bond holders and regulators, agreed to take steps to ensure that this never happened again. Especially during bad economic times.

The Fix

*"A crisis will prove whether a system works. It worked in 2008, and it's worked in Harvey. It didn't work in the late eighties, and we fixed it."*²⁷

*"Getting a bond issue past the water commission is something like getting a very thorough physical exam."*²⁸

There is always risk in life. The challenge is how much risk you are willing to bear. Do you buy the renters' insurance? Do you give personal information to "IRS agents" over the phone? Do you drive over the speed limit? Or do you slow down when children are in the backseat? We make these kinds of decisions constantly.

Years before the "too much government" era began, those involved in MUDs decided they wanted more government regulation to lessen the risk. They wanted more eyes on the finances. They wanted more protection for the taxpayers, homeowners, and bond holders.

Working with the Texas Commission on Environmental Quality, rules were developed to keep the risk of a successful development on the developer and not to transfer that risk from the developer either to the taxpayer or the bondholders.²⁹

The rules force developers to complete construction of planned infrastructure and to assume the market risk of the bonds of a MUD by requiring that minimum levels of development be achieved before MUD bonds could be issued. The result is that developers must "advance" the

costs of MUD engineering and construction projects at the outset, but may be "reimbursed" all or substantially all of these advanced costs, plus a limited amount of interest carry on advanced funds, if development goals are achieved in a timely manner. There must be a reasonable amount of taxable value already generated on the ground to meet the tax rate feasibility rules before the bonds could be sold and the developers could be reimbursed.

The TCEQ's bond review program provides for the review of bonds issued by districts that are intended for financing water, wastewater, and drainage infrastructure. The reviews provide assurance that the bonds are economically feasible, and that the districts are not being laden with debt they cannot afford.³⁰ Among other things, the MUD must demonstrate adequate cash flow to meet debt service and operations and maintenance requirements with adequate reserves. All water, wastewater and drainage facilities, along with related lift stations, pumping facilities and all developer financed street and road improvements to serve the proposed development must be at least 95% complete. Unquestionably, this process is working. Not one MUD has gone into default since the TCEQ rules were adopted.

Advantages of the MUD Model

"Houston, which is soon to be the third largest city, could not have become what it is if the system had not been fixed and we weren't allowed to use special districts in our region." ³¹

One of the advantages of the model is that it allows a water district to sell tax exempt bonds to finance public infrastructure.

MUDs are the only bond issuer in the state that is required to obtain state agency approval, making it a highly regulated process.

These rules have produced investment grade debt. A rating directly relates to lower borrowing costs. Those lower costs relate to lower interest rates, which results in lower tax rates, which results in fewer costs passed on to the homeowner.³² On average, new homes in MUDs sell for \$150,000 less than non-MUD homes. Fifty five percent of the MUDs in Houston's ETJ have a lower tax rate than Houston.³³

Among the nation's very largest urban areas, Houston has had the lowest cost of new housing. For example, even in smaller urban areas in many parts of the country today, new home prices for comparable housing run close to or over \$200 per square foot in contrast to Houston suburban prices of around \$125 per square foot. According to research from the Association of Water Board Directors, the use of MUDs is the most significant reason why this has been the case.³⁴

In addition, MUDs have begun building up significant fund balances for operating and debt service. Because of these fund balances, MUDs in the Houston area were all able to make their debt service payments on September 1, days after Harvey hit. And remember the housing downturn of 2008? There were zero MUD bankruptcies during that time.

Assessments

The problems in the 1980's were caused because there were no rules preventing MUDs from solely relying on future tax value projections to support the bonds that they were issuing. MUDs could sell bonds and construct facilities to serve homes and developments that developers promised to build. This is the problem with certain assessment-backed bonds.

MUDs must have a certain amount of infrastructure on the ground before bonds can be sold, requiring developers to have "skin in the game." With assessments, bonds are secured by a special assessment lien on property within the district. The amount of each assessment lien is based on mathematical formulas that consider how much each property will benefit from the infrastructure improvement derived from the bond-funded project. The assessment lien is usually a fixed amount.³⁵ To remove the burden from the developer as soon as possible, this model requires quick build-out. Assessments are consistent, don't change like property tax rates, and can be prepaid by the owner.

Unlike MUD bonds, assessment backed bonds can be used to **fund** development, rather than **reimburse** a developer, removing the "skin in the game" concept. And since these bonds may not be as highly rated as tax-backed bonds, residents can end up paying far more for facilities.

Typically, assessment revenue bonds are issued within cities, with extensive development agreements. These agreements are stringent, at least meeting and often times exceeding the requirements imposed by TCEQ. This makes sense when the long-term plan is for the city to eventually own the facility. The city has their own inspectors on site during construction, and all construction is to happen to the city's codes and ordinances.³⁶ If something fiscally bad happens, the city has other revenues to depend on to pay the bills.

But what if it doesn't happen that way?

PIDs and Assessments

A PID, or a Public Improvement District, is a defined geographical area established to provide specific types of improvements or maintenance which are financed by assessments against the property owners within the area.³⁷ A PID can provide a means to fund supplemental services and improvements to meet community needs which could not otherwise be constructed or provided. PIDs can include both residential and commercial property.

In the past, these areas were generally within city limits, with city resources available if the assessments aren't adequate. The City of Dallas, for example, typically does not allow the creation of PIDs in undeveloped subdivisions.³⁸

But increasingly, the PID is within the city's extraterritorial jurisdiction, with annexation of the area the goal if the development is successful. However, there is nothing in statute that compels the city to assist. That would (hopefully) be part of the development agreement. And development agreements typically aren't subject to state scrutiny.

Stay with me.

Suppose a residential development is going up, PID-style, in a city's ETJ. There will be 100 houses, and each will pay an assessment of \$2000. Bonds are sold with the understanding that they will be paid back with the future assessments. Currently, the developer pays the assessments. As each house is built, the homeowner takes \$2000 of that total off of the developer's hands.

But there's a downturn in the economy. Ten houses are built, no more. The developer won't (or can't) continue paying his share of the assessments on the houseless lots. Without that income, the bonds fail. What happens to the bondholders? What happens to the homeowners in the ten existing houses? And the city has no desire to annex a failed development.

Additionally, that type of financing, typically associated with PIDs, is beginning to ooze over into MUDs and management districts.

MUDs in the 1980's. Assessments today. It's the same thing. And what do they say about people who can't learn from history?

Other States

Typically, fast-growing states rely on special districts to create development. States such as California, Colorado and Florida, have also learned the hard way about what are colloquially called "dirt bonds." In this case, "dirt" doesn't mean junky or bad, it means undeveloped land.

Just like Texas, Colorado experienced problems in the late 1980's after the collapse of the oil industry. In 1991, investors were burned by buying Colorado dirt bonds after Colorado real estate collapsed. The real estate collapsed in turn caused the bonds to collapse--31 bond issues failed, representing \$427 million.³⁹

California experienced defaults in the early 1990's with cutbacks in the defense industry. And they are still experiencing problems today, especially in Riverside County, where 21 of its 345 "community facilities districts" report less than required monetary reserves, 12 of those reporting had none of their required reserve on hand.⁴⁰ Indicative of Riverside County's problems is a master-planned community in Cathedral City that faltered in 2005 after building only 200 of 1,362 planned single family homes. Taken over by another developer in 2014, the project has stumbled again, resulting in reserve draws to make bond payments on \$11 million in outstanding community facility district special tax bonds.

The Florida Community Development District Report provides a "watch list" of districts currently in trouble:

"There are 600 Community Development Districts in Florida, 438 of which were begun in 2003 through 2008. They have issued \$6.5 billion in municipal bonds to finance their infrastructure.

*Since the collapse of the housing market, over 168 of these districts are in default on \$5.1 billion of bonds and, in many cases, the project developer is in financial distress as well. Since some 204 of these projects were launched in 2006 through 2008, all have not yet completed their infrastructure build out, so they have not yet defaulted."*⁴¹

Playing in the Dirt

*"Everywhere you turn, you see Americans sacrifice their long-term interests for a short-term reward."*⁴²

Nonrated bonds are issued by many entities, and are sold without being reviewed by a standard credit rating agency. Many of these bonds are below investment grade; others come from creditworthy borrowers who don't want to face the time and expense of being reviewed by a rating agency.

Some do quite well, backed by developers who know what they are doing and understand the risk. There are some investors who are hesitant to take on the risk, worrying that the housing market won't hold up. But is the risk fully understood by those who buy the homes? And if the bonds are sold by a developer who needs quick cash and is soon to depart the premises, higher rates are not a factor in their decision-making process. However, those rates are surely a consideration for the future residents who had no say in the issuance of the debt.

Meanwhile, assessment financing is on the rise in Texas: While only about \$500 million have been issued since the structure was authorized by Texas lawmakers in the 1980's, \$311 million of that was between a two-year period; 2014-2016.⁴³

And in 2017, over \$200 million in assessment bonds were issued in the state.

Assessment bonds, like all other special district bonds, have to go through the Attorney General's office to be inspected before sale. They do not, however, have to go through the Texas Commission on Environmental Quality. The difference is that the Attorney General's office checks for legality only. The TCEQ checks to see if the bonds are actually sustainable, if there are reserves to make payments when needed, and ensures that the infrastructure financed is up to the job.

The Attorney General can tell you that it's legal to put a bean up your nose. The TCEQ will tell you that sure, it's legal, but probably not a good idea.

The MUD Conspiracy Theory

It's not your imagination. There are a lot of MUDs in Houston, more so than any other area. The number of district applications filed has increased over the past five years. This is a direct reflection of the current economy, an increase in funding and lending opportunities, and an increase in construction of housing and business development throughout Texas. That's a good thing.

Houston is about to become the third largest city in the nation. Everyone wanted to come here in the 1980's to make their fortune. And the city is still a major draw for many reasons. Jobs, weather (okay, it gets hot here in the summer, but we've got air conditioning and try shoveling snow for a winter and see how you like it), cheaper housing, room to grow. And if you're in a MUD just outside the city, you can probably count on good schools and nice parks. If you want art and culture, world class museums are just a short drive away.

Even hurricanes don't lessen Houston's allure. Right around the time Harvey hit, more than 1.4 million people had moved into counties in Harvey's path since Ike in 2008. Six hundred thousand of those people moved to Harris County.⁴⁴ Interestingly, heat is the only weather-related phenomenon that has killed more Americans than flooding. And the Texas heat isn't stopping the southern migration, either.

So you have all these people continuing to move here, and they need a place to live. Housing and infrastructure is cheaper outside the city limits. Cities don't particularly like to annex housing subdivisions; there's no profit in it, like there would be in a manufacturing plant or a stadium. And counties were constitutionally created in a weak fashion, lacking the legal authority and resources to serve new residential development.⁴⁵

But Houston is blessed with groundwater. And unlike Dallas and San Antonio, Houston has an abundant supply of it. With that supply of groundwater, you don't need a water supply connected to the city, so development occurs easily. MUDs provide municipal quality infrastructure to places the city doesn't want to go. After all, why would the cities ask their existing taxpayers to foot the bill for infrastructure for others? People like to pay their own way. And they like other people to pay their own way, too.

And is there money in being the developer in a MUD? Yes. When you buy a house, someone is making money. When you buy a newspaper, or watch the local evening news, someone is making money. When you buy snow cone at a corner stand, money is changing hands. For the most part, people produce goods and services to make money. It's called the economy.

And do those living in MUDs outside the city limits pay city taxes? They do not. There is no aging infrastructure for them to support, no pension plans. Since the 1990's, tax rates in MUDs have been declining.

The real conspiracy is the media's compulsion to paint all MUDs as "bad" when an occasional bad development fails. Most developers helped write the rules that put more stringent requirements in place. They like the regulation. They dislike being painted as part of the problem when they were a large part of the solution in the 1980's.

The real conspiracy is the media's attempt to sensationalize non-stories to encourage citizen outrage. Angry people don't think. They don't reason. They just accept whatever the media hands out as fact. And that's a problem that is much larger than the misunderstanding of the MUDs.

Recommendations

Legislation was introduced, amended, and eventually stripped of its most important provisions, during the 2011 session to regulate the PID model much in the same way that MUDs are regulated. The senate version allowed for a three-tiered system, giving larger cities more financial leeway than the smaller cities. That legislation, CSHB 1400, needs to be resurrected, and re-examined. (Appendix)

The TCEQ model of oversight for bonds backed by assessments should be considered when those bonds will be used to finance construction of sewer, water, and drainage facilities. This would require reimbursed funds and inspected facilities. It will be a challenge, but will keep rates low, secure the market and maintain affordable housing. This is not a small recommendation. The folks in the water districts division are hardworking, overwhelmed, and (some say) underpaid. None of them have ever complained, not during testimony, nor during one-on-one conversations. But it is the nature of state agencies, along with the demands of the "government is too big" crowd that have made it that way. Those involved in the development of MUDs pay to have their permits examined by the water districts division, yet the monies do not go solely to that division. That needs to change. Those who pay to have their permits examined deserve the full staffing and attention of that division.

Charge 3 Dissolution

Charge 3: Dissolution

Interim Charge #3: Investigate the feasibility of dissolving special purpose districts and determine if there are criteria that would make dissolution acceptable. Make recommendations for codifying the dissolution requirements and procedures.

Background

During the 85th Session, the Office of the Governor issued a letter proposing changes to general and special laws related to special purpose districts. A number of these proposals- written notice to landowners subject to creation or annexation of a special purpose district and increasing the threshold for petition to create or annex a special district- were passed and became law (Senate Bill 1987).

One suggestion raised by the Governor's office which was not resolved was lowering the threshold for district dissolution to a simple majority of property owners.

Dissolving a district is appropriate when that district is inactive for an extended period of time or has completed all obligations for which it was created. There are currently two methods for dissolution: administrative dissolution through the TCEQ and legislative dissolution of a district.

Administrative Dissolution

TCEQ rules for dissolution are found in the Texas Administrative Code, Title 30, Part 1, Chapter 293, Subchapter L. These rules are granted by statutory authority in the Water Code, Chapter 49, Subchapter K. The threshold for TCEQ dissolution authority is two parts: a district must be inactive for a period of five consecutive years and must not have any outstanding bonded indebtedness. Dissolution proceedings may be initiated by the executive director of TCEQ or upon receipt of an application filed by owners of land or interests in land within the district sought to be dissolved, a member or members of the board of directors of the district, or any other party who can demonstrate an interest in having the district dissolved. TAC 293.131(1). If the dissolution proceedings are initiated by any party other than the executive director, the application for dissolution must include certain items pursuant to TAC 293.131(2) Dissolution proceedings initiated by the executive director of TCEQ must satisfy requirements of TAC 293.131(3). After the appropriate dissolution proposal, TCEQ must publish notice and hold a hearing, prepare a written report, and file a dissolution order. Any outstanding assets of the district escheat to the State of Texas and are disposed of according to the Texas Property Code, Ch. 74.

Statutory Dissolution

In addition to existing TCEQ rules for dissolution, the legislature has the ability to dissolve districts. Last session, the legislature passed two bills (SB 976, SB 248) dissolving districts and another (HB 1709) outlining procedures to dissolve an existing levee improvement district. Dissolution procedures for general law districts created under the Water Code are found in their corresponding chapters of the Water Code but are always contingent on the district either not issuing bonds or not proceeding under the purposes for which the district was created. For districts created under the Local Government Code, dissolution by petition is permitted on filing

of a written petition with the TCEQ by property owners who own either 75% or more of the assessed value in the district or 75% or more of the surface area of the district.

SB 1987, also passed during the 85th legislature, changed the threshold for landowners to petition for annexation from 50 property owners to a majority, in value, of property owners. Changing the dissolution threshold to a simple majority would create uniformity in statute for special district creation, annexation, and dissolution.

Evaluation of Dissolution

Dissolution is not an impossible task for property owners who feel that a district has served its purpose. According to the TCEQ Water District Database a total of 1454 districts have been dissolved. The questions, then, is whether the threshold for dissolution by petition of districts should be lowered and, if so, to what level? Additionally, what will be the consequences of lowering the dissolution threshold?

Any special purpose district propose for dissolution should first be required to propose a plan addressing:

- the outstanding assets and liabilities of a district
- administration of property, assets, and debts belonging to the district
- continuation of ongoing services

Districts without dissolution plans may find themselves facing higher fees and penalties added into contracts with utility companies, waste disposal services, and other service providers who are seeking to protect themselves from unexpected losses in the wake of a district dissolution. These increased costs are sure to be passed through by the district to the taxpayer. Written dissolution provisions addressing disposition of liabilities, including ongoing contracts, should help to alleviate market concerns and ensure the lowest cost possible.

Even if a majority of owners prefer dissolution, continuation of essential services such as fire, safety, and water must continue to be provided for. Failure to address ongoing needs and outstanding legal obligations after dissolution is likely to result in dire consequences for residents who are now subject to interrupted or discontinued services and may possibly result in litigation that delays the dissolution of a district. If, for instance, district dissolution results in discontinuation of water and wastewater services, every property within the district will be affected. The difference in dissolution of a district providing non-essential services like public improvements and graffiti abatement is vastly different than a district providing water and wastewater services and any consideration of dissolution must take into account the health and safety of residents who rely on district services. Upon certification of a dissolution petition, district board of directors should develop a dissolution turnover plan outlining how outstanding liabilities will be resolved, the continuation of services as applicable, and identify the assets that will escheat to the state. Development of a plan should occur in a reasonable amount of time as to allow for posting of notice, either online or through a newspaper of general circulation in the district, as to give taxpayers sufficient information before an election.

Petition Process

Some recent dissolution efforts in Texas have been impeded through court challenges due to

questions surrounding the validity of signatures. Specific questions were raised when a national business signed onto the petition for dissolution because the individual signing the petition was not the person identified in the county tax records. Consideration should be given to allowing an officer or other authorized signatory permitted to file with the Secretary of State to sign a petition for services in lieu of an owner of property. This signature, accompanied by a corporate certificate of authority or other equivalent document, would permit businesses who may not be headquartered in Texas to more easily participate in the petition process and will serve to prevent confusion and dissention seen in other district dissolutions.

Specific Assets

Under both the Water Code and Local Government Code, assets of dissolved districts escheat to the State and are administered and disposed of pursuant to Chapter 74 of the Property Code. During dissolution proceedings in 2018 for a municipal management district in Houston, bridge lights over Highway 59 were turned off as a result of a temporary restraining order meant to prevent the district from expending additional funds. Districts and other local governments may find value in identifying specific items that will escheat directly to local governments instead of the State in the event of a district dissolution.

Recommendations

- The petition threshold for dissolution of districts should be reduced to a percentage of landowners by value somewhere below the current 75% level. Possible new thresholds could be a simple majority, a two-thirds majority, or somewhere in between.
- The petition process related to dissolution (as well as creation and annexation) should be changed to allow for a landowner's authorized signatory to sign a petition in place of a landowner. The petition should be accompanied by a certificate of corporate authority or other duly recognized document as verification that the landowner consents to the considerations of the petition.
- Require a board of directors, upon commencement of dissolution proceedings, to develop a dissolution plan that ensures a continuation of essential services to taxpayers within the district if the services are provided by the district. These services include but are not limited to sewer, water, drainage, fire, police, and medical. Dissolution plans should also consider the transfer of specific assets to other units of local government if the transferee unit of government agrees to the acquisition.

Charge 4
MMD Template Language

Charge 4: MMD Template Language

Interim Charge #4: Identify best practices in the creation of municipal management districts. Study the feasibility of and make recommendations for creating standard language for the creation of municipal management districts through special law.

Background

Creation of special purpose districts through the legislature takes two forms. Districts can be created through administrative grant at the TCEQ or through the legislature as a special law. Special law districts often request certain powers that are outside the authority of administrative creation and beyond the powers granted through general law in the Water Code and Local Government Code. These powers provide districts the ability to perform special functions unique to the communities they are designed to serve.

Template Language

Pursuant to 80th Session Interim Charges, the legislature heard testimony that standardized language for municipal utility districts would allow members to more effectively evaluate the creation of these districts. As a result, "template" language was developed which outlined basic powers granted to districts being created through the legislative process. This template language for municipal utility districts has proven to be greatly successful as "template MUDs" are a known and familiar commodity to members who understand that the district is not asking for any unfamiliar taxing or assessment powers. Non-template districts are subject to greater scrutiny and further questioning by members to ensure that taxpayers are not subject to onerous or burdensome taxes and regulations which will be layered on top of the already existing fees and rules imposed by local and state government.

As municipal management districts become a more popular and common form of local government across the state, calls for "template MMDs" have increased. Over a number of sessions, management districts being created through the legislature have simply used past districts as a baseline for creation and, as a result, districts have increased on scope and power without significant justification for the expansion of authority.

Creation of a management district template is meant to serve the same purposes as the MUD template: common and familiar language to Texas Legislative Council drafters, members of the legislature, and taxpayers. This template language will allow for observers to more easily identify when a district is asking for exceptional powers and provide for an easier apples-to-apples comparison of districts as they come before the legislature.

While a template is useful for evaluating requested powers it does not mean that every district must conform to the template. While a common baseline is appropriate, each district is unique and meant to serve the needs and desires of the local citizens. Districts will still have the ability to request powers not granted through the template and template language is not meant to preclude districts from having powers necessary to accomplish their goals. Instead, template language is meant to reduce carte blanche grants of authority and provide a clean and efficient

form for districts as they first come before the legislature.

Development Process

Work on template language began in the Spring of 2018. Committee staff created a proposed template document based on municipal management district bills presented to the Committee during the 85th legislature, aggregating a number of provisions into a primary template baseline document. Staff then solicited and received input from stakeholders in the development community, the legislature, and executive agencies in the creation of the MMD template. After multiple rounds of consideration, staff submitted the template to Texas Legislative Council for drafting and performed a final round of edits and revisions. The template was presented to the Committee in the Fall of 2018 and recommended for use during the 86th legislature. Template language is included in the appendix.

"Standard language" for non-template powers were also developed. This language is for powers the committee often sees requested which do not fit in the base template, but are requested often enough that uniform language should be developed. This standard language will provide for easier review of proposed management districts, and increase transparency by ensuring that the requested powers have been vetted.

Recommendations

- MMD template language should be used as a baseline for districts created by the legislature.
- Composition of an MMD board, whether elected or appointed, does not change the substantive powers of a district and ensures appropriate representation for a district. For purposes of consideration by the legislature, changing the board makeup between elected and appointed should not have any bearing on whether a district is "template."
- MMD template language should be updated in conjunction with any general law changed made by the legislature.

PROPOSED MMD TEMPLATE LANGUAGE

By: _____

____.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the _____ *[[[name of district]]]*; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter _____ to read as follows:

CHAPTER _____.

SUBCHAPTER A. GENERAL PROVISIONS

Sec. _____.0001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the *[[[name of municipality]]]*.

(3) "County" means *[[[name of county]]]*. *[[[A*

definition of the county in which the district is located is unnecessary if the bill does not include language about the county]]]

(_) "Director" means a board member.

(_) "District" means the *[[[name of district]]]*.

Sec. _____.0002. NATURE OF DISTRICT. The *[[[name of*

district]]] is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. _____.0003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

(b) By creating the district and in authorizing [[[select as appropriate]]] the county, the city, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(c) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(d) This chapter and the creation of the district may not be interpreted to relieve [[[select as appropriate]]] the county or the city from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant [[[select as appropriate]]] county or city services provided in the district.

Sec. ____ .0004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)

All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(b) The district is created to serve a public use and benefit.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and

developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty; and

(4) provide for water, wastewater, drainage, road, and recreational facilities for the district.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. ____ .0005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. ____ .0006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code; or

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code.

Sec. ____ .0007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. ____ .0008. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. ____ .0051. GOVERNING BODY; TERMS.

Sec. ____ .0052. INITIAL DIRECTORS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. ____ .0101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. ____ .0102. IMPROVEMENT PROJECTS AND SERVICES. (a) The district, using any money available to the district for the

purpose, may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

(b) The district may contract with a governmental or private entity to carry out an action under Subsection (a).

(c) The implementation of a district project or service is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. _____.0103. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board

member is not required to reside in the district.

Sec. _____.0104. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including *[[[select as appropriate]]]* the county or the city, to provide law enforcement services in the district for a fee.

Sec. _____.0105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. _____.0106. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

- (1) Chapter 380, Local Government Code; and
- (2) Subchapter A, Chapter 1509, Government Code.

Sec. _____.0107. PARKING FACILITIES. (a) The district may

acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. _____.0108. ADDING OR EXCLUDING LAND. The district may add or exclude land in the manner provided by Subchapter J, Chapter 49, Water Code, or by Subchapter H, Chapter 54, Water Code.

Sec. _____.0109. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Sec. _____.0110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

SUBCHAPTER D. ASSESSMENTS

Sec. ____ .0151. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. ____ .0152. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against

the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

SUBCHAPTER E. TAXES AND BONDS

Sec. ____.0201. TAX ELECTION REQUIRED. The district must hold an election in the manner provided by Chapter 49, Water Code, or, if applicable, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax.

Sec. ____.0202. OPERATION AND MAINTENANCE TAX. (a) If authorized by a majority of the district voters voting at an election under Section ____.0201, the district may impose an operation and maintenance tax on taxable property in the district in the manner provided by Section 49.107, Water Code, for any district purpose, including to:

- (1) maintain and operate the district;
- (2) construct or acquire improvements; or
- (3) provide a service.

(b) The board shall determine the operation and maintenance tax rate. The rate may not exceed the rate approved at the election.

Sec. ____ .0203. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on terms determined by the board.

(b) The district may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources of money, to pay for any authorized district purpose.

(c) The limitation on the outstanding principal amount of bonds, notes, or other obligations provided by Section 49.4645, Water Code, does not apply to the district.

Sec. ____ .0204. BONDS SECURED BY REVENUE OR CONTRACT PAYMENTS. The district may issue, without an election, bonds secured by:

(1) revenue other than ad valorem taxes, including contract revenues; or

(2) contract payments, provided that the requirements of Section 49.108, Water Code, have been met.

Sec. ____ .0205. BONDS SECURED BY AD VALOREM TAXES; ELECTIONS. (a) If authorized at an election under Section ____ .0201, the district may issue bonds payable from ad valorem taxes.

(b) Section 375.243, Local Government Code, does not apply to the district.

(c) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

(d) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. ____ .0206. CONSENT OF MUNICIPALITY REQUIRED. (a) The board may not issue bonds until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

(b) This section applies only to the district's first issuance of bonds payable from ad valorem taxes.

SUBCHAPTER Z. DISSOLUTION

Sec. ____ .0901. DISSOLUTION. (a) The board shall dissolve the district on written petition filed with the board by the owners of:

(1) 66 percent or more of the assessed value of the

property subject to assessment by the district based on the most recent certified county property tax rolls; or

(2) 66 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment by the district according to the most recent certified county property tax rolls.

(b) The board by majority vote may dissolve the district at any time.

(c) The district may not be dissolved by its board under Subsection (a) or (b) if the district:

(1) has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds;

(2) has a contractual obligation to pay money until that obligation has been fully paid in accordance with the contract; or

(3) owns, operates, or maintains public works, facilities, or improvements unless the district contracts with another person for the ownership, operation, or maintenance of the public works, facilities, or improvements.

(d) Sections 375.261, 375.262, and 375.264, Local Government Code, do not apply to the district.

SECTION 2. The *[[name of district]]* initially includes all

territory contained in the following area:

[[[*description of district territory*]]]

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this

Act takes effect [[*effective date*]].

OPTIONAL ADDITIONAL POWERS

Sec. ____ .0111. NAVIGATION DISTRICT POWERS. (a) The district has the powers provided by the general law of this state applicable to navigation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 60 and 62, Water Code.

(b) The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, a canal, waterway, bulkhead, dock, or other improvement or facility necessary or convenient to accomplish the navigation purposes of the district.

SUBCHAPTER F. SALES AND USE TAX

Sec. ____ .0251. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, enforcement, and collection of the sales and use tax authorized by this subchapter except to the extent Chapter 321, Tax Code, is inconsistent with this chapter.

(b) For the purposes of this subchapter, a reference in Chapter 321, Tax Code, to a municipality or the governing body of a municipality is a reference to the district or the board, respectively.

Sec. ____ .0252. ELECTION; ADOPTION OF TAX. (a) The district may adopt a sales and use tax if authorized by a majority

of the voters of the district voting at an election held for that purpose.

(b) The board by order may call an election to authorize the adoption of the sales and use tax. The election may be held on any uniform election date and in conjunction with any other district election.

(c) The district shall provide notice of the election and shall hold the election in the manner prescribed by Section _____.0201.

(d) The ballot shall be printed to provide for voting for or against the proposition: "Authorization of a sales and use tax in the [[[name of district]]] at a rate not to exceed ____ percent" (insert rate of one or more increments of one-eighth of one percent).

Sec. _____.0253. SALES AND USE TAX RATE. (a) After the date the results are declared of an election held under Section _____.0252 at which the voters authorized imposition of a tax, the board shall provide by resolution or order the initial rate of the tax, which must be in one or more increments of one-eighth of one percent.

(b) After the authorization of a tax under Section _____.0252, the board may increase or decrease the rate of the tax by one or more increments of one-eighth of one percent.

(c) The board may not decrease the rate of the tax if the

decrease would impair the repayment of any outstanding debt or obligation payable from the tax.

(d) The initial rate of the tax or any rate resulting from subsequent increases or decreases may not exceed the lesser of:

(1) the maximum rate authorized at the election held under Section _____.0252; or

(2) a rate that, when added to the rates of all sales and use taxes imposed by other political subdivisions with territory in the district, would result in the maximum combined rate prescribed by Section 321.101(f), Tax Code, at any location in the district.

(e) In determining whether the combined sales and use tax rate under Subsection (d)(2) would exceed the maximum combined rate prescribed by Section 321.101(f), Tax Code, at any location in the district, the board shall include:

(1) any sales and use tax imposed by a political subdivision whose territory overlaps all or part of the district;

(2) any sales and use tax to be imposed by the city or the county as a result of an election held on the same date as the election held under Section _____.0252; and

(3) any increase to an existing sales and use tax imposed by the city or the county as a result of an election held on the same date as the election held under Section _____.0252.

(f) If the district adopts a sales and use tax authorized at

an election under Section .0252 and subsequently includes new territory in the district, the district:

(1) is not required to hold another election to approve the imposition of the sales and use tax in the included territory; and

(2) shall impose the sales and use tax in the included territory as provided by Chapter 321, Tax Code.

(g) If the district adopts a sales and use tax authorized at an election held under Section .0252 and subsequently excludes territory in the district under this section, the sales and use tax is inapplicable to the excluded territory as provided by Chapter 321, Tax Code, but is applicable to the territory remaining in the district.

Sec. ____ .0254. NOTIFICATION OF RATE CHANGE. The board shall notify the comptroller of any changes made to the tax rate under this subchapter in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b), Tax Code.

Sec. ____ .0255. USE OF REVENUE. Revenue from the sales and use tax imposed under this subchapter is for the use and benefit of the district and may be used for any district purpose. The district may pledge all or part of the revenue to the payment of bonds, notes, or other obligations, and that pledge of revenue may be in combination with other revenue, including tax revenue,

available to the district.

Sec. _____.0256. ABOLITION OF TAX. (a) Except as provided by Subsection (b), the board may abolish the tax imposed under this subchapter without an election.

(b) The board may not abolish the tax imposed under this subchapter if the district has any outstanding debt or obligation secured by the tax, and repayment of the debt or obligation would be impaired by the abolition of the tax.

(c) If the board abolishes the tax, the board shall notify the comptroller of that action in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b), Tax Code.

(d) If the board abolishes the tax or decreases the tax rate to zero, a new election to authorize a sales and use tax must be held under Section _____.0252 before the district may subsequently impose the tax.

SUBCHAPTER H. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. _____.0351. DIVISION OF DISTRICT; PREREQUISITES. (a) The district may be divided into two or more new districts only if the district:

- (1) has never issued any bonds; and
- (2) is not imposing ad valorem taxes.

(b) the board may adopt an order dividing the district before or after the date the board holds an election under Subchapter B

to confirm the creation of the district.

Sec. _____.0352. LAW APPLICABLE TO NEW DISTRICT. This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

Sec. _____.0353. LIMITATION ON AREA OF NEW DISTRICT. A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act enacting this chapter.

Sec. _____.0354. DIVISION PROCEDURES. (a) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(b) An order dividing the district must:

(1) name each new district;

(2) include the metes and bounds description of the territory of each new district;

(3) appoint temporary directors for each new district;

and

(4) provide for the division of assets and liabilities between the new districts.

(c) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property

records of each county in which the district is located.

(d) Municipal consent to the creation of the district and to the inclusion of land in the district acts as municipal consent to the creation of any new district created by division of the district and to the inclusion of land in the new district.

Sec. _____.0355. CONFIRMATION ELECTION FOR NEW DISTRICT. (a) A new district created by the division of the district shall hold a confirmation and directors' election as required by Subchapter B.

(b) If the creation of the new district is confirmed, the new district shall provide the election date and results to the Texas Commission on Environmental Quality.

Sec. _____.0356. TAX OR BOND ELECTION. Before a new district created by the division of the district may impose a tax for which an election is required under this chapter for the original district or issue bonds payable wholly or partly from ad valorem taxes, the new district must hold an election as required by this chapter to obtain voter approval.

SUBCHAPTER I. DEFINED AREAS

Sec. _____.0401. AUTHORITY TO ESTABLISH DEFINED AREAS OR DESIGNATED PROPERTY. The district may define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as

a whole.

Sec. _____.0402. PROCEDURE FOR ELECTION. (a) Before the district may impose an ad valorem tax applicable only to the defined area or designated property or issue bonds payable from ad valorem taxes of the defined area or designated property, the board shall hold an election in the defined area or designated property only.

(b) The board may submit the proposition to the voters on the same ballot to be used in another election.

Sec. _____.0403. DECLARING RESULT AND ISSUING ORDER. (a) If a majority of the voters voting at an election held under Section _____.0402 approve the proposition or propositions, the board shall declare the results and, by order, shall establish the defined area or designated property and describe it by metes and bounds or designate the specific area or property.

(b) A court may not review the board's order except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

Sec. _____.0404. TAXES FOR SERVICES, IMPROVEMENTS, AND FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter approval and adoption of an order described by Section _____.0403, the district may apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property to provide money to construct,

administer, maintain, and operate services, improvements, and facilities that primarily benefit the defined area or designated property.

Sec. _____.0405. ISSUANCE OF BONDS FOR DEFINED AREA OR DESIGNATED PROPERTY. After an order under Section _____.0403 is adopted, the district may issue bonds to provide for any land, improvements, facilities, plants, equipment, and appliances for the defined area or designated property.

APPENDIX

COMMITTEE SUBSTITUTE FOR H.B. No. 1400

By: West

A BILL TO BE ENTITLED

AN ACT

relating to the boundaries and financing of public improvement districts designated by a municipality or county.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 372.003, Local Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Payment of expenses under Subsection (b)(14) may also include expenses related to the operation and maintenance of mass transportation facilities.

SECTION 2. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0035 to read as follows:

Sec. 372.0035. COMMON CHARACTERISTIC OR USE FOR PROJECTS IN CERTAIN MUNICIPALITIES. (a) This section applies only to:

(1) a municipality that has a population of more than one million and a council-manager form of government and that is located wholly or partly in a county with a population of more than two million; and

(2) a public improvement district established under this subchapter and solely composed of territory in which the only

businesses are hotels with 100 or more rooms ordinarily used for sleeping.

(b) A municipality may undertake a project that confers a special benefit on areas that share a common characteristic or use. The areas may be noncontiguous.

(c) This section does not prohibit a municipality from or limit a municipality to establishing a district that includes a noncontiguous area authorized by this subchapter.

SECTION 3. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0055 to read as follows:

Sec. 372.0055. DEFERRED ASSESSMENT; ESTIMATE. If a proposed improvement under Section 372.005 includes a deferred assessment, before holding the hearing required by Section 372.009, the governing body of the municipality or county must estimate:

(1) the appraised value of taxable real property liable for assessment in the district; and

(2) the cost of the improvement.

SECTION 4. Section 372.017(b), Local Government Code, is amended to read as follows:

(b) After all objections have been heard and the governing body has passed on the objections, the governing body by ordinance or order shall levy the assessment as a special assessment on the property. The governing body by ordinance or order shall specify the method of payment of the assessment. The governing body may

defer an assessment until a date the governing body specifies in the ordinance or order. The governing body may provide that assessments be paid in periodic installments, at an interest rate and for a period approved by the governing body. The provision that assessments be paid in periodic installments may, but is not required to, result in level annual installment payments. The installments must be in amounts necessary to meet annual costs for improvements and must continue for:

(1) the period necessary to retire the indebtedness on the improvements; or

(2) the period approved by the governing body for the payment of the installments.

SECTION 5. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.031 to read as follows:

Sec. 372.031. FINDINGS PRIOR TO ISSUANCE OF CERTAIN BONDS OR OBLIGATIONS. (a) Prior to the issuance under this chapter of bonds or obligations wholly or partly payable from or secured by assessments, the governing body of a municipality with a population of 250,000 or less or the governing body of a county with a population of 1 million or less issuing the bonds or obligations must find and determine the following:

(1) construction of all underground water, wastewater, and drainage facilities and roadways to serve the real property liable for assessments necessary to support the payment of the

bonds or obligations is at least 95 percent complete; and

(2) construction of at least 25 percent of the houses or other buildings on the real property liable for assessments and necessary to support the bonds or obligations has been completed.

(b) Prior to the issuance under this chapter of bonds or obligations wholly or partly payable from or secured by assessments, a municipality with a population of more than 250,000 or a county with a population of more than 1 million issuing the bonds or obligations must obtain an independent market study from a firm recognized in the area of real estate market analysis supporting the development projects for the real property liable for assessments and necessary to support the payment of the bonds or obligations.

(c) Subsections (a) and (b) do not apply to general obligation bonds or certificates of obligations.

(d) The Attorney General shall adopt rules to enforce this section and to ensure the integrity and economic feasibility of bonds or obligations issued under this chapter.

SECTION 6. Section 372.041(a), Local Government Code, is amended to read as follows:

(a) A home-rule municipality may create improvement districts for the purposes of:

(1) levying, straightening, widening, enclosing, or otherwise improving a river, creek, bayou, stream, other body of

water, street, or alley;

(2) draining, grading, filling, and otherwise protecting and improving the territory within the municipality's limits; ~~and~~

(3) issuing bonds to finance improvements listed in this subsection; and

(4) financing an improvement described in Subchapter A.

SECTION 7. This Act takes effect September 1, 2011.

ENDNOTES

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- ⁸ Todd Burrer, Severn Trent Resources, during testimony before the committee, November 30, 2017.
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- ¹¹ Cari-Michel La Caille, Director, Water Supply Division, Texas Commission on Environmental Quality, during testimony before the committee, November 30, 2017.
- ¹² Alia Vinson, Confluence Magazine, Texas Water Conservation Association, November 2017.
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- ¹⁷ Historian Phil Magness quoted by Seth Beyer, "Did Houston Flood Because of a Lack of Zoning?" Forbes, August 30, 2017.
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- ²¹ Mary Jo Nelson, "The 1980s, 10 Turbulent Years," The Oklahoman, December 31, 1989.
- ²² Bon Jovi, "Livin' on a Prayer," 1986.
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- ²⁴ Bernard L. Weinstein and Harold T. Gross, "Texas to Sort Out Structural Changes in '87," special to the Dallas News, January 2, 1987.
- ²⁵ Julie Peak, Financial Analyst, First Southwest, during testimony before the committee, November 30, 2017.
- ²⁶ Jack Z. Smith, "Failure Rate of State Firms Soars 56.4%," Fort Worth Star-Telegram, February 28, 1987.
- ²⁷ Jan Bartholomew, RW Baird, during testimony before the committee, November 30, 2017.
- ²⁸ John Racine, "Regulation, and Plenty of it, Called Secret of Municipal Utility Districts' Success," The Bond Buyer, May 6, 1991.
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- ³¹ Julie Peak, Financial Analyst, First Southwest, during testimony before the committee, November 30, 2017.
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PROPOSED MMD TEMPLATE LANGUAGE

By: _____

__B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the _____ *[[[name of district]]]*; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter _____ to read as follows:

CHAPTER _____ .

SUBCHAPTER A. GENERAL PROVISIONS

Sec. .0001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the [[name of municipality]].

(3) "County" means [[name of county]]. [[A definition of the county in which the district is located is unnecessary if the bill does not include language about the county]]

() "Director" means a board member.

() "District" means the [[name of district]].

() "Exempt Properties" means:

- i. Any property owned by a governmental entity;**
- ii. Any property with one of the following property tax exemptions:**
 - a) Residence Homestead Exemption**
 - b) Age 65 or Older Homestead Exemption**
 - c) Surviving Spouse of Person Who Received the 65 or Older Exemption**
 - d) Disabled Person Homestead Exemption**
 - e) Surviving Spouse of a Person who Received the Disability Exemption**
 - f) Residence Homestead Exemption for Disabled Veteran with 100% Disability**
 - g) Donated Residence Homestead of Partially Disabled Veteran or Surviving Spouse of Disabled Veteran who qualified for Donated Residence Homestead**
 - h) Surviving Spouse of Member of Armed Forces Killed in Action**
 - i) Disabled Veteran or Survivors of a Disabled Veteran**
 - j) Tax Deferral for 65 or Older or Disabled Homeowner**
 - k) Charitable Exemption**
 - l) Religious Exemption**

Sec. .0002. NATURE OF DISTRICT. The [[name of district]] is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. .0003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI,

Texas Constitution, and other public purposes stated in this chapter.

(b) By creating the district and in authorizing [[[select as appropriate]]] the county, the city, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(c) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(d) This chapter and the creation of the district may not be interpreted to relieve [[[select as appropriate]]] the county or the city from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant [[[select as appropriate]]] county or city services provided in the district.

Sec. .0004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(b) The district is created to serve a public use and benefit.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty;
and

(4) provide for water, wastewater, drainage, road, and recreational facilities for the district.

(e) Pedestrian ways along or across a street, whether at

grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. .0005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec .0006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code; or

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code.

Sec. .0007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. .0008. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. .0051. GOVERNING BODY; TERMS.

(a) Notice of each board meeting shall be posted with the city secretary of City at least 72 hours prior to the meeting time. Board meetings shall be held in a location that is accessible to the general public.

(b) In addition to the board members [elected/appointed] as described herein, the city manager, city auditor, and

city attorney of City, or the designee of each, shall serve as ex-officio board members.

Sec. .0052. INITIAL DIRECTORS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. .0101. GENERAL POWERS AND DUTIES.

(a) The district has the powers and duties necessary to accomplish the purpose for which the district is created.

(b) Notwithstanding Sec. 0101(a), the district shall take no action other than holding an initial formation meeting with the board members named in the Act creating this chapter unless and until (i) the governing body of City approves by resolution a development agreement between the City, the district, and any other entities deemed necessary by the City, and (ii) the parties execute the development agreement.

(c) If a development agreement is not approved by City and executed by all parties within 48 months of the effective date of the Act creating this chapter, the district shall automatically terminate, and this chapter shall be of no further effect.

Sec. .0102. IMPROVEMENT PROJECTS AND SERVICES. (a) The district, using any money available to the district for the purpose, may provide, design, construct, acquire, improve,

relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

(b) The district may contract with a governmental or private entity to carry out an action under Subsection (a).

(c) The implementation of a district project or service is a governmental function or service for the purposes of Chapter 791, Government Code.

(d) The district is subject to the City charter and City land use laws, and all district projects or services must comply with City codes and ordinances.

(e) The district may not provide, conduct, or authorize an improvement project on any streets, highways, rights-of-way, or easements owned or controlled by City without the consent of the governing body of City.

Sec. .0103. NONPROFIT CORPORATION. (a) The board, with consent of the governing body of City by ~~resolution~~ may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

(f) Notice of each board meeting shall be posted with the city secretary of City at least 72 hours prior to the meeting time. Board meetings shall be held in a location that is accessible to the general public.

Sec. .0104. LAW ENFORCEMENT SERVICES. To protect the public interest, **and solely with the consent of the governing body of City,** the district may contract with a qualified party, including *[[select as appropriate]]* the county or the city, to provide law enforcement services in the district for a fee.

Sec. .0105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. .0106. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

- (1) Chapter 380, Local Government Code; and
- (2) Subchapter A, Chapter 1509, Government Code.

Sec. .0107. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking

facilities may be considered an economic development program.

Sec. .0108. ADDING OR EXCLUDING LAND. The district may add or exclude land in the manner provided by Subchapter J, Chapter 49, Water Code, or by Subchapter H, Chapter 54, Water Code, **subject to the consent of the governing body of City.**

Sec. .0109. DISBURSEMENTS AND TRANSFERS OF MONEY.

The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Sec. .0110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

SUBCHAPTER D. ASSESSMENTS

Sec. .0151. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. .0152. ASSESSMENTS; LIENS FOR ASSESSMENTS.

- (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the District, **subject to (e)**.
- (b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:
- (1) are a first and prior lien against the property assessed;
 - (2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes **or any other lien filed by City or securing an obligation owed to City;** and
 - (3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.
- (c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad

valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

(e) Exempt properties shall not be assessed any tax, fee, assessment, or other charge or cost by the district.

SUBCHAPTER E. TAXES AND BONDS

Sec .0201. TAX ELECTION REQUIRED. The district must hold an election in the manner provided by Chapter 49, Water Code, or, if applicable, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax.

Sec. .0202. OPERATION AND MAINTENANCE TAX. (a) If authorized by a majority of the district voters voting at an election under Section .0201, the district may impose an operation and maintenance tax on taxable property in the district in the manner provided by Section 49.107, Water Code, for any district purpose, including to:

- (1) maintain and operate the district;
- (2) construct or acquire improvements; or
- (3) provide a service.

(b) The board shall determine the operation and maintenance

tax rate. The rate may not exceed the rate approved at the election.

(c) Exempt properties shall not be considered taxable properties for purposes of Sec. 0202, and shall not be assessed any tax, fee, assessment, or other charge or cost by the district.

Sec. .0203. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on terms determined by the board.

(b) The district may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources of money, to pay for any authorized district purpose.

(c) The limitation on the outstanding principal amount of bonds, notes, or other obligations provided by Section 49.4645, Water Code, does not apply to the district.

Sec. .0204. BONDS SECURED BY REVENUE OR CONTRACT PAYMENTS. The district may issue, without an election, bonds secured by:

(1) revenue other than ad valorem taxes, including contract revenues; or

(2) contract payments, provided that the requirements of Section 49.108, Water Code, have been met.

Sec. .0205. BONDS SECURED BY AD VALOREM TAXES; ELECTIONS.

(a) If authorized at an election under Section .0201, the district may issue bonds payable from ad valorem taxes.

(b) Section 375.243, Local Government Code, does not apply to the district.

(c) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

(d) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. .0206. CONSENT OF MUNICIPALITY REQUIRED. (a) The board may not issue bonds until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

(b) This section applies only to the district's first issuance of bonds payable from ad valorem taxes.

SUBCHAPTER Z. DISSOLUTION

Sec. .0901. DISSOLUTION. (a) The board shall

dissolve the district on written petition filed with the board by the owners of:

(1) 66 percent or more of the assessed value of the property subject to assessment by the district based on the most recent certified county property tax rolls; or

(2) 66 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment by the district according to the most recent certified county property tax rolls.

(b) The board by majority vote may dissolve the district at any time.

(c) The City by resolution may dissolve the district at any time.

(d) The district may not be dissolved by its board **or by City** under Subsection (a), (b), or (c) if the district:

(1) has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds;

(2) has a contractual obligation to pay money until that obligation has been fully paid in accordance with the contract; or

(3) owns, operates, or maintains public works, facilities, or improvements unless the district contracts with

another person for the ownership, operation, or maintenance of the public works, facilities, or improvements.

(e) Sections 375.261, 375.262, and 375.264, Local Government Code, do not apply to the district.

SECTION 2. The *[[[name of district]]]* initially includes all territory contained in the following area:

[[[description of district territory]]]

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect [[[effective date **must be within the same calendar year as the date of the legislative vote**]]].

SECTION 5. This Act may only be amended with the consent of the governing body of City.

OPTIONAL ADDITIONAL POWERS

~~Sec. .0111. NAVIGATION DISTRICT POWERS. (a) The district has the powers provided by the general law of this state applicable to navigation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 60 and 62, Water Code.~~

~~(b) The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, a canal, waterway, bulkhead, dock, or other improvement or facility necessary or convenient to accomplish the navigation purposes of the district.~~

SUBCHAPTER F. SALES AND USE TAX

~~Sec. .0251. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, enforcement, and collection of the sales and use tax authorized by this subchapter except to the extent Chapter 321, Tax Code, is inconsistent with this chapter.~~

~~(b) For the purposes of this subchapter, a reference in Chapter 321, Tax Code, to a municipality or the governing body of a municipality is a reference to the district or the board, respectively.~~

~~Sec. .0252. ELECTION; ADOPTION OF TAX. (a) The district may adopt a sales and use tax if authorized by a majority~~

~~of the voters of the district voting at an election held for that purpose.~~

~~(b) The board by order may call an election to authorize the adoption of the sales and use tax. The election may be held on any uniform election date and in conjunction with any other district election.~~

~~(c) The district shall provide notice of the election and shall hold the election in the manner prescribed by Section .0201.~~

~~(d) The ballot shall be printed to provide for voting for or against the proposition: "Authorization of a sales and use tax in the [[[name of district]]] at a rate not to exceed _____ percent" (insert rate of one or more increments of one-eighth of one percent).~~

~~Sec. .0253. SALES AND USE TAX RATE. (a) After the date the results are declared of an election held under Section .0252 at which the voters authorized imposition of a tax, the board shall provide by resolution or order the initial rate of the tax, which must be in one or more increments of one-eighth of one percent.~~

~~(b) After the authorization of a tax under Section .0252, the board may increase or decrease the rate of the tax by one or more increments of one-eighth of one percent.~~

~~(c) The board may not decrease the rate of the tax if the~~

~~decrease would impair the repayment of any outstanding debt or obligation payable from the tax.~~

~~(d) The initial rate of the tax or any rate resulting from subsequent increases or decreases may not exceed the lesser of:~~

~~(1) the maximum rate authorized at the election held under Section _____ .0252; or~~

~~(2) a rate that, when added to the rates of all sales and use taxes imposed by other political subdivisions with territory in the district, would result in the maximum combined rate prescribed by Section 321.101(f), Tax Code, at any location in the district.~~

~~(e) In determining whether the combined sales and use tax rate under Subsection (d) (2) would exceed the maximum combined rate prescribed by Section 321.101(f), Tax Code, at any location in the district, the board shall include:~~

~~(1) any sales and use tax imposed by a political subdivision whose territory overlaps all or part of the district;~~

~~(2) any sales and use tax to be imposed by the city or the county as a result of an election held on the same date as the election held under Section _____ .0252; and~~

~~(3) any increase to an existing sales and use tax imposed by the city or the county as a result of an election held on the same date as the election held under Section _____ .0252.~~

~~(f) If the district adopts a sales and use tax authorized at~~

~~an election under Section .0252 and subsequently includes new territory in the district, the district:~~

~~(1) is not required to hold another election to approve the imposition of the sales and use tax in the included territory; and~~

~~(2) shall impose the sales and use tax in the included territory as provided by Chapter 321, Tax Code.~~

~~(g) If the district adopts a sales and use tax authorized at an election held under Section .0252 and subsequently excludes territory in the district under this section, the sales and use tax is inapplicable to the excluded territory as provided by Chapter 321, Tax Code, but is applicable to the territory remaining in the district.~~

~~Sec. .0254. NOTIFICATION OF RATE CHANGE. The board shall notify the comptroller of any changes made to the tax rate under this subchapter in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b), Tax Code.~~

~~Sec. .0255. USE OF REVENUE. Revenue from the sales and use tax imposed under this subchapter is for the use and benefit of the district and may be used for any district purpose. The district may pledge all or part of the revenue to the payment of bonds, notes, or other obligations, and that pledge of revenue may be in combination with other revenue, including tax revenue,~~

~~available to the district.~~

~~Sec. .0256. ABOLITION OF TAX. (a) Except as provided by Subsection (b), the board may abolish the tax imposed under this subchapter without an election.~~

~~(b) The board may not abolish the tax imposed under this subchapter if the district has any outstanding debt or obligation secured by the tax, and repayment of the debt or obligation would be impaired by the abolition of the tax.~~

~~(c) If the board abolishes the tax, the board shall notify the comptroller of that action in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b), Tax Code.~~

~~(d) If the board abolishes the tax or decreases the tax rate to zero, a new election to authorize a sales and use tax must be held under Section .0252 before the district may subsequently impose the tax.~~

~~SUBCHAPTER H. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS~~

~~Sec. .0351. DIVISION OF DISTRICT; PREREQUISITES. (a) The district may be divided into two or more new districts only if the district:~~

- ~~(1) has never issued any bonds; and~~
- ~~(2) is not imposing ad valorem taxes.~~

~~(b) the board may adopt an order dividing the district before or after the date the board holds an election under Subchapter B~~

~~to confirm the creation of the district.~~

~~Sec. .0352. LAW APPLICABLE TO NEW DISTRICT. This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.~~

~~Sec. .0353. LIMITATION ON AREA OF NEW DISTRICT. A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act enacting this chapter.~~

~~Sec. .0354. DIVISION PROCEDURES. (a) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.~~

~~(b) An order dividing the district must:~~

~~(1) name each new district;~~

~~(2) include the metes and bounds description of the territory of each new district;~~

~~(3) appoint temporary directors for each new district;~~

~~and~~

~~(4) provide for the division of assets and liabilities between the new districts.~~

~~(c) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property~~

~~records of each county in which the district is located.~~

~~(d) Municipal consent to the creation of the district and to the inclusion of land in the district acts as municipal consent to the creation of any new district created by division of the district and to the inclusion of land in the new district.~~

~~Sec. .0355. CONFIRMATION ELECTION FOR NEW DISTRICT. (a) A new district created by the division of the district shall hold a confirmation and directors' election as required by Subchapter B.~~

~~(b) If the creation of the new district is confirmed, the new district shall provide the election date and results to the Texas Commission on Environmental Quality.~~

~~Sec. .0356. TAX OR BOND ELECTION. Before a new district created by the division of the district may impose a tax for which an election is required under this chapter for the original district or issue bonds payable wholly or partly from ad valorem taxes, the new district must hold an election as required by this chapter to obtain voter approval.~~

SUBCHAPTER I. DEFINED AREAS

Sec. .0401. AUTHORITY TO ESTABLISH DEFINED AREAS OR DESIGNATED PROPERTY. The district may define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as

a whole.

Sec. .0402. PROCEDURE FOR ELECTION. (a) Before the district may impose an ad valorem tax applicable only to the defined area or designated property or issue bonds payable from ad valorem taxes of the defined area or designated property, the board shall hold an election in the defined area or designated property only.

(b) The board may submit the proposition to the voters on the same ballot to be used in another election.

Sec. .0403. DECLARING RESULT AND ISSUING ORDER. (a) If a majority of the voters voting at an election held under Section .0402 approve the proposition or propositions, the board shall declare the results and, by order, shall establish the defined area or designated property and describe it by metes and bounds or designate the specific area or property.

(b) A court may not review the board's order except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

Sec. .0404. TAXES FOR SERVICES, IMPROVEMENTS, AND FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter approval and adoption of an order described by Section .0403, the district may apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property to provide money to construct,

administer, maintain, and operate services, improvements, and facilities that primarily benefit the defined area or designated property.

Sec. .0405. ISSUANCE OF BONDS FOR DEFINED AREA OR DESIGNATED PROPERTY. After an order under Section .0403 is adopted, the district may issue bonds to provide for any land, improvements, facilities, plants, equipment, and appliances for the defined area or designated property.

Sec. .0406. EXEMPTION FROM PAYMENT.

Notwithstanding anything contained in this Subsection, exempt properties shall not be assessed any tax, fee, assessment, or other charge or cost by the district.

Executive Session to discuss the offer of a financial or other incentive to Project RBG under Section 551.087 of the Texas Gov't Code