

Public Improvement Districts

What would a community be like without streets, landscaping, parks, water, sewer and utilities? It takes a large investment to bring these amenities to market in the early stages of a community. Oftentimes, developers promise these improvements while homes and land parcels are sold, to bring in the revenues to pay for these amenities. Amenities are sometimes constructed in starts and stops in these communities.

The New Mexico State Legislature created legislation authorizing the creation of public improvement districts (“PID” or “District”) for the purpose of funding public infrastructure improvements through the issuance of tax exempt debt, like PID notes and bonds. Proceeds from the PID debt are used to finance infrastructure and site improvements that are calculated to benefit the owners within the PID.

The repayment of PID debt is made out of special levies imposed by the PID against each parcel or lot as discussed below.

The special levy to be imposed by the District will apply solely to owners of homes within the District and will be collected by the County in conjunction with ad valorem property taxes.

Here are some frequently asked questions and answers regarding Public Improvement Districts:

Q. What is a Public Improvement District (PID)?

A. A Public Improvement District is a small political subdivision created by a city or county under the authority of the New Mexico Public Improvement District Act. This act allows for the levy of a special assessment against properties within the District to pay for improvements to the properties within the District. When the city or county approves the formation of a PID, the formation documents typically define the scope of the PID’s purpose (identifying a range of eligible infrastructure to be financed) and place some financial limits on the PID (e.g. maximum levies, bond sizing, etc.), subject to amendment as described in the documents.

Q. What are PID special levies?

A. PID special levies are payments made to cover the costs associated with public improvements benefitting the District, as well as operational costs of administering the PID. Levies are allocated to each lot located within the District to pay for public improvements that provide a special benefit to the properties within the District, unless an owner is exempted from the levy, such as a government-owned property.

Q. What categories improvements might PID special levies pay for?

A. PID assessments pay for improvements that benefit the properties in the District and may include: roads, water distribution lines, wastewater collection lines, and drainage improvements, landscaping and irrigation, trails, parks, open space, monuments and entry features, and various soft costs associated with these improvements and formation of the PID. Eligible infrastructure is identified in the General Plan for the District, which is on

file with the County Clerk. The PID does not pay for any improvements until they are constructed and acceptable to the governmental body that will be owning and maintaining them.

Q. What infrastructure improvements are actually funded by a PID?

A. Only improvements which can be dedicated to the City, County, ABCWUA or other public agencies providing services to the District are funded.

Q. Will assessments be used to maintain parks or other infrastructure within the District?

A. No, in most PIDs, assessments are not used for maintenance. Public infrastructure dedicated to the City will be maintained by the City. Private infrastructure owned by the HOA will be maintained by the HOA.

Q. Are all homebuyers informed of this special levy tax?

A. Yes. All homeowners receive a Notice of Information in advance of signing a sales contract, which provides important information and identifies the maximum annual levy cost.

Q. What is the assessment rate, and how is it allocated between properties?

A. The assessment rate is identified in the Rate and Method of Apportionment, which is typically attached to the Notice of Information, recorded semi-annually. The costs for the financed improvements and assessments are allocated based upon anticipated product type, often using a measure such as front lot footage to place lots into different classifications.

Q. Who will operate/oversee the PID?

A. A PID Board was appointed by city or county at the formation of the District and includes five members. After six years, either the local government's governing body will assume governance of the District, or an election for Board members will be conducted. All meetings of the PID Board are open to the public.

Q. What are the duties of the PID Board?

A. Duties include:

- Adoption of an open meetings resolution;
- Preliminary and final approval of an annual budget sufficient to pay debt service on outstanding District bonds or other District obligations and annual administrative costs;
- Exercise of remedies to collect delinquent District special levies from property owners within the District;
- Engagement of auditor and approval of audited financial statements;
- Approval of continuing disclosure reports prepared on behalf of the District; and
- Approval of periodic notice of information filing with the County Clerk.

Q. How long will the PID be in existence?

A. The PID Board may dissolve the District after its obligations are completed. Typically a District will issue thirty year bonds to fund public infrastructure. Upon payment of those

bonds, the PID Board is expected to dissolve the District and the special levies would then cease.

Q. Will the special levy tax rate change over the 30-year term of the PID debt?

A. Not above the stated maximum levy. There is a maximum special levy tax, and this will not increase. However, homeowners could be required to pay penalties imposed due to a delinquency or default by a homeowner in the payment of any special levy imposed on his or her property.

Q. Who collects the special levies?

A: Bi-annual installments of PID special levies will be billed and collected by County Treasurer along with the other property taxes.

Q. What happens if special levies are delinquent?

A. The special levies represent a lien against each property within the PID. Failure to pay the Assessment obligations will result in foreclosure following procedures described in the Rate and Method of Apportionment, which is recorded with the County Clerk in the Notice of Information about the PID.

Q. What happens to special levies upon transfer of ownership of a property?

A. The PID special levy obligation will transfer to the new property owner for the remainder of the PID. The new property owner will assume the obligation to pay any future special assessments.