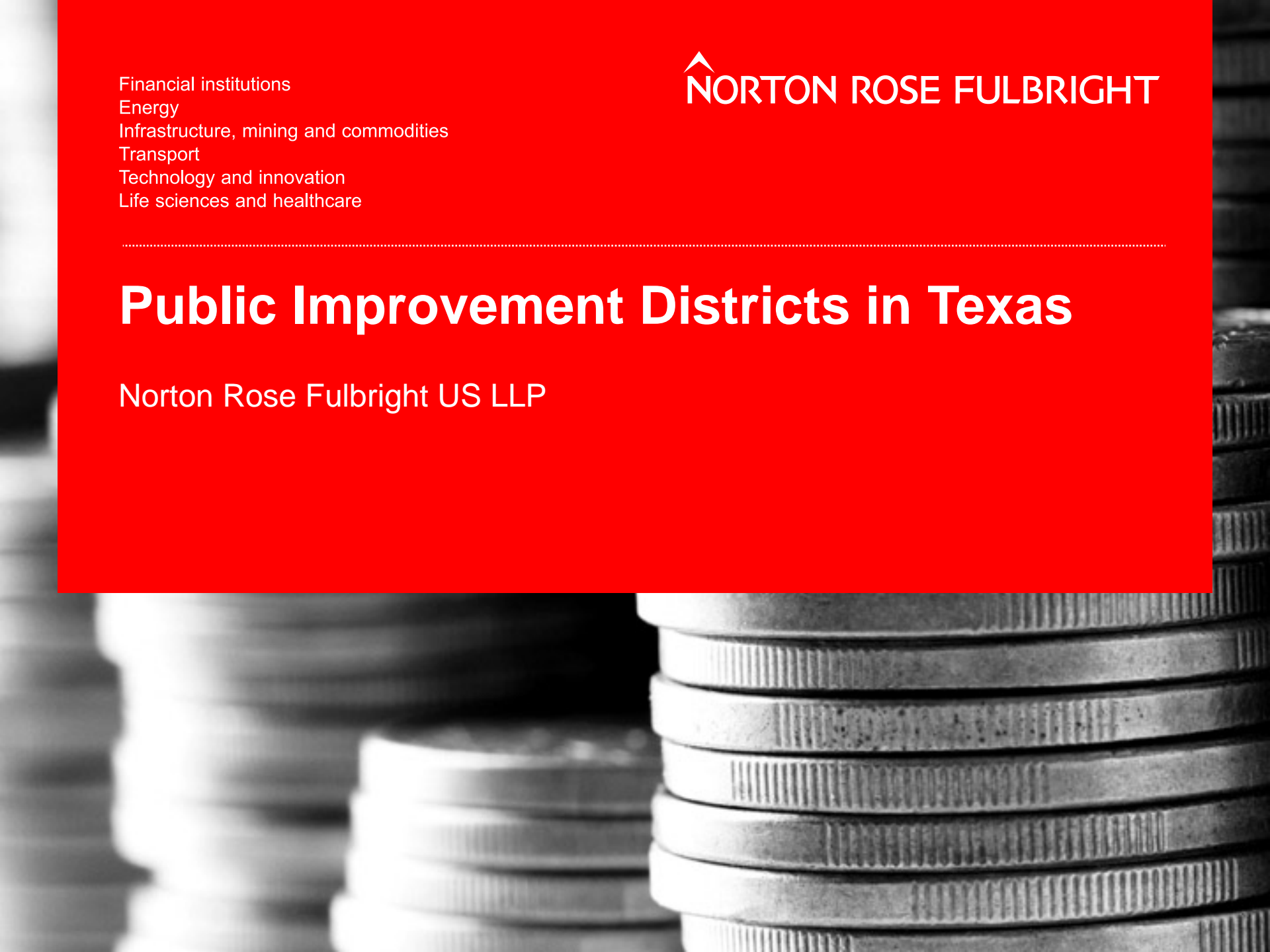


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Public Improvement Districts in Texas

Norton Rose Fulbright US LLP



PID Overview

- Chapter 372 of the Texas Government Code grants a city the ability to create a public improvement district within its jurisdiction or ETJ
- Purpose is to confer a special benefit on a defined area through “improvements” and to ensure that the owners benefitted by these improvements bear their cost through “assessments”
- Can be “pay-as-you-go” or the City may issue bonds secured by the “assessments” to pay for the costs of “improvements” or reimburse the costs of improvements completed

Assessments

- City approves the levy of assessments on the land within the PID
 - Assessments are subordinate to property taxes but senior to other liens
 - Assessments can be prepaid at any time
- Amount of the Assessments based on cost of Improvements, debt service of PID Bonds, administrative expenses, and reserve funds securing the PID Bonds
- PID Bonds are secured by the Assessments **ONLY**
 - Ad valorem taxes are not pledged

“THE BONDS ARE SPECIAL OBLIGATIONS OF THE CITY PAYABLE SOLELY FROM PLEDGED REVENUES AND ANY OTHER FUNDS HELD UNDER THE INDENTURE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE BONDS DO NOT GIVE RISE TO A CHARGE AGAINST GENERAL CREDIT OR TAXING POWER OF THE CITY AND ARE NOT PAYABLE EXCEPT AS PROVIDED IN THE INDENTURE. THE OWNERS OF THE BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES...”

PID Authorized Improvements

- Landscaping
- Fountains, Distinctive Lighting and Signs
- Sidewalks, streets, any other roadways, or their rights-of-way
- Pedestrian Malls
- Installation of Pieces of Art
- Libraries
- Off-Street Parking
- Parks
- Mass Transportation Facilities
- Water, Wastewater or Drainage

- Projects “similar” to this list
- Real Property in Connection with an Authorized Improvement
- Expenses Incurred in Establishing, Administrating, and Operating the PID
- Affordable Housing

Duties of the City

- Create the PID
- Levy Assessments
- Issue Debt
 - May be done in multiple issuances or “phases” each of which require new series of bonds
- Collect Assessments
 - A city may hire a third-party PID administrator to assist in the billing and collection of assessments, and administrative oversight of the PID
- Update Service and Assessment Plan
 - PID administrator also updates the Service and Assessment Plan on an annual basis but requires Commissioners Court approval
- Comply with all Continuing Disclosure Undertakings and filings related to the PID Bonds
 - City is responsible for reporting requirements and may require additional staff or agreements
- Foreclose on Property for Non-Payment of Assessments
 - City will be required to covenant to foreclose on property with delinquent assessment

PID Benefits

- Incentivizes a higher level of construction which, but for the PID, may not occur
- Costs of improvements are allocated to citizens benefitted and not paid for by general tax base; offsets costs that the City cannot undertake at this time to those directly benefiting
- City has additional “control” over the development and is able to negotiate preferred standards of development and amenities that can improve the City as a whole
- Generally creation and administration costs associated with the PID are not paid by City but are paid from (i) deposits from the Developer, (ii) as closing costs for bond transactions and (iii) from annual assessments collected
- Acceleration of development schedule and resulting addition to City’s taxable valuation

Specific PID Issues to Consider

- The City has both initial and ongoing responsibilities with respect to the creation and administration of a PID which may require additional staff time/resources
 - SEC Disclosure
 - IRS Compliance
 - PID implementation, administration, collection and debt payment
- City may be required to initiate foreclosure procedures
- PIDs require political action on the part of City which may lead to criticism from general tax base (i.e. city is subsidizing developers; foreclosure of property)
- Construction, market and development risks exist
- The City may be sensitive to overlapping debt ratios, leverage and other financial considerations; disparities in financial aspects between neighborhoods or developments
- Establishing the PID requires ongoing “relationship” with Developer and subsequent ownership
- Can create expectations for other developers to seek similar benefits
- While special obligations of the City, the City issues the debt and signs the documents related to the financing

The logo consists of a stylized, upward-pointing triangle or chevron shape, rendered in a light tan or beige color. It is positioned to the left of the text.

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