

MUNICIPAL UTILITY DISTRICTS IN TEXAS

Presented to:
City of Montgomery, TX



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What is a Municipal Utility District (MUD)?

- A political subdivision of the State of Texas, like a County or School District.
- Created over a limited area to provide water, sewer, drainage, parks & recreational facilities, and roads.
- MUDs are a way to provide these municipal services in areas not in a city or where a city cannot afford to extend these services itself or where the City wants the new development to bear the costs of the new infrastructure.

Benefits of a MUD

- New Growth Pays For Itself
- High Quality Infrastructure
- Local Control
- Tax-Exempt Financing (low interest rates)
- Affordable Housing

Prevalence of MUDs in Texas

- Texas has over 1200 special districts
- Over 124 active special districts in Montgomery County
- Over 2 million Texans live in special districts like MUDs
- Majority of MUDs over land outside City limits, but many cities have in-city MUDs or special districts (Conroe, Houston, Pearland, Sugar Land, Missouri City, College Station, Georgetown)
- MUDs have been used to develop most master-planned communities in greater Houston area, including: The Woodlands (27,000 acres), Clear Lake City/NASA (15,000 acres), South Shore Harbour (2,500 acres), Bay Colony (800 acres), First Colony (10,000 acres), Sienna Plantation (10,000 acres), Cinco Ranch (5,400 acres) and Shadow Creek Ranch (3,500 acres)

What do MUDs do?

- Construct/operate water, sewer, drainage
- Construct public roads
- Construct/operate parks and recreational facilities
- Finance public infrastructure through bonds to **reimburse** the developer for costs of facilities

Regulations Applicable to MUDs

- MUDs in Texas are one of the most heavily regulated types of political subdivisions.
- MUDs can **only** exercise those powers expressly granted in the Texas Water Code (water, sewer, drainage, roads, parks)
- Plans for public infrastructure are subject to all City codes and ordinances; plans must be approved by the City; facilities inspected by the City upon construction
- Infrastructure regulated by the TCEQ; subject to EPA requirements
- MUDs are subject to TCEQ feasibility rules (developer only reimbursed after certain TCEQ rules are met)
- MUD Bonds must be approved by TCEQ and the Texas Attorney General
- MUDs must comply with the Open Meetings Act and Public Information Act.
- Board members are subject to all Texas ethics laws applicable to public officials and public entities.

Creation / Activation

- Method of creation may vary based on the development needs to fit the property:
 - Texas Commission on Environmental Quality (TCEQ); or
 - The Texas Legislature.
- If the MUD is in a City or its ETJ, the City must give its consent prior to the creation and/or annexation of land into the MUD.
- In connection with consent, the landowner and the City negotiate other terms for providing services to the MUD, including a development agreement and utility agreement.

MUD Governance / Operation

- The MUD is governed by a 5 member board that is initially appointed by the TCEQ and later elected by residents in the MUD. Elections are conducted in accordance with the requirements of the Texas Election Code.
- The Board is charged with developing the facilities in the manner that is in the best interest of residents and the landowner.
- The MUD employs a number of professional consultants to advise the board and make recommendations on action items, much like City staff.

Role of the Board of Directors

- Like City Council, the Board of Directors is the “policy-making” and decision making body of the MUD.
- The Board is charged with developing the water, sewer, drainage, park, road, and other MUD facilities in the manner that is in the best interests of both the landowners and residents and consistent with TCEQ rules.
- The MUD’s consultants implement those policy decisions.

What is the role of the Developer in the MUD?

- Requests the creation of the MUD.
- Drives the need for water, sewer and drainage, park, and road facilities based on its land plan and development schedule.
- “Partners” with the Board to facilitate development of the property in the MUD.
- “Loans” the MUD all the funds it needs to operate and to construct the public facilities and infrastructure.
- Developer may only be reimbursed once sufficient value constructed in the District.

Roles of the Consultants

- **Attorney**
 - Acts as general counsel to the Board on public law, contract, and limited real estate matters and as bond counsel to the MUD on the issuance of debt.
- **Auditor**
 - Audits the funds of the MUD pursuant to governmental accounting standards and TCEQ rules. Also audits the reimbursement made to the developer following each bond issue. The Auditor follows the same auditing standards as a City and other governmental entities.
- **Bookkeeper**
 - Keeps the books and financial records of the MUD, pays invoices, advises the board on investment of public funds.
- **Engineer**
 - Designs and oversees construction of the MUD's facilities.
- **Financial Advisor**
 - Advises the Board on issuing debt and setting the tax rate.
- **Tax Assessor/ Collector**
 - Sends tax bills and is responsible for collection of tax payments; assists in setting tax rate.
- **Operator (if needed)**
 - Operates and maintains water, sewer, and drainage system; sends and collects monthly water bills. If a MUD is located within the City, the MUD typically conveys completed water and sewer facilities to the City. Following acceptance, the City operates and maintains the system, as well as sends and collects monthly water bills.

Taxation of the MUD

- A MUD generally levies an Operation and Maintenance Tax against all of the property in the boundaries of the MUD.
- After a MUD has issued bonds, it has the authority to levy an ad valorem tax for each year that any of the bonds are outstanding in an amount sufficient to pay the interest and principal of the bonds.
- No constitutional or statutory limitation on the rate or the amount for taxes.
- However, the Texas Commission on Environmental Quality will not approve a MUD to sell bonds if the total water, sewer and drainage tax by all overlapping entities (including the City) exceeds \$1.50.

Reimbursement to Developer

MUD and Developer enter into a reimbursement agreement

- Slow process
- Mud agrees to reimburse developer from bond proceeds once developer has funded and constructed public infrastructure
- Only public infrastructure and related costs
- Must have value (homes on the ground) to begin reimbursement process
- Usually 10 times of value to \$1 of reimbursement

Issuing Bonds

- At decision of the board, Engineer, Attorney and Financial Advisor, the MUD submits a bond application to the TCEQ
- This is a highly regulated process by the TCEQ and the Texas Attorney General's office
- TCEQ feasibility rules must be met (streets must be completed, sufficient water, sewer and drainage capacity for all the growth projected, enough value on the ground to support the bonds).
- The TCEQ approves the projects for reimbursement to the developer and the amount that the MUD can reimburse the developer for those projects.

Issuing Bonds Continued

- After the TCEQ approves the bond application, the MUD sells the Bonds in an open meeting based on sealed competitive bids for the Bonds.
- The Texas Attorney General then reviews the bond issue to ensure compliance with relevant Texas laws.
- MUDs then use the bond proceeds to reimburse the developer for the cost of constructing the District facilities based on a reimbursement audit prepared by an independent CPA.