

What is a MUD?

Municipal Utility District (MUD) Basics

A Municipal Utility District (MUD) is one of several types of special districts that function as independent, limited governments. The purpose of a MUD is to provide a developer an alternate way to finance infrastructure, such as water, sewer, drainage, and road facilities. Managed by a Board elected by property owners within the MUD, a MUD may issue bonds to reimburse a developer for authorized improvements and the MUD will utilize property tax revenues and user fees received from water and sewer services operated by the MUD to repay the debt. As the MUD pays off its debt, more of its tax revenue can be directed to other services. Originally, MUDs were very limited in what they were allowed to finance and what services they could provide. Over time, MUDs began taking on more responsibilities and providing enhanced services for their residents such as parks and recreation, deed restriction enforcement, and solid waste service. MUDs rely on the County to provide police and road maintenance services and Emergency Service Districts (ESDs) for providing fire protection. Currently within the City of Austin Planning Area there are 27 MUDs.

MUD Creation

A MUD can be created by either (1) adoption of a district creation bill by the Texas Legislature or (2) by the Texas Commission on Environmental Quality (TCEQ) following a petition and consent process described in the Texas Water Code. For property located in the City's jurisdiction, to be included in a MUD, City consent is required prior to creation as part of the TCEQ process. There are limitations on what the City may require as condition for consent, particularly for MUDs that do not propose to connect to the City's water or sewer systems. If the City fails or refuses to grant consent within 90 days after receipt of a petition, the state statute provides for a 120 day period for negotiation of a contract for City water and sewer service to the proposed development. If a contract for service is not executed, the applicant is authorized to initiate proceedings with TCEQ to create a MUD. Creation of a MUD presumes a long term delay of the City annexation of new development



MUDs are typically located outside the city limits and in the Extra Territorial Jurisdiction (ETJ). Texas law requires that MUDs be annexed in their entirety. If the City annexes a MUD before its bonds are paid in full, the City must assume the balance of the MUD debt and reimburse the developer for any unbonded facilities. In past MUD annexations, a portion of this debt has been repaid by property owners who were formerly in the MUD through post annexation surcharges as provided for by state law. This is a charge on a homeowner's utility bill and is calculated based on the amount of debt that the City absorbs at the time of annexation. If full purpose annexation is deferred until the MUD bonds are paid in full, this development would be excluded from the City's tax base for that period of time, reasonably decades.

City of Austin's MUD Policy

In 2011 the City Council adopted Resolution No. 20110217-030 establishing a new policy and criteria for considering requests to create MUDs, superseding the previous 1984 MUD policy that discouraged the creation of new MUDs. The impetus for the 2011 policy shift was driven by an influx of applications to the City requesting consent to MUD creation and a change in state laws favoring MUDs, resulting in greater authority for MUDs and increased opportunity for their creation. The most significant difference between the City's 1984 and 2011 MUD policies is related to the provision of City utility service.

Previously, if the City could provide utility services, the Council would deny consent to the creation of a new MUD. Under current policy, the use of City utility services is a basic requirement for creation of a MUD. The 2011 policy states that the City's objective in creating a MUD should be to promote superior development. Further, the current MUD policy requires that the MUD proposal must demonstrate that the City would benefit more from creation of a MUD than from use of the standard City development process or other types of districts. The various benefits listed in the MUD policy are for the most part informed by the PUD zoning ordinance.

(Sample Mud Disclosure Form)

Notice to purchasers of real property

The real property, described below, which you are about to purchase, is located in the _____. The District has taxing authority separate from any other taxing authority, and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the District on real property located in the District is \$_____ on each \$100 of assessed valuation. If the District has not levied taxes, the most recent projected rate of debt service tax, as of this date, is \$_____ on each \$100 of assessed valuation. The total amount of bonds which has been approved by the voters and which have been or may, at this date, be issued is \$_____, and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the District and payable in whole or in part from property taxes is \$_____.

The District has the authority to adopt and impose a standby fee on property in the District that has water, sewer, sanitary, or drainage facilities, or other services available but not connected and which does not have a house, building, or other improvement located thereon and does not substantially utilize the utility capacity available to the property. The District may exercise the authority without holding an election on the matter. As of this date, the amount of the standby fee is \$_____. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the District stating the amount, if any, of unpaid standby fees on a tract of property in the District.

The purpose of this District is to provide water, sewer, drainage, or flood control facilities and services within the District through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the district. The legal description of the property which you are acquiring is as follows:

Date: _____

Signature of Seller (s): _____

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR. EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of the purchase of the real property.

Date: _____

Signature of Buyer (s): _____

State of Texas
County of Travis

This instrument was acknowledged before me on the ____ day of ____ 20____ by _____ and _____.

Notary Public, State of Texas