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DRAFT Report on Petitions to Create  
Southeast Travis County Municipal Utility District Numbers 1-4 (MUDs 1-4)  
as of January 17, 2011

Applicant     Vera D. Massaro  
                 Qualico CR, LP

Engineer      Thomas W. Carlson, PE  
                 Carlson, Brigance & Doering, Inc.

Attorney      Mr. Richard Suttle  
                 Armbrust & Brown, PLLC

Land Use Summary

Total Acreage .....	~1,600 acres
Single-family .....	2,500 units
Townhome .....	1,300 units
Multi-family .....	530 units
Commercial .....	560,000 sq ft
Open Space .....	560 acres
School Sites (reserved) .....	2

Projected Population ..... 13,489

Proposed Bonds Summary

Total bonds .....	\$102,339,356
Proposed MUD tax rate .....	\$0.99 per \$100 valuation

Review Process

Commission and Board Reviews

Water and Wastewater Commission .....	Recommended January 11, 2012
Environmental Board .....	January 18, 2012
Planning Commission .....	January 24, 2012
Parks and Recreation Board .....	January 24, 2012
Urban Transportation Commission .....	February 7, 2012

City Council Schedule

January 26, 2012 .....	Set public hearing on Consent Agreement
February 9, 2012 .....	City Council Briefing
March 1, 2012 .....	Conduct public hearing and consider adoption of Consent Agreement
April 5, 2012 .....	Conduct public hearing on limited purpose annexation and the Strategic Partnership Agreement
April 12, 2012 .....	Conduct second public hearing on limited purpose annexation and the Strategic Partnership Agreement take action on SPA and annexation

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late Fall 2012..... Approve PUD zoning

#### Affordable Housing

The developer is working with staff to address outstanding affordable housing issues. Under consideration is whether to provide affordable housing on site, via a fee in lieu, or some combination of both. There are also some issues with the standard fee in lieu of formula as stated in the city code due to the size of this development and the parties have been working together to find a mutually acceptable solution.

#### Developer's Market Analysis

The market analysis submitted by the developer with the MUD application in March 2011 states that "market demand does not support the developer's build-out projections and may make the project infeasible." However, the analysis goes on to say that if "the planned competition will not be developed in a timely manner or that the market demand for starter homes in the Del Valle school district is much greater than anticipated... the project economics may be more feasible."

#### Energy Efficiency

The proposed MUDs are located in the Bluebonnet electric service area, but the developer has agreed to those items listed as recommended by Austin Energy staff. The MUDs will provide a two star or equivalent rating for single-family residences. A energy star rating on commercial structures will be of sufficient benefit.

#### Parkland and Open Space

The PUD ordinance requires a percentage of land to be established as open space. Southeast Travis County MUDs are proposing 560 acres of open space, which is ten (10) times the amount of standard open space.

An HOA will be created and responsible for the ownership, operation, and maintenance of the recreational facilities that will be private (swimming pool and recreation centers). Because the Districts will not bond the facilities, private dollars, not tax dollars will be used to build them. Thus, the developers do not want those facilities to be required to be open to the public.

#### Planning Considerations

These MUDs are located in an area not identified as a preferred growth area on the Draft Imagine Austin Growth Concept Plan Map. The recently adopted MUD policy states that the City's objective in creating a MUD should be to promote superior development. Further, the 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.

Creation of MUDs will establish a long term delay to the ability of the City to annex the area. The developer is proposing \$102.3 million in bonds to finance water, wastewater, drainage, and parks facilities in the four MUDs. The City would review and approve each MUD's debt issues. If the City annexes any of the districts before its bonds are

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paid off, the City would have to assume the balance of the debt for that MUD and reimburse the developer for any unbonded facilities. 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.

#### Public Safety

The developer has agreed to donate a fire station site to the City.

#### Schools

The developer has agreed to reserve two elementary school sites for Del Valle ISD within the MUDs. However, Del Valle ISD would be required to purchase the sites at the developer's purchase price. Del Valle ISD projects there will be a need for as many as three schools for MUD residents at full build-out, including two elementary schools and one middle school.

#### Solid Waste/Recycling

The City will be the retail provider of service and charge all of its standard fees.

#### Transportation

The MUDs will provide extensive trails.

The MUDs will improve a regional arterial including north-south running Sunchase Blvd. which will eventually connect HWY. 71 to Pearce Lane.

There is no superior internal connectivity for this development because some areas are hindered by a large floodplain and the high cost of a bridge to create connectivity across such a large contiguous area, and there are approximately 135 cul-de-sacs.

The MUDs are not in Capital Metro's service area. Capital Metro service will not be available within these MUDs until the MUDs are annexed for full purposes. Under the Draft Imagine Austin Plan, local transit service is planned to be provided in an area two miles from the MUD.

#### Water and Wastewater

City Code Chapter 25-9 establishes the City's reimbursement and cost participation program. Because this development was already in preliminary plan stage, the developer had sought and Council approved \$13.9 million for developer reimbursements. The creation of the MUDs will allow the City to avoid that cost because the MUD and the developer has agreed to be responsible for those costs.

A wastewater treatment plant will be constructed to serve the MUDs and the surrounding area. Because the MUDs will be paying for the treatment plant and wastewater mains that essentially serve as a self-contained system, staff recommends that wastewater capital recovery fees be waived for the MUDs.

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The MUDs will also construct a reclaimed water system that will assist Austin Water in reducing potable water demands for irrigation purposes. As such, staff recommends water capital recovery fee waivers up to \$1.5 million for cost participation in constructing those facilities. It should be noted that the City will still collect revenues from the use of reclaimed water.

In addition, the City has requested additional oversizing of certain infrastructure in order to serve areas adjacent to the MUDs. The developers have agreed to pay those costs (approximately \$2 million) without reimbursement by the City.

#### Watershed Protection

In terms of drainage, the MUDs will provide acceptable mechanisms to control runoff.

All of the PUD Tier II requirements related to water quality will be met such as:

- Setbacks for unclassified water ways
- Use of innovative water quality controls
- Reduction of impervious cover and the clustering of development
- Participation in the City's program to use seedlings to improve restoration efforts

#### Zoning

The MUDs intend to request PUD zoning and have agreed to limited purpose annexation after execution of the MUD consent agreement.

Through the MUD process, the City has obtained some commitments for superior development. The PUD process will continue that process and further define requirements for each development.

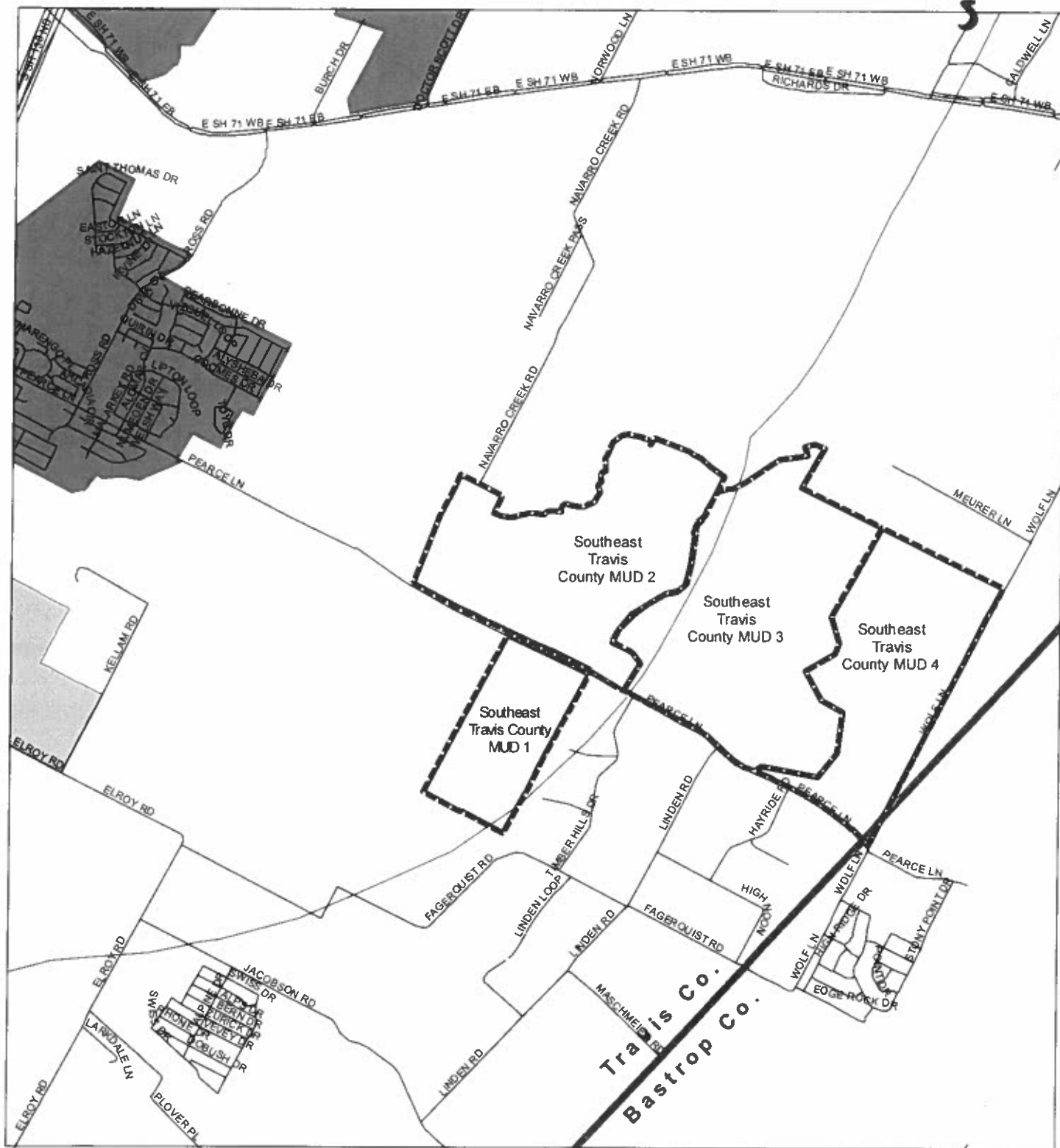
Given the requirement to complete the district creation process prior to the MUDs otherwise being dissolved on September 1st, and the amount of time it takes to complete the PUD process, the negotiation of PUD zoning will not be finished prior to the City Council considering the approval of the MUD agreements.

#### Staff Recommendation

There were competing City priorities identified in this process in which staff needed to balance, but overall, staff recommends City Council approve a Consent Agreement and Strategic Partnership Agreement with each MUD because the City gains extraordinary benefits in:

- infrastructure extension
- environmental protection
- open space
- City retail utility and solid waste services
- future PUD zoning

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# **Proposed Southeast Travis County MUDs 1-4** **C12M-2011-0003** **C12M-2011-0004** **C12M-2011-0005** **C12M-2011-0006**



City of Austin PDRD  
J. Chuter  
April 1, 2011

## **Legend**

- Proposed Municipal Utility District
- Austin Full Purpose
- Austin Limited Purpose
- Austin ETJ



0 0.25 0.5 1 Miles

This map has been produced by the City of Austin as a working staff map and is not warranted for any other use. No warranty is made by the City regarding its accuracy or completeness. Sources: All data by COA unless otherwise provided.

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**RESOLUTION NO. 20110217-030**

**WHEREAS**, a municipal utility district ("MUD") created by the TCEQ or the Legislature with the City's express consent and approval can be used to meet community needs by funding public improvements or services; and

**WHEREAS**, the creation of MUDs may affect the City's ability to implement the City's Comprehensive Plan; and

**WHEREAS**, the City can benefit if the owners of property in the MUD pay their fair share for improvements and services funded through a MUD; and

**WHEREAS**, a MUD that finances public infrastructure benefits developers by allowing them to reduce their debt to private lenders by using public financing to pay the cost of infrastructure for development; and

**WHEREAS**, those requesting creation of such a MUD should demonstrate that it confers an extraordinary benefit not only to the properties within the MUD, but also to the community in general and to the City; and

**WHEREAS**, in 1984 the City Council adopted Resolution No. 840202-37 setting out the City's policy with respect to petitions for the City's consent to the creation of MUDs; and

**WHEREAS**, this Resolution No. 20110217-030 outlines current issues for the City Council to consider in determining whether to establish a MUD and is not intended to limit the authority of the City Council to consider or approve any particular request; **NOW, THEREFORE,**

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**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City Council resolves that the following are established as its policy and criteria for considering requests to create MUDs to fund public infrastructure, municipal services, or both in association with development projects:

1. The MUD 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.
2. The City's objective in creating the MUD should be to promote superior development, with attention to the Comprehensive Plan.
3. The City's basic requirements for creation of a MUD should be that:
  - All developments supported by a MUD must comply with the City's Planned Unit Development ("PUD") Green Building Program, regardless of whether the development receives PUD zoning;
  - The development supported by the MUD provides extraordinary public benefits (such as extension or enhancement of infrastructure, affordable housing, environmental improvement, public transportation facilities, and open space);
  - It is in the City's preferred growth area (currently designated as "Desired Development Zone");
  - It is accompanied by consent and other applicable agreements;

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- The development that it supports meets or exceeds the intent of the development standards of the City Code;
  - It is financially self-sustaining and its ad valorem tax rate will approximate or be greater than the City's rate;
  - It will use City design criteria for water, wastewater, drainage, and public safety infrastructure;
  - It will be created only if the water, wastewater, and reclaimed water provider is the City.
  - It will require the developer(s) to contribute a portion of infrastructure without reimbursement by the MUD or the City;
  - It will not impair the City's future annexation of the MUD or adjacent property, or impose costs not mutually agreed upon; and
  - It must be located entirely within the City's extraterritorial jurisdiction.
4. Whether development supported by the MUD provides sufficient public benefits should be determined by weighing the value of the benefits to the community, and to property in the MUD, against the costs to the City, including delayed annexation.
5. In considering whether a MUD provides sufficient public benefits, Council will consider benefits including but not limited to:



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- Land use controls (including land plans) that otherwise would not be available in the City's ETJ;
- Amenities that would not typically accompany a development with conventional financing;
- Connectivity with other existing City infrastructure;
- The potential for City capital improvement program funds to be redirected to other high priority needs by financing capital infrastructure with alternative MUD financing and by the application of post-annexation surcharges;
- School and public safety sites, and transportation infrastructure, sufficient to meet development needs; and
- A MUD organizational structure, and policies and procedures, that promote timely dissolution of the MUD and which fully meets the basic requirements for the City for creation of a MUD.

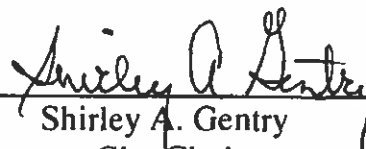
6. As a basis for approving the issuance of MUD bonds, Council should consider criteria including but not limited to the following:

- Evidence that the value of the property within the MUD will be significantly increased by construction of the public improvements by the MUD, as determined by the City.
- If development occurs in phases, development must be sustainable by the proposed bonding capacity, bond phasing, and development approvals.

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- The MUD must be in compliance with all terms and conditions of development and consent agreements.
  - The term of the MUD bonds should be limited to 25 years.
7. If an applicant for consent to creation of a MUD chooses to challenge either the City's determination of whether to consent to a MUD, or the lawfulness of the conditions imposed by the City in consenting to a MUD, the City will pursue the following course of action:
- The applicant's request before the Texas Commission on Environmental Quality (TCEQ) for the creation of the MUD shall be challenged.
  - If the City is not successful before the TCEQ, the City will pursue all available legal remedies to enforce its decision, including appeal of the decision of the TCEQ.
8. City Resolution No. 840202-37 is superseded by this Resolution No. 20110217-030.

APPROVED: February 17, 2011 ATTEST:

  
Shirley A. Gentry  
City Clerk