

Memorandum



DATE January 16, 2009

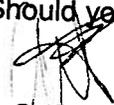
TO Members of the Economic Development Committee: Ron Natinsky (Chair),
Tennell Atkins (Vice-Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane,
Mitchell Rasansky, Linda Koop, Steve Salazar

SUBJECT **Municipal Management Districts**

On January 20, 2009, the Economic Development Committee will be briefed on Municipal Management Districts.

A copy of the briefing is attached. Staff will be available at the meeting to answer questions.

Should you have any questions, please contact me at (214) 670-3314.


A.C. Gonzalez
Assistant City Manager

C: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Deborah Watkins, City Secretary
Tom Perkins, City Attorney
Craig Kinton, City Auditor
Judge C. Victor Lander, Judiciary
Ryan S. Evans, First Assistant City Manager
Forest Turner, Interim Assistant City Manager
Ramon Miguez, P.E., Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Jeanne Chipperfield, Director, Budget & Management Services
David Cook, Chief Financial Officer
Karl Zavitkovsky, Director, Office of Economic Development
Hammond Perot, Assistant Director, Office of Economic Development
Helena Stevens-Thompson, Assistant to the City Manager

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Municipal Management Districts

Economic Development Committee
JANUARY 20, 2009



Purpose

- Explain what MMDs are, how created, functions, potential benefits
- Examine pros and cons and compare with alternative structures.
- Describe two MMD requests for City sponsorship
- Outline important dates for MMD creation during the 81st Legislature.
- Propose recommendations and next steps.

Overview

- **Municipal Management Districts (MMD)** are special districts that are: **Self governed**, but must be **approved by the host municipality**
 - have the ability to construct public infrastructure and provide services within District approved service plan.
- Created either:
 - pursuant to Ch.375, Local Government Code, through the Texas Commission on Environmental Quality (TECQ,) or by local law enacted by the State Legislature.
- **Two** current **applicants** wish to seek legislative approval to create a **MMD**.
 - **INCAP**: 313 acres in North Oak Cliff “River District”
 - **Trinity River West Project**: 342 acres in West Dallas proximate to exit off Calatrava Bridge currently under construction

Overview, cont'd.

- MMDs may issue Tax Exempt Bonds **BUT bond debt is not city debt** and does **not impact city bonding capacity**.
 - May **levy taxes, assessments** and **impact fees** in accordance with service plan. Assessments only by petition of affected property owners and property taxes require approval by majority of eligible voters in district.
 - **Bond issuances** must be **approved by City Council**.
- **Often combined with TIFs** to provide funding necessary to finance infrastructure improvements and supplement city's capital investments
- There is significant use of this tool in other areas of the State
 - Operated in Houston since mid-1990s.
 - Several other Texas cities have established MMDs

What is the purpose of a Municipal Management District?

- Promote, develop, encourage and maintain employment, commerce, transportation, housing, tourism, recreation, arts, economic development, safety and public welfare within a **defined area**.
- Provide and enhance supplemental services to the area.
- Create an independent financing mechanism to finance these services.
- Focused primarily on **commercial development** or **business activity**.

How are MMDs Created?

- **MMDs** can be **created in two ways:**
 - Through formal application to **Texas Commission on Environmental Quality (TECQ)** in accordance with the provisions of Chapter 375, Local Government Code
 - involves nine months process
 - serves primarily commercial development
 - requires a petition signed by owners of a majority of the assessed real property in proposed district
 - Through a special local bill in the **State Legislature**
 - must be supported by local municipality and House/Senate authors and sponsors (four months) : See Appendix A

What are MMD Powers and Duties?

- **Are Self-governed** and a **political sub-division** of the **State**, but **City** has **ability to require checks and balances** in formatting State legislation. This assumes special legislation
- Provides **complimentary and supplemental services**, but does not replace services provided by municipality
- **May levy taxes, assessments or impact fees** in accordance with its approved service plan. **Assessments** must be requested by **petition** of affected **property owners**. **Real Property Taxes** must be approved by a **majority** of **eligible voters** in District.
- Has powers applicable to conservation and reclamation. Districts created under Article XVI, Section 59, Texas Constitution, and Chapter 54, Water Code (this provides Ad Valorem taxing authority)

What are MMD Powers and Duties?

- Has powers of road districts and road utility districts created under Article III, Section 52, Texas Constitution, including power to levy Ad Valorem Taxes.
- Has powers conferred by Chapters 365 and 441, Transportation Code.

How is MMD Governed?

- This discussion assumes special law and the tests generally track Chapter 375 of Local Government Code.
 - Initial **board appointed** by **creating legislation**.
 - **New appointment/reappointments** recommended by governing board and approved by **City Council**.
 - Four year staggered terms
 - Board eligibility:
 - At least 18 years old
 - Resident or owner of property in the District
 - Owner of stock of a corporate owner of property in District
 - Owner of a beneficial interest in Trust that owns property in District
 - An agent, employee or tenant of a person that owns property in the District

What are Permitted Services and Projects?

- Economic Development
- Business Recruitment
- Promotion of Health and Sanitation
- Public Safety, Traffic Control and Recreation
- Landscaping, Lighting and Signs
- Streets, Walkways and Drainage
- Solid Waste, Water, Sewer and Power Facilities
- Parks, Historic Areas, Works of Art
- Parking Facilities and Transit Stations

How Does the MMD Generate Revenue?

- May **issue bonds** allowed by statute and its local governing municipality
- Bond debt is **not City debt** and **does not impact City bonding capacity**
- Bond debt **supported by Real Property Taxes, Assessments or Impact Fees** (Assessments must be requested by petition of affected property owners.) Real Property taxes must be approved by a majority of eligible voters in District
- Under Chapter 375, District may not finance services and improvement projects unless petitioner requesting those services and improvement projects submitted by either owners of 50 percent or more of assessed value in district or owners of 50 percent or more of surface area of district, excluding publicly owned lands and lands exempt from assessment.

How Do Assessments Work?

- Similar to **PID process**
- Assessment is **based on appraised value** as determined by **DCAD** (Assessment CAPS addressed in service plan)
- **Statute provides that all property owners** (residential and commercial) in MMD are **subject to assessment. As a matter of practice, only commercial property owners taxed (INCAP and Trinity River West proposals only tax commercial.)**
 - Properties owned by **non-profits, churches, governmental entities** and **utilities are exempt**
 - **MMD may create full or partial exemptions** for all homesteads, disabled individuals and individuals who are 65 years or older.
- Assessments are due on January 31st, same date as property taxes (subject to penalties and interest just like AD Valorem taxes)
- Assessment creates a property lien in same manner as Ad Valorem taxes.
 - Personal liability of owner of record as of Jan. 1 of year assessment imposed
 - District's lien is subordinate to county, city, school or hospital district Ad Valorem Taxes.

Dissolution

- MMD exists until dissolved by:
 - Petition by property owners
 - Vote of board
 - Resolution of City Council

Houston's Experience

Over 20 current MMDs

- Well defined area in strong real estate markets are successful in combination with TIRZ/TIFs (Downtown, Midtown, Uptown, Upper Kirby)
- Weaker sub-markets have struggled (East Downtown,) as some of our underperforming TIF districts that lack catalyst projects or a strong economic base.
- Favorable sentiment among public officials regarding MMD contributions in terms of additional financial support related to: Safety, Security, Landscaping, Park Improvements, Green Space Maintenance, Lighting, etc.
- Assessments and impact fees are not problematic aside from occasional property owner complaints about “extra tax.” Most property owners very supportive and like idea that revenue will be invested in their targeted area.
 - Houston's Downtown PID converted to MMD to provide more flexibility
 - All **Houston** area **MMDs** created by **State Legislature**

TIF CAP Issues

- Legislation will be written to the effect that the State's 15% TIF CAP does not apply to an MMD created TIF in the City of Dallas
- With INCAP, Legislation can be written so that a TIF found, created or extended within the boundaries of the MMD is not subject to the 15% CAP.
- According to Bond Counsel, this would not be unusual Legislation.

Pros and Cons: Municipal Management District vs. Alternative Solutions

Municipal Management District

- Pros:
 - Strong powers by law to address development needs
 - May **levy special Real Property tax and assessments** under its authority
 - May **impose impact fees** under its authority
 - May **issue bonds with City approval**
 - May provide services that are supplemental and/or complimentary to City services
 - May be **used** in conjunction **with a TIF** as a financing entity **to support TIF revenue bonds or vice versa**
 - **Bond debt** is **not City debt** and does **not impact City bonding capacity**

Pros and Cons: Municipal Management District vs. Alternative Solutions

Municipal Management District

- Cons:
 - **Strong powers** may be appropriate, but are **more than prior Councils have been willing to give**
 - Power to levy assessments is appropriate for well defined areas where redevelopment is likely, but less appropriate for wide areas with diverse ownership interests.
 - **Power to approve impact fees** is a power **previous Councils have not ceded.**
 - Cumbersome and inflexible structure imposed by law
 - **City ability to terminate** is unclear, especially if there is outstanding debt
 - **Control issue can become a challenge** between District Board and City Council due to incompatible political perspectives about development priorities.
 - The added level of taxation can render some Districts non-viable (too low a rate generates insufficient financing to fund projects, while too high a rate, makes the area less marketable.)
 - **Limited ability to finance improvements without Ad Valorem Tax support.** This is the PID problem if assessments are not deemed credit worthy by public debt markets. Could become a more expensive form of borrowing, Ad Valorem Tax sets up different tax rates under City, which could be confusing.

Pros and Cons: Municipal Management District vs. Alternative Solutions

Public Improvement District

- Pros:
 - Can impose, with Council approval, assessments applicable to all property in District
 - Governing board is formed by the management entity of PID, is not subject to State regulation and can be set up in a flexible manner.
 - City may dissolve at anytime
 - Property owners (through Board representation) control assessment rate
 - May provide **services that are supplemental and/or complimentary** to City services.
 - **City can issue PID bonds, supported by property owner assessments**

Pros and Cons: Municipal Management District vs. Alternative Solutions

Public Improvement District

- Cons:
 - **Five-seven year sunset makes long-term planning and bonding problematic**
 - **Bonded debt** is issued by the City and **potentially impacts City's bonding capacity**. (This is possible, but not likely. Biggest risk is default, but since no General Fund Pledge, it is likely to be treated as special project financing by the rating agencies.)
 - Revenue generating options are **more limited than MMDs** (can't levy real property taxes or impact fees)
 - State law for PIDs imposes impediments to bond issuance (need for assessments to match debt service needs over long-term; inability to provide "coverage" (e.g., City water bonds have 1.25x coverage covenant; not possible with PID since assessments must track costs, no cushion available))

Pros and Cons: Municipal Management District vs. Alternative Solutions

Local Government Corporation

- Pros:
 - **Flexible structure** and powers determined by approval of City Council
 - Board structure can be set by City Council (subject only to state requirement that at least a majority must be residents)
 - May **issue bonds with City credit**, with approval of Council
 - Competitive bidding requirements and processes can be defined by contract with City
 - May be dissolved by Council through control of Board (subject to outstanding debt issues)

Pros and Cons: Municipal Management District vs. Alternative Solutions

Local Government District

- Cons:
 - Requires negotiating and agreeing on a contract establishing details of relationship
 - **Bonded Debt is issued by the City** and **impacts City's bonding capacity**
 - Adds an extra layer of government bureaucracy
 - City support subject to annual appropriation, not treated by public debt markets as a strong credit worthy instrument

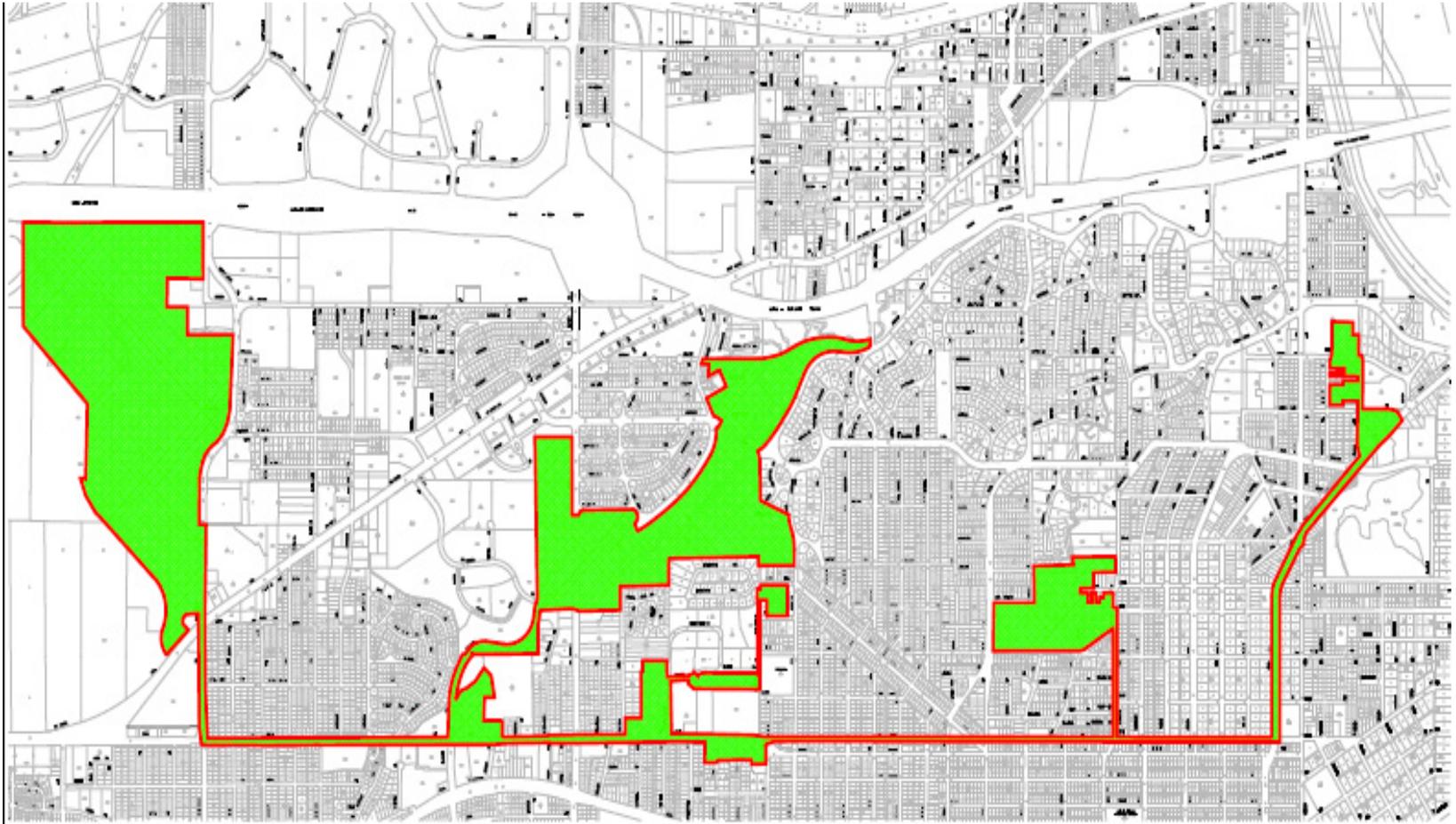
INCAP Development Proposal

- **313 Acres of urban infill** development project in the River District Area.
- Project is mixed use, and contemplates the development of high density work force housing in **close proximity** to the city's **Central Business District**, Victory Park, Uptown and Trinity River Urban Lakes project.
- The development will also add synergy to the surrounding areas recently developed and create a more vibrant urban core.
- The trend of movement back from the outlying areas is anticipated to increase the overall viability of this project.
- Well known infill development locations such as Oak Lawn, Uptown, Victory Park and others are almost fully developed. The remaining available land is very scarce and costly.
- The River District offers the same proximity to the major urban areas mentioned above coupled with better topography, more mature tree canopy, and added amenities such as the Bishop Arts District and Stevens Park Golf Course.
- The area has been **designated** as a **Tax Increment Reinvestment Zone**.
- **Funding** from the zone will **not pay for all the development costs** associated with a high quality development.

How MMD Facilitates Unique Elements of INCAP Development

- Provides an alternate method of funding development of a **street car system along Davis Blvd.**, connecting residents to the Downtown Dallas and the Dart Light Rail System.
- Supports **enhanced landscaping** and **lighting** along all the commercial corridors.
- Funds **green spaces** and improvements to the city park system within the District which will increase quality of life and add to the area draw.
- Creates **educational set asides** which are contemplated to assist urban youth to access higher educational opportunities.
- Assists with the provision of **marketing** for the area's economic development.
- Supplements increased **safety and security programs** which, make the area a more attractive area for relocating young urban professionals.

INCAP MMD Map



Trinity River West Project

- Project represents the largest assembled block of acreage owned by a single entity in the area targeted as the **point of connection** for the **Calatrava Bridge. (342 acres)**
- As modeled, the project consists of more than **1 million square feet** of **retail** and **mixed use** commercial development.
- Multi level housing and high-rise office development is also contemplated.
- The planned project **ties private development** to the City's **Trinity River Urban Lakes initiative**
- **Significant repositioning** of area **infrastructure is required** in order to render the area developable as contemplated
- Enhanced development with public amenities that support the City's capital investments will increase the overall viability and sustainability of the area.

How MMD Facilities Facilitate Financing of Infrastructure Improvements

- The MMD will provide the extra revenue stream necessary to generate needed funding to finance infrastructure improvements.
- MMD financing will supplement revenues anticipated from the creation of a future TIF

Trinity River West Map



Important Dates for MMD Creation During the 81st Legislature

- January 20, 2009 – Economic Development Committee Briefed on MMDs.
- February 11, 2009 – City Council considers ordinance/resolution consenting to creation of district.
- February 12, 2009 – Notice of intent to file legislation printed in newspaper; letter of intent to file legislation sent to each person who owns real property in proposed district.
- March 13, 2009 – Earliest date bill can be filed (following 30-day notice period.)
- February-April 2009 – Bill assigned to committees; committee hearings held.

Important Dates for MMD Creation During the 81st Legislature

- May 22, 2009 – Last day for house to consider local house bills.
- May 27, 2009 – Last day for house to consider local and consent senate bills on second reading or any senate bills on third reading. Last day for senate to consider any bills on third reading.
- June 1, 2009 – Last day of session
- June 21, 2009 – Last day governor can sign or veto bills passed during session.
- August 31, 2009 – Date that bills without specific effective dates (that could not be effective immediately) become law.

Conclusions and Recommendations

- MMDs are **powerful development tools** which have proved to be effective when **properly structured** and **focused** on **well defined areas**
- They are **self-taxing vehicles** with the ability to **levy property taxes, special assessments** and **impose Impact Fees**, the revenues from which **support** the **issuance of Bonds** which **require Council approval**, but **don't impact City Bonding Capacity**.
- **MMDs** are **often combined with TIFs** to provide supplemental revenues for infrastructure and other public improvements.
- **Primary issue** is **control** which must be addressed carefully in the enabling legislation

Conclusions and Recommendations

- **To mitigate control issues**, recommend proposed **state bill contain a provision suspending the power** of the Districts to **issue/create debt** of any kind or **impose taxes/assessments** until **City of Dallas and Districts negotiate/approve a mutually acceptable development agreement**
 - Covers development plans and financing of public infrastructure
 - Must include all elements of development including maintenance and ownership of completed infrastructure
- **Recommend moving forward** with a presentation to the **ECO Committee on Jan. 20th** and asking for Council approval of an **ordinance/resolution consenting to creation of Districts on Feb. 11th**.