

Introduction to Special Districts

Special Districts are forms of local government created by the State, Counties, and Municipalities in order to provide a specific service or services to a defined area. Special Districts are often referred to as special-purpose governments, since the law authorizes a District to provide only those services that are specifically defined in their enabling legislation. Conversely, the State, County, and Municipal governments are called general-purpose local governments and are not specifically limited in what services they can provide to their residents.

The reason for Special District creation is to provide the permanent administrative structure for financing and maintaining services or infrastructure traditionally provided by general-purpose governments when these governments are unwilling or unable to provide the service or capital improvement. Consequently, Special Taxing Districts are frequently substituting and/or complementing the capabilities of general-purpose governments. For instance, Special Districts provide water management in multi-county jurisdictions, public infrastructure in new developments, streetlights to neighborhoods without them, and fire protection for Cities and Counties. Special Taxing Districts are governed by an appointed/elected board and are empowered to serve as a public financing mechanism that provides accessibility to the tax exempt bond market to fund public infrastructure improvements.

History of Special Districts in Florida

The history of Special Districts in the State goes back to 1822 when Florida was still a territory. That same year when Tallahassee was established as the half-way point between the territory's only two cities of Pensacola and St. Augustine and Territorial legislators met in a log cabin marking the future capital, one of the first pieces of legislation passed was the Road, Highway, and Ferry Act of 1822. Realizing the importance of transportation for a growing territory, the act authorized the creation of the first Special Districts. Created to establish and maintain public roads, the first road districts had no taxation authority and solved their labor needs by conscription. Men failing to report to work were fined one (1) dollar per day.

Soon after Florida became a State, in 1854 the Legislature created its first Special District by a special act. Established to drain the "Alachua Savannah", the District had a five-member commission and had the authority to finance its activities by levying special assessments on owners of benefited property with assessments based on the number of acres owned.

The popularity of special districts to fund public works continued throughout the end of the 19th century as more settlers came to Florida. By the 1920's, the population had increased substantially in response to Florida's land boom. Many special districts were created to finance large engineering projects. Some of these special districts are still in existence today, such as the South Florida Conservancy District and the Florida Inland Navigation District.

By the 1930's, the surge of new residents created the need for the first mosquito eradication district and other very specialized districts. After World War II, the baby boom and Florida's growing popularity created the need for a variety of new special districts, such as aviation authorities and hyacinth control districts. Soon, beach erosion, hospital, and fire control special districts grew rapidly along with the traditional road, bridge, and drainage special districts.

Community Development Districts

In 1980, the State Legislature passed the Uniform Community Development District Act, which was codified as Chapter 190, Florida Statutes, which created Community Development Districts in the State of Florida. The intent of the legislation was to establish a growth management tool which ensured that growth paid for growth and provided an incentive for planned community development. Unlike Special Act Districts which are created by the State Legislature through the passage of a local bill that defines the Special Act District's unique powers, a Chapter 190 Community Development District under 1,000 acres is established within the County and/or Municipality it is located (the exception being Miami-Dade County whom establishes all Community Development Districts) while those over 1,000 acres are established by the Florida Land and Water Adjudicatory Commission (FLWAC). Chapter 190 Florida Statutes dictates the general and special powers available to Community Development Districts and the establishing entity reserves the right to grant or restrict any of the special powers. As of August 2015, there are 599 Community Development Districts located throughout the State of Florida and their continued growth and growing popularity among the development community demonstrates their effectiveness.

Today, Special Districts are the most common and numerous form of local government in the State. As of August 2015, there were 1,654 Special Districts in Florida.

Roles of Community Development Districts

According to the Section 190.002, Florida Statutes, Community Development Districts (CDDs) constitute a timely, efficient, effective, responsive, and economic way to deliver basic services. Furthermore, CDDs provide a solution to the state's planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers by implementing the so-called "growth pays for growth" principle.

Community Development Districts provide the permanent administrative structure for financing and maintaining services or infrastructure traditionally provided by general-purpose governments when these governments are unwilling or unable to provide the service or capital improvement. Consequently, CCDs frequently complement and/or substitute the service delivery capabilities of general-purpose governments in new developments.

CDDs may finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain the following basic infrastructure: water management and control; water supply, sewer, and wastewater management, reclamation, and reuse; bridges, culverts, roads and street lights; public transportation facilities and equipment; parking improvements, and related signage; conservation areas, mitigation areas, and wildlife habitats; other improvements as agreed upon by the local government having jurisdiction. After obtaining approval from a general-purpose government with jurisdiction over the area, the District may provide the following additional functions: parks and recreational, cultural, and educational facilities; fire prevention and control; school buildings and related structures; security; mosquitoes control; waste collection and disposal.

Benefits to Residents

Community Development Districts offer numerous benefits to residents. CDDs usually result in more upscale and better maintained communities that are today well known by developers, investors, and homebuyers alike. Some of the benefits of Community Development Districts include:

- Created as governmental agencies – Districts are governmental agencies with all benefits of a public entity.
- Operate not-for-profit – Districts provide services to landowners/residents at their own cost.
- Accountable to residents – Districts are accountable to landowners/residents as their boards are initially elected by the landowners and eventually elected by the qualified electors of the District and they operate in the open according to the Sunshine Law and Public Records Law.
- Protect residents from failure by the developer – Districts provide infrastructure and community services even if the developer fails.
- Protect residents who pay from those that do not – with foreclosure powers for nonpayment of assessments, residents/landowners who do not pay do not negatively impact those who do.
- Ensure that residents only pay for the amount of benefit they receive for as long as they receive it – residents/landowners pay only for the infrastructure and services that they receive within the District during the time they own a property within the CDD and do not subsidize the infrastructure and services provided outside the District boundaries.
- Provide for the operation & maintenance functions on an indefinite basis – the District operates as long as there is a need for its services and residents/landowners are willing to fund it.
- Provide for an orderly transition after the developer leaves – as the District constructs, operates, and maintains community infrastructure, there are no problems with a transition after the developer leaves.
- Offer amenities and benefits not usually found in typical developments – Districts can afford to provide amenities and services that would be prohibitive for a developer of a conventional community.
- Provide a cost-effective mechanism to provide community and subdivision-level infrastructure – low-cost financing and the ability to finance it over long-term provide for affordable and high-quality improvements on a District-wide as well as subdivision level.
- Long-term District financing matches the useful life of infrastructure assets – by utilizing twenty and thirty-year financing, the District can spread the cost of improvements over a longer period than that provided with conventional financing, minimizing annual landowner/resident payments.
- Provide permanent organizational and financing structure for continual operation and maintenance of District facilities and improvements as well as the eventual replacement/renewal of infrastructure as needed.
- CDDs operating as governmental entities can provide a higher and more consistent level of service than homeowners' associations.
- Districts employ professional managers and engineers who are in charge of infrastructure provision, operation, upkeep and eventual replacement.
- As governmental entities, CDDs are eligible to participate in the State of Florida Mutual Aid Program and upon the execution of proper interlocal agreement may request emergency aid from other governments.

- Public infrastructure costs of Districts are not included in the initial purchase price but rather spread over the life of the bonds, thereby lowering the amount of the mortgage they may need to qualify for.

Lake Powell CDD

The Lake Powell Residential Golf Community Development District serves the 724-acre Development of Wild Heron, a master-planned golf community located on the northern shore of the beautiful 657-acre Lake Powell. The District is located two miles east of the Walton County line near Florida's Gulf coast beaches. Panama City and Destin, both well known beach resort destinations are just 14 and 30 miles southeast and southwest of the Development, respectively. Access to the Development is from US Highway 98 which is the major roadway that follows Florida's coast line from Alabama to Apalachee Bay. The current development plan for the District provides for 599 residential dwelling units and an 18-hole golf course, as well as a private beach club, wetland enhancements and preserves, facilities for tennis, swimming and aerobics activities.

The District was established by Bay County on July 25, 2000 pursuant to Chapter 190, Florida Statutes. On December 22, 2000, the District issued three series of bonds; Series 2000A in the initial principal amount of \$9,760,000, Series 2000B in the initial principal amount of \$10,720,000, and Series 2000C in the initial principal amount of \$5,105,000. In 2012, the District refunded the Series 2000A Bonds (the only bonds that remained outstanding at that time) with proceeds of Series 2012 Refunding Bonds in the original principal amount of \$5,160,000. The Series 2012 Bonds mature on November 1, 2032 and have an average coupon rate of approximately 5.6565%, resulting in approximately 11.9% savings in annual per unit assessments while maintaining the same repayment period. As of August 2015, outstanding principal of the 2012 Bonds is \$4,570,000.

The original construction proceeds generated as a result of the issuance of the Series 2000A, 2000B, and 2000C bonds were originally intended to fund a significant portion of the original \$28,585,105.96 in public infrastructure program, however, subsequently a much larger part of the infrastructure was funded by the developer with private financing, allowing for early repayment of all of Series 2000C Bonds and a portion of Series 2000B Bonds. Generally, the improvement categories financed by the District were roads, off-site improvements, bridges, storm water management, utilities, wetland mitigation and conservation, landscaping & irrigation, roadway lighting, recreation and parks, and acquisition of jurisdictional wetlands and preserved uplands.

As defined in the District Engineer's Report, the infrastructure constructed to serve the Wild Heron Development consists of several components. The on-site roads and a bridge are party owned by the CDD and the Property Owners' Association (POA) and are maintained jointly by the CDD and POA, while the approximately 1.4+- miles of offsite roadway is dedicated to Bay County and therefore is the County's maintenance responsibility. The offsite roadway was constructed for access to Wild Heron from US Highway 98.

The storm water management system within the Development consists of two components. Part one is located within the right-of-ways (ROW) and was funded partly by the CDD and the developer. This part is currently owned and operated in part by the CDD and in part by the POA. Part two is located outside the ROW and like part one was funded partly by the CDD and the

developer, with operation responsibilities shared between the CDD and POA. The storm water management system indirectly discharges storm runoff into Lake Powell.

Even though the District is located in an unincorporated Bay County, it is within the Panama City Beach Utilities (PCBU) water and wastewater service area. According to the Engineer's Report, the District's utility system consists of approximately 5.7 miles of gravity line and 5.4 miles of force main, which the District funded and which it currently owns, operates and maintains as a retail service provider. Currently, the District customers pay a legally permitted 25% surcharge to PCBU, due to the District being located outside the City's municipal boundaries. The District has a Water & Sewer Utility Fund which charges District customers for the operations and maintenance of its own system.

The non-potable irrigation system serving the Development consists of three components: the irrigation supply system of wells and storage basins; a pumping station and irrigation mains for the right-of-ways; and a pumping station and irrigation mains for the golf course. The first component was funded jointly by the golf course, the developer and the CDD and is currently owned and maintained by the golf course and the CCD and POA. The second component was funded by the CDD and the developer and is currently operated and maintained jointly by the CCD and POA. The third component was funded exclusively by the golf course and is currently operated exclusively by the golf course.

The District also funded in part the mitigation and wetland restoration plan which included a comprehensive package of wetland and upland preservation, wetland restoration, wetland enhancement, upland restoration, upland enhancement, endangered species habitat restoration, and coastal zone/marine protection measures. Approximately 165 acres of isolated and connected wetlands have been placed under a conservation easement that precludes future impacts to the wetlands. In addition to the wetlands, the District includes approximately 36 acres of upland preserve which provides buffers to the shoreline of Lake Powell and upland pods of the interior of the District which are significant for wildlife and habitat connectivity. Such mitigation and preservations lands are owned and maintained in part by the CDD and in part by the POA.

Landscaping was funded by the District and developer for the roadways, entrances, the public service areas, and common areas. Landscaping was also included in the upland and wetland restoration project as well. From a broader perspective, the plan was to incorporate native vegetation in all areas possible to retain the current rustic and native look of the site. Currently, the landscaping maintenance responsibilities within the Development are shared between the CDD and the POA.

Roadway lighting was constructed for the entrance features up to and including the first bridge which is considered an offsite improvement. Onsite, the primary roadway and secondary roadway systems are served with lighting at regular intervals. The District funded a portion of the roadway lighting, and it currently owns, operates, maintains it, with the balance the balance being the responsibility of the POA.

Recreation and park facilities in the Development were funded by the developer and are currently privately operated and maintained. The District funded, owns and operates and maintains the security infrastructure, consisting of a gatehouse at the entrance to the Development.