

# FARMERSVILLE Economic Development Corporation City Council Community Development Corporation Tax Increment Reinvestment Zone SPECIAL TRAINING MINUTES May 26<sup>th</sup>, 2022, 6:00 p.m. Council Chambers, City Hall 205 Main Street

### PRELIMINARY MATTERS

Matt Crowder opened the meeting at 6:00 p.m. on May 26<sup>TH</sup>, 2022, in the City Hall Council Chambers with the following board members present: Matt Crowder, Robbie Tedford, Randy Rice, Elise Bobitt and Jeff Sydney. City staff present, City Manager Ben White, City Finance Daphne Hamlin. Councilman Mike Henry, Mayor Bryon Weibold, Farmersville Commnity Development Corp Board members Donna Willams and Stephen Caspari, TIRZ Board member Tommy Ellison, and Advisory Board member Randy Smith.

### **SPECIAL AGENDA**

# A. <u>LOCAL INCENTIVES TRAINING PRESENTED BY GREG LAST WITH EDP BEST PRACTICES, LLC.</u>

Mr. Greg Last a Certified Economic Development Manager started own business in 2013 working with 80 plus cities.

Mr. Last will give a power point presentation on local incentive's – what we can do to manage within our own city.

Mr. Last has written twenty-three different policies related to the presentation

Attached is a copy of the presentation given to the board members

ADJOURNMENT: 8:00 p.m.

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ATTEST:

APPROVE:

matt Cowder

Randy Rice, Secretary

Matt Crowder, Chairman



### **Local Incentives Overview**

- Terminology / Definitions
- Statutory authorizations
- Project limitations
- Special districts
- Fund sources and uses
- Potential local incentives
- Examples



Introduction

# **Terminology / Definitions**

- Incentives: Any number of inducements that an agency / community / state might offer to a prospect to entice them to remain, expand, or locate within a preferred area
- Incentive Agreement: An agreement identifying business requirements and Agency incentives (Abatement, 380, PA-Perf. Agrmt.)
- <u>Grants</u>: Funds provided to businesses in exchange for performance per Ch. 380 or PA
- Recapture (Clawbacks): Clause to require repayment of incentives if they don't perform



Introduction

# **Terminology / Definitions**

- Primary Jobs: Defined in LGC Ch. 501
- A job that is available at a company for which a majority of the products or services of that company <u>are ultimately exported</u> to regional, statewide, national, or international markets <u>infusing new dollars into the local economy</u>; and
- Included in one of the identified sectors of the North American Industry Classification System (NAICS)
- Links to LGC on website



Introduction

# **Terminology / Definitions**

- Ad Valorem Tax: Taxes on Real and Tangible **Business Personal Property**
- Real Property: Land, buildings, affixed asset
- Business Personal Property (BPP): Furniture, fixtures and equipment (FFE)

Property - Business Personal: Shall mean the tangible and movable items used in the course of business not permanently affixed to, or part of, the real estate. Examples of Business Personal Property include

- Sales Taxes: Sales and use taxes
  - -State: 6.25%
  - -Local: Maximum of 2%



Introduction

# **Terminology / Definitions**

www.EDPBestPractices.com / Resources

Absorption - ACCRA - Acre - Ad Valorein Fax - Advanced Symposium - ALDC - ALDO - AIA - AICP - AIUC - Allice - Alumni Data Bank - Americation - Ana - Appraical - ASCL - ASSCL - ASSC

Provides Princip But Princip But Confidence Development weeks - Competitive Call Century But Captured Captures - Captures Community Previolpment - Community Life Cycle - Community Profile - Comparable - Comprehensee PlanCumputes Terms - Consept Plan - Condemnation - Contingency Quots - Control Time - Contract Procurement
Centes - Convention Burgari - CoreNet Global - Cost Reselfi Analysis - Cost of Living - CPI - Critical Path
Method - GRA - Crisis Identification - CUEP - CUEP - CVB - Beerks - Dedication - Beerd Restriction - Ded aut
Positions - Demographics - Density - Developer - Deregulation - Destination - Use - Determine Pond
Developer's Agreement - Development Costs - Development Process - Digital Orlin Photography - Digitzing
Discretionary Income - Distribution Center - Devesiblest Economy - Double Crarking - Itrainage Map - Due



Introduction

# **Statutory Authorizations**

- Corporations: Development Corporations Act of 1979, now in Ch. 501-505 of the Local **Government Code (LGC)**
- -Type A Corp: Regulated by Ch. 504 of LGC
- -Type B Corp: Regulated by Ch. 505 of LGC
- MDD: Regulated by Ch. 377 of LGC
- Project Limitations: A primary characteristic is whether or not the "Project" requires **Primary Jobs**



Statutory Authorizations and Limitations

### **ED Codes & Statutes**

https://www.edpbestpractices.com/resources/e-d-statutes

### Texas Local Government Code

- Chapter 372: Public Improvement Districts (PID)
- Chapter 375: Municipal Management Districts (MMD)
- . Chapter 377: Municipal Development Districts (MDD)
- Chapter 378: Neighborhood Empowerment Zones (NEZ)
- Chapter 380: 380 Grants / Agreements
- <u>Chapter 501</u>: Development Corporations
   <u>Chapter 502</u>: Provisions Regarding Type A and B Corporations
- Chapter 504: Type A Corporations
- . Chapter 505: Type B Corporations



Statutory Authorizations and Limitations

### Texas Tex Code

- Chapter 311: Tax Increment Financing
- Chapter 312: Property Redevelopment and Tax Abatement
   Chapter 313: Economic Development Act ISD Value Limitations and Credits
   Value Limitation and Tax Credits Tx Comptroller's Office
   Understanding Chapter 313 TTARA
- Chapter 351: Municipal Hotel Occupancy Tex
   THLA HOT Overview for Municipalities
- Section 11.251: Freeport Exemption
- Section 11.253: Goods in Transit Exemption
   Freeport and Goods in Transit Exemptions Tx Comptroller's Office

### Texas Government Code

- Chapter 2256: Public Funds Investment Act
   Chapter 2303: Enterprise Zones
- - · Enterprise Zone Resources Tx Comptroller's Office



Statutory Authorizations and Limitations

PROPERTY AND ADDRESS OF THE PARTY AND ADDRESS	Type A Corporation Type B Corporation Municipal Dev. District					
Type A Corporation	Type B Corporation	Municipal Dev. District				
Created by LGC 501-505	Created by LGC 501-505	Created by LGC 377				
A corporation	A corporation	A political subdivision				
Files Articles of Incorp.	Files Articles of Incorp.	NA, not a corporation				
Bylaws required	Bylaws required	Authorized to adopt governing rules				
Boundary: City Limits	Boundary: City Limits	Boundary: Any portion of City or ETJ limits				
1/8, 1/4, 3/8, or 1/2 of 1%	Same	same				
BOD: At least 5, appt. by CC, no residency reqmts.	7 members, appt. by CC, 3 cannot be employees, officers or CC members, residency restrictions	At least 4, appt. by CC, no restrictions				
Subject to Open Mtgs Act	Subject to Open Mtgs Act	Subject to Open Mtgs Ac				
Mtgs in City or County	Mtgs in City or County	Mtgs in City				
Source: Summary by Messer-Fo	ort-McDonald dated 2020					



Statutory Authorizations and Limitations

### Please consult your attorney for details and clarifications

Type A Corporation	Type B Corporation	Municipal Devel. District
Public hearings not require Aprojects Public hearings reqd for Type B projects. Can do B if election held or adopt ord if <7,500 Plus 2 separate readings reqd by CC if \$10,000 or >	1 public hearing reqd unless project defined in LGC 501 and pop < 20,000	No publications, public hearings or PA's required
50 day waiting period after 1st notice to expend funds for Type B project	60 day waiting period after 1st notice to expend funds for Type B project	None
Subject to Public Inf. Act	Subject to Public Inf. Act	Subject to Public Inf. Act as political subdivision

See EDP Type A-B-MDD Permitted Projects Summary for comparison of projects



Statutory Authorizations and Limitations

### https://www.edpbestpractices.com/resources/type-a-b-projects

Type A - B Development Corporations and Municipal Development Districts Permitted Projects Summary<sup>o</sup>



Type A	Type 8	MOD	Project Criteria
			[501:101] The fand, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are found by the board to be required or suitable for the idevelopment, retention or expansion of:
P	P	9.	Manufacturing and industrial facilities
p.	P		Research and development facilities
6	i P	67	Military facilities, including closed or realigned military bases
W²	W²	Р	<ul> <li>Transportation facilities, including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, related infrastructure located on or adjacent to an airport or railport facility, marine ports, inland ports, mass commuting facilities, and parking facilities</li> </ul>
W	W <sup>2</sup>	p:	Sewage or solid waste disposal facilities
p	P	P	Recycling facilities
W <sup>1</sup>	W <sup>2</sup>	p	Air or water pollution control facilities
W <sup>4</sup>	W <sup>2</sup>	Р	Facilities for furnishing water to the public
p	P	p	Distribution centers
Р	р	Р	<ul> <li>Small warehouse facilities capable of serving as decentralized storage and distribution centers.</li> </ul>



Statutory Authorizations and Limitations

# **Pay Attention to Fund Sources**

### Sources

City General Fund

Type A

Type B

· MDD

Hotel Occup. Tax

### Uses

Total flexibility

Primary Job

More flexibility

· Most similar to B

Tourism



Local Incentives

# **Types of Local Incentives**

Ad Valorem Taxes

Freeport

• 380 Grants

Districts

 Hotel Occupancy Tax (HOT)

Financial

Employment

· Land / Building

Infrastructure

Procedural

Development

"Creative"



Local Incentives

### Tax Abatement

- Authorized by Chapter 312 of the Texas Tax Code
- Must create Reinvestment Zone
- Requires written Agreement
- Real and Business Personal Property
- Max term of 10 years
- School districts cannot participate
- County can participate



Ad Valorem Tax Relief

### **Tax Abatement**

- The business does not have to pay a portion of the City's AV taxes
- · Business may benefit from not paying, more so than getting the money back in grants
- Involves more public hearings, notices, time
- Tax Abatement Policy must be no more than two years old



Ad Valorem Tax Relief

### Tax Freeze

- Typically used in conjunction with significant improvements to a property
- Frequently "Historic" renovations
- Freezes the City portion of Ad Valorem taxes for a specified number of years
- Could be an incremental increase
  - Year one 100% grant back of increase in taxes
  - Year two 80% granted back
  - ... After 5 years they pay all taxes due w no grant



Unique Incentive Programs

### **ISD Value Limitation**

- Authorized in Chapter 313 of Texas Tax Code
- A school district may enter an agreement electing to temporarily tax only a set amount of the investment for a period of up to 10 years
- Limit only applies to maintenance and operations tax (M&O) amounts
- The limitation does NOT remove property from the tax rolls – it delays the time that new investments go on to the tax rolls at full value



Ad Valorem Tax Relief

# **ISD Value Limitation**

- Required Investment: Differs depending on property value of district. A higher level of investment is required in very large or property-wealthy districts. Smaller / rural districts may offer a more advantageous lower value limitation.
- <u>Eligible Property</u>: Land, buildings, and certain tangible BPP, such as machinery and equipment, but NOT inventories



Ad Valorem Tax Relief

# **Freeport Exemption**

- Authorized by Texas Tax Code
- The Freeport Tax Exemption is a property tax exemption that includes various types of property detained in Texas for a short period of time
- The Freeport goods qualify if they leave Texas within 175 days from the date they are brought into or acquired in the State
- "Triple Freeport" = City / School / County



Ad Valorem Tax Relief

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# **Freeport Exemption**

- The exemption applies to goods, wares, ores, and merchandise other than oil, gas, and petroleum products (defined as liquid and gaseous materials immediately derived from refining petroleum or natural gas) and to aircraft or repair parts used by a certificated air carrier
- Goods must be in Texas for assembling, storing, manufacturing, repair, maintenance, processing or fabricating purposes



Ad Valorem Tax Relief

# **Chapter 380 Agreements**

- Authorized by Chapter 380 of the LGC
- "The governing body of a municipality may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality."



Statutory Authorizations and Limitations

# **EDO Performance Agreements**

- Sec. 501.158. PERFORMANCE AGREEMENTS.
- (a) A corporation may not provide a direct incentive to or make an expenditure on behalf of a business enterprise under a project as defined by Subchapter C of this chapter or by Subchapter D, Chapter 505, unless the corporation enters into a <u>performance agreement</u> with the business enterprise.
- (b) A performance agreement between a corporation and business enterprise must:
  - (1) provide, at a minimum, for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement; and
  - (2) specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement.



**Statutory Authorizations and Limitations** 

### Grants

- Chapter 380, 381 or 501.158 provisions
- Ad Valorem Taxes:
  - -The City grants back to the business a portion of the City's AV taxes paid
- Sales Taxes:
  - The City grants back to the business a portion of the City's sales taxes generated by the business
- EDO Sales Tax (Performance Agreement):
  - The EDO provides a grant as an incentive using the EDO sales taxes



Grants

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### Grants

- More "performance based"
- · Less notices, hearings, cost, no "zone"
- Individual business: A portion of the City sales taxes paid by customers of the business are granted back to the business
- Retail development: A portion of the City sales taxes paid by customers of all businesses in the development is granted to developer



Grants

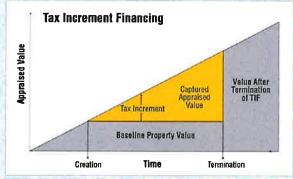
# **Tax Increment Financing**

- <u>Authorized by</u>: Chapter 311 of the Texas Tax Code
- Must create Reinvestment Zone
- Develop Project Plan and Financing Plan
- Real Property AV Taxes and / or Sales Taxes
- The incremental increase in taxes above a base goes back into the Reinvestment Zone
- · Be careful when it starts, time flow of \$



Statutory Authorizations and Limitations

# **Tax Increment Financing**





Statutory Authorizations and Limitations

# **Public Improvement Districts**

- Authorized by: Chapter 372 of the LGC
- Governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's ETJ.



Statutory Authorizations and Umitations

# **Hotel Occupancy Tax**

- Authorized by Chapter 351 of Texas Tax Code
- Must meet two thresholds
  - Expenditure must promote tourism and the convention and hotel industry
  - Must meet certain project requirements:
     Convention Centers; Convention Registrants;
     Promotional Programs; Arts (15% limit);
     Historical Uses; Sports Facilities; Signage;
     Transportation Systems



**Hotel Occupancy Taxes** 

### Loans

- Loan Guarantee
  - Provides a guarantee to the lender that the business loan will be paid off
- Forgivable Loan
  - Provides a loan that is "forgiven" a portion at a time over time based on performance
    - > E.G. A five-year forgivable loan of \$50,000 that is reduced by \$10,000 each year a business exists in a building
- Revolving Loan Program



Financial Incentives

### Fee Waivers-Reductions-Credits

- Entitlement processing fees
  - Application fees for zoning, site plans, platting
- Building Permit Fees
- Administrative fees to review building plans and inspect construction
- Be careful not to give up fees that are to be paid to third parties (unique fire inspections)
- -Don't include certain inspections (holiday, etc.)
- Misc. Permit Fees
  - -Signs, tree removal, earth disturbance



Fee-Related Incentives

### **Fee Waivers-Reductions-Credits**

- Public Works Review & Inspection
  - Typically for construction plan review and inspections of public infrastructure
  - E.g. 5% of public construction costs







Fee-Related Incentives

# **Exactions - Impact Fees**

- Attorneys differ on a City's ability to "waive" Impact Fees
- Can be "credited" against a qualifying project
- Can be paid and then "granted" back
- Must be "eligible improvements" [on CIP]
- Do not give up any "pass-thru" fees (Regional water supplier)



Fee-Related Incentives

### **Exactions**

- Park Dedication Fees
- Can meet by dedication of park land or payment of fees
- Rarely used on commercial properties, can be waived / credited with any kind of open space
- Storm Drainage Mitigation Fees
  - Pro-rated participation in down-stream costs



Fee-Related Incentives

# **Employment Related Incentives**

- Relocation Assistance: A grant amount per employee that relocates to the City
- <u>Cash for Jobs</u>: A grant for each job created (better terminology is Employment Grant)
- Employee Recruitment Assistance: A grant amount to provide assistance in the recruiting of employees
- <u>Desired Salary</u>: A grant only for those positions that meet a minimum salary



**Employment Incentives** 

# Land / Building Related

- <u>Free Land</u>: Land conveyed from the EDO to the business for free
- Free Building: A building conveyed from the EDO to the business for free
- <u>Build-to-Suit / Leaseback</u>: City / EDO builds a building to the specifications of a business and they lease it



Land / Building Incentives

# Roadways / Rail

- Road participation programs
- Road extensions to a project
- Rail system enhancements
- · Rail spur to a site







Infrastructure Incentives

### **Utilities**

- Water line oversizing
- Utility extensions to site
- Internet availability
- Electrical redundancy thru transformers and sources
- Gas extensions to a site







Infrastructure Incentives

# **Process Enhancements**

- Fast-track entitlement processing
  - Quicker review, meeting sequencing, readings
- Fast-track permitting
  - -Move plans to the front of the line
- Inspections
  - Dedicated inspector(s) on job site
  - -Do not give up 3rd party costs that you have to pay



**Procedural Incentives** 

# **Demolition - Temple**

- · City will consider demolishing buildings, signs or parking lots, and disposing of same at City's costs
- Will not demolish buildings with reasonable probability of asbestos unless abated
- Will also consider 1:1 matching-grant for certain aspects of demolition







Unique Incentive Programs

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# **Asbestos Program - Temple**

- Provide a 1:1 matching-grant for an ownerinitiated asbestos survey of a building and for asbestos abatement for a building on eligible property
- Eligible costs include professional fees, labor costs, select demotion / removal costs, and replacement materials



Unique Incentive Programs

# "Creative" Incentives

- Country Club Memberships
- Tickets to entertainment / sky boxes
- Street Naming
  - Bass Pro Drive Grapevine
  - ATT Drive Arlington
  - -1 Cabela Drive Fort Worth
- Signage
  - -Variances as to size and location
- Shotguns / entrance gates / boots / etc.



Creative Incentives

# **Local Incentive Examples**

- Ad Valorem Taxes (City only)
  - -50% tax abatement on the real and tangible BPP for 10 years
  - Step down tax abatement of 40% 30% 20% 10% for 4 years
  - -100% grant back of all AV taxes for a period of 10 years from the date of voluntary annexation



Local Incentive Examples

### Sales Taxes

- Grant back 50% of all sales taxes collected by the City for a period of 5 years
- Grant back 50% of sales taxes collected towards cost of parking garage, NTE 50% of the actual cost of the garage

### HOT

- Grant back 50% of HOT collected by the City for use in marketing and promotion of hotel
- Grant back NTE 15% of HOT collected for 4 years and NTE 50% of the cost of sculptures in park



Local Incentive Examples

### Infrastructure

- Grant an amount equal to the difference between an 8" water line and the required 12" water line, NTE \$40,000, upon acceptance
- Credit the cost of roadway impact fees against the construction of the deceleration lane
- Participate in the cost of the off-site sanitary sewer NTE 50% of actual cost and NTE \$200,000

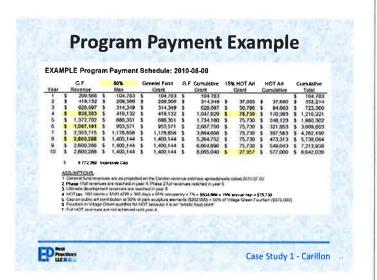
### Employment

 Provide a grant of \$1,000 for each employee with salary greater than \$30,000 and lives in the City



**Local Incentive Examples** 





Carillon General Fund revenue estimate dated 2010-07-02

 A. Does not include SPDC or CCPD sales and use tax revenues
 B. Revenues should be reduced by the AG exempt value of the land on the date of execution prior to any incentive grants (5.A.I)

 Program Payment Schedule dated 2010-08-09

 A. Phase I full revenues are reached in year 4
 B. Phase II full revenues are reached in year 6
 C. Ultimate development revenues are reached in year 8
 D. Incentive cap is \$5,480,000 (retail garages) + \$577,000 (public art) + \$475,187 (White Chapel west lanes) + \$320,692 (White Chapel east lanes) + \$1,919,390 (parks) = \$8,772,269.

 Hotel Occupancy Tax

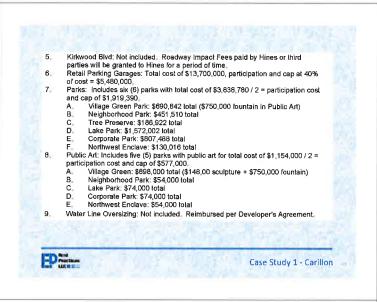
 A. 160 rooms x \$190 ADR x 365 x 65% occupancy x 7% = \$504,868 x 15% = \$75,730 annual cap
 B. Full HOT revenues are reached in year 4
 C. Circulating fountains in ponds do not qualify for HOT monies but focal point fountain in Village Green does and is included as Public Art

 White Chapel Blvd: Does not include turn lanes dedicated to development.

 A. Two Western Lanes: Includes 100% of total cost of \$475,187 (includes costs at intersection with SH 114 and N-bound left turns at Retail Drive and Kirkwood median breaks). This number used in cap lotal for generation of program payment example but is not capped in agreement.
 B. Two Eastern Lanes: Total cost of \$641,384 / 2 = participation cost and cap of \$320,692.



Case Study 1 - Carillon



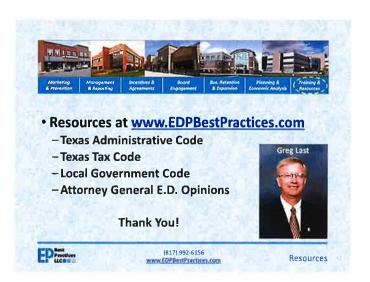


# **City Incentives Used**

- Grant 80% of the Ad Valorem real and business personal property
- Construct 4-lane blvd. adjacent to property
- Construct 12" water line along frontage
- Construct 8" sewer line to property
- Reduce fees by 50%
- Waive Park Dedication requirements
- Shorten approval process where possible



Case Study 2 - Forest Park Medical



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