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TAX INCREMENT REINVESTMENT ZONES

A. Definition and Creation of a TIRZ

1. A municipality may designate a contiguous or noncontiguous defined area of land within the municipality or extraterritorial jurisdiction as a Tax Increment Reinvestment Zone ("TIRZ") under Chapter 311, Texas Tax Code. Chapter 311, Texas Tax Code, also authorizes a county to designate a contiguous defined area of land as a TIRZ.

2. To be designated as a TIRZ, an area must:

   a. Be unproductive, underdeveloped, or blighted (See Article 8, Section 1-g, Texas Constitution); and

   b. Substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

      i. a substantial number of substandard, slum, deteriorated, or deteriorating structures;

      ii. the predominance of defective or inadequate sidewalk or street layout;

      iii. faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

      iv. unsanitary or unsafe conditions;

      v. the deterioration of site or other improvements;

vi. tax or special assessment delinquency exceeding the fair value of the land;

vii. defective or unusual conditions of title; or

viii. conditions that endanger life or property by fire or other cause;

c. Be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality; or

d. Be an area that is in a federally assisted new community located in the municipality or in an area adjacent to a federally assisted new community.

3. Taxing entities may participate in the TIRZ by dedicating the portion of their taxes collected on new development and redevelopment ("Tax Increment"), or portions thereof, to the TIRZ's "Tax Increment Fund." The municipality (or county) enters into a contract with each participating governmental entity ("Participant") establishing the terms of the participation. During the creation process the various Participants will work with the municipality to cooperatively plan for the TIRZ and the TIRZ Improvements.

4. Due to the complexities of the state's current public school funding system, most school districts would suffer adverse consequences for participation in a new TIRZ. School district participation in TIRZs created prior to September 1, 1999 has been grandfathered and does not adversely affect the participating school district's level of state funding.

B. Capture of Tax Increments

1. Participants in a TIRZ dedicate Tax Increment to finance TIRZ Improvements. (See below.)

2. The year in which a TIRZ is created is the "Base Year," and the appraised value of TIRZ real property in the Base Year is the "Base Year Value."

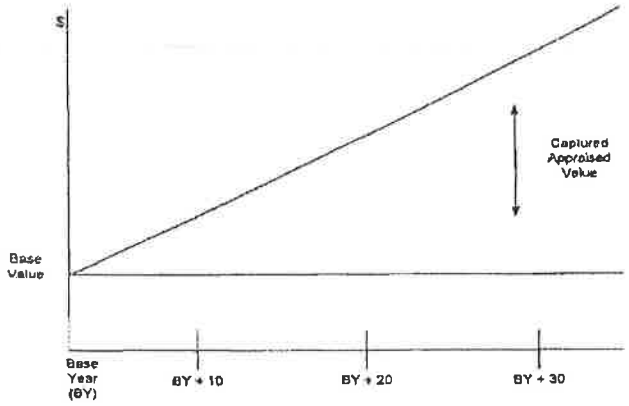
3. As development or redevelopment occurs, the appraised value of the property in the TIRZ increases.

4. The difference between the increased appraised value of property in the TIRZ and the Base Year Value is defined as "Captured Appraised Value."

   Captured Appraised Value = (Current Year Value) - (Base Year Value)

5. Taxes levied and collected on the Base Year Value remain with the Participant.

6. Taxes levied and collected on the Captured Appraised Value are Tax Increments and are sent to the municipality and deposited in the City's treasury. Tax Increments are dedicated to pay TIRZ Improvements.



7. In a similar manner, Participants may also contribute Sales Tax Increment to a TIRZ.

C. TIRZ Improvements

1. The Project Plan is the basic framework of the TIRZ. The TIRZ Board of Directors and the municipality (or county) draft a "Project Plan and Reinvestment Zone Financing Plan" (the "Project Plan") for the TIRZ, detailing the type, kind, number and location of public improvements to be constructed in the TIRZ. The costs of these public improvements are "Project Costs." The TIRZ is limited to paying for only those Project Costs described in the Project Plan. In general, Project Plans may be amended by the governing body of the municipality (or county).

2. A Project Plan may provide for the construction of needed public infrastructure for the area as well as encourage development, thus increasing property values and long term property tax collections. Encouraging certain types of development may ensure the viability of

more sustainable, higher quality types of development on a more accelerated timetable than would otherwise occur.

3. Examples of public works and improvements that may be included in Project Plans:

   a. Roads, streets and bridges

   b. Transit facilities

   c. Pedestrian improvements

   d. Water, wastewater, drainage and detention facilities

   e. Parks, plazas and open spaces

   f. Recreation facilities

   g. Places of public assembly

   h. Affordable housing

   i. Schools and educational facilities

   j. Rehabilitation of historic structures

   k. Environmental mitigation and abatement

   l. Removing slum and blight

D. TIRZ Financing

1. A municipality may directly issue Tax Increment Bonds.

2. Alternatively, the municipality may create a Local Government Corporation ("LGC") under Chapter 431, Transportation Code, to issue bonds on behalf of the municipality and manage the affairs of the TIRZ.

   a. The LGC issues bonds, notes or other obligations for the TIRZ instead of the City having to issue bonds in its name.

   b. While the governing body of the municipality typically approves the bonds before the LGC issues them, this arrangement allows for greater flexibility and protection of the municipality's credit.

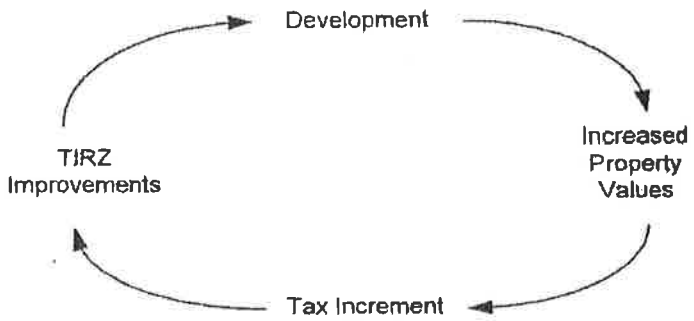
3. Tax Increments are pledged as security for Tax Increment Bonds, the proceeds of which are used to pay for TIRZ Improvements.

4. Counties may not issue Tax Increment Bonds.

E. Public/Private Cooperation through TIRZs

1. A TIRZ can be an ideal vehicle to forge public/private partnerships. A TIRZ can enter into an agreement with a private developer to construct TIRZ Improvements. The developer agrees to construct and pay for the cost of construction of a particular TIRZ Improvement. In turn, the TIRZ agrees to reimburse the developer for the Project Costs of such TIRZ Improvement, if and when funds are available for such purpose. Thus, the financial risk is shifted from the TIRZ to the developer. Typically, the TIRZ reimburses a developer from bond proceeds if bonds have been issued or directly from available Tax Increment.

2. Development agreements are valuable tools for TIRZ Boards. A TIRZ can use a development agreement to construct TIRZ Improvements long before Tax Increments or bond proceeds are available to pay for the TIRZ Improvements. These early TIRZ Improvements can play a key role in encouraging the development or redevelopment of the TIRZ by increasing the appraised value of property within the TIRZ and generating Tax Increment.



3. For example, a TIRZ may be created over an area that suffers from an inadequate street grid network. The absence of streets inhibits the development of the property. The TIRZ enters into a development agreement to construct a system of streets.

   a. The street improvements begin the cycle of investment in the TIRZ. The streets are constructed long before Tax Increments exist to pay for their construction. The new streets open up property for development, generating the Tax Increment used to reimburse the developer. The financial risk of the TIRZ is shifted to the developer.

b. The developer would ordinarily bear the costs of constructing the streets in the development and pass such costs along to the consumer purchasers of land within the development in the form of higher lot prices.

c. The reinvestment in the area occurs without any additional property taxes.

d. This often allows property within the corporate limits of a municipality to be developed competitively with property in unincorporated areas.

F. Governance of a TIRZ

1. State law provides for the appointment of a TIRZ Board of Directors (the "Board"). The Board is charged with implementing the Project Plan. In general, the Board is appointed by the municipality (or county) and other Participants. In some instances, representatives of the State Senator and State Representative for the area serve on the Board.

2. As discussed above, frequently the municipality creates a LGC to implement the Project Plan, develop TIRZ Improvements, enter into development agreements, issue Tax Increment Bonds, and manage the TIRZ's finances. The Board of Directors of the LGC often consists of the same individuals as the Board of Directors of the TIRZ.