

# ECONOMIC DEVELOPMENT

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**Riley Fletcher Basic Municipal Law Seminar**

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# DUE DILIGENCE

- Request List of Executives Representing the Company
- Secretary of State's Website: Business Entity Search
- Foreign entities registered in Texas (Search Parent State's SOS Website) \*Delaware reports if there are any delinquent taxes owed.
- Pacer Search for pending lawsuits (Bankruptcy Lawsuits)
- Get buy-in soon as possible (Letter of Intent) before executing Final Agreement

# Different Tools

- 4A/4B Economic Incentive Agreements
- Municipal Development Districts
- Chapter 380 Incentive Agreements
- Property Tax Abatement
- Tax Increment Reinvestment Zones
- Public Improvement Districts
- Planned Unit Development Districts
- Expedited Permitting Process
- Public Private Partnership Coordination Agreements
- Philanthropy and other key partnerships



## Background

# Texas Development Corporation Act



**1979**

Texas Legislature adopted the TDCA allowing municipalities to create “non-profit development corporations” that could promote the creation of new and expanded industry and manufacturing activity within the municipality and its vicinity.”



**1989**

Texas Legislature amended the TDCA to create Section 4A (primarily to promote new/expanded industrial and manufacturing activities).



**1991**

Texas Legislature amended the TDCA to create Section 4B (with the intent to expand availability of a city to promote economic development, including quality of life improvements).



# Type A Corporations

## Sales Tax Revenue CAN be Used

- Manufacturing and industrial facilities, recycling facilities, distribution center, and small warehouse facilities.
- Regional or national corporate headquarters facilities, primary job training facilities operated by higher education institutions, job training classes, telephone call centers and career centers not located within a junior college taxing district.
- Certain infrastructure improvements that promote or develop new or expanded business enterprises.
- Aviation facilities
- Commuter rail, light rail or commuter bus operations
- Port-related facilities, railports, rail switching facilities, marine ports, inland ports.
- Maintenance and operating costs associated with projects.

**Resource: Texas Comptroller's Office:**  
<https://comptroller.texas.gov/economy/local/type-ab/>

**FORTUNE 500 COMPANIES IN TEXAS**  
The Lone Star State is home to 53 Fortune 500 corporate headquarters.  
Revised: May 2022

Map of Texas showing major cities: Amarillo, Lubbock, Fort Worth, Midland, Austin, San Antonio, El Paso.

Logos of Fortune 500 companies in Texas:

- ExxonMobil
- PIONEER NATURAL RESOURCES
- TEXAS INSTRUMENT
- JACOBS
- ENERGY TRANSFER
- ENLINK MIDSTREAM
- AECOM
- CBRE
- Southwest
- Kimberly-Clark
- MCKESSON
- D-R HORTON America's Builder
- HOLLYFRONTIER CORPORATION
- Builders FirstSource
- Charles Schwab
- Celanese
- ConocoPhillips
- CenterPoint Energy
- ENTERPRISE
- Westlake Chemical
- TARGA
- KBR
- Baker Hughes
- OXY
- APA Corporation
- WM WASTE MANAGEMENT
- eog resources
- GROUP 1 AUTOMOTIVE
- QUANTA SERVICES
- Sysco
- PLAINS GP HOLDINGS
- nrg
- KINDER MORGAN
- Hewlett Packard Enterprise
- Academy SPORTS+OUTDOORS
- CHENIERE
- HUNTSMAN
- HALLIBURTON
- SWN Southwestern Energy
- USAA
- DIAMONDBACK ENERGY

# Type B Corporations

## Sales Tax Revenue CAN be Used

- Professional and amateur sports and athletic facilities, tourism and entertainment facilities, convention facilities and public parks.
- Related store, restaurant, concession, parking and transportation facilities.
- Related street, water and sewer facilities
- Affordable housing.

**To promote and develop new and expanded business enterprises that create or retain primary jobs, a Type B EDC may fund:**

- Public safety facilities
- Recycling facilities
- Streets, roads, drainage and related improvements.
- Demolition of existing structures.
- General municipally owned improvements
- Maintenance and operating costs associated with projects.

# MDDs (Municipal Development Districts)

- Local Gov't Code Ch. 377: Requires an election, including its ETJ, to create the district and adopt a sales tax to fund it.
  - Mirrors 4B EDC, authorized to fund the same projects but without the same procedures.
  - Funds may only be distributed within the District.
  - Considered a political subdivision.



# CH. 380 Tax Incentive Agreements

- Local Gov't Code Ch. 380: Likely the most flexible economic development tool. City discretion to provide grants and loans to promote all types of economic development projects.
  - Chapter 380 Incentive Program must be adopted by the city's governing body.
  - Must achieve a public purpose.
  - Limited to current funds and should review for compliance with city bond and grant documents.



# Property Tax Abatement

- Tax Code Ch. 312: Tax abatement program created by city resolution with specific guidelines and criteria.
  - Public Hearing Required
  - Designate Reinvestment Zone
  - Adopt and Implement Tax Abatement Agreement
  - Only exempts/rebates increase in value, not to exceed 10 years.







# MADEIRA SUBDIVISION

1,300-acre upscale community includes residential and commercial/retail development, including over 13 miles of Hike/Bike Trails, Community Parks/ Pools, Tennis Courts, etc.

**TIRZ** – Tex. Tax Code Ch. 311: Create a TIRZ to facilitate the development of the land, including public facilities and amenities.

**PID** – Tex. Local Gov't Code Ch. 372: Create a Public Improvement District (assessments applied to property owners).

**LGC** – Tex. Transportation Code Ch. 431 and Tex. Local Gov't Code 394 (has powers of a transportation corporation, including power to issue bonds and notes).

**Management District** – Tex. Local Gov't Code Ch. 375

## Resources:

Texas Comptroller's Office:

<https://comptroller.texas.gov/economy/local/ch311/tirz-process.php>

Texas City Attorney's Association: Administration of Public Improvement Districts/ TIRZ:

[https://tcaaonline seminars.org/?page\\_id=1977](https://tcaaonline seminars.org/?page_id=1977)

Texas Municipal League Economic Development Handbook:

<https://www.tml.org/DocumentCenter/View/1471/2020-Economic-Dev-HDBK-Final>

# TRES LAGOS

LIVE LIFE BY DESIGN



# Master Planned Developments and other Zoning Tools



**Planned Development Districts** – Tex. Loc. Gov’t Code Ch. 211: Most zoning ordinances often include planned development districts. Courts have upheld the use of PDs. See *Teer v. Duddleston*, 641 S.W.2d 569, 575 (Tex. App.–Houston [14th Dist.] 1982), 26 Tex. Sup. Ct. J. 544 (July 20, 1983), rev'd on other grounds, 664 S.W.2d 702 (Tex. 1984).

A planned development is defined as a “land area zoned for a single-community subdivision with flexible restrictions on residential, commercial, and public uses . . . an alternative to traditional zoning since it provides a mixing of uses”. Planned-Unit Development, Black’s Law, Black's Law Dictionary (11th ed. 2019).

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Opinion Guest Column

# Bernal: City of Brownsville stepped in when private sector failed to address community's broadband needs

By Noel Bernal - May 3, 2022 👁 1375 💬 0

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# P3 Public Private Partnerships/ Coordination Agreements



## Brownsville Public Utility

Allowed City of Brownsville to use its property and infrastructure to build out the City's dark-fiber (middle mile) network.



## City and Private Partners

Build and transfer the middle-mile backbone to the City. City will fund the construction with ARPA funds.



## Last Mile

City will host a lottery to award last middle mile connections and IRUs. Standard service on the network will be at least 100 megabits per second, symmetrical.

# Philanthropy

Elon Musk Foundation donated \$1 Million towards the revitalization of Brownsville's Historic Downtown and new housing opportunities.

Plano: Liberty Mutual Insurance issues \$1 Million grant to City to build inclusive park where siblings with and without disabilities can play together.



# Questions/Answers

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