

ECONOMIC DEVELOPMENT

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1

Different Tools

- 4A/4B Corporations
- Performance Agreements
- Municipal Development Districts
- Chapter 380 Incentive Agreements
- Land as an Economic Incentive
- Master Planned Developments/Expedited Permitting Process
- Public Private Partnership Coordination Agreements
- Philanthropy and other key partnerships
- Tax Increment Reinvestment Zones
- Public Improvement Districts



2

Additional Resources

Texas Comptroller's Office (TIRZ Information):

<https://comptroller.texas.gov/economy/development/prop-tax/ch311/about-tirz.php>

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

https://texascityattorneys.org/wp-content/uploads/2025/04/Petty-Houston_TCAA-PowerPoint-Presentation-FINAL.pdf

(Orrick, Herrington & Sutcliffe LLP and P3Works, LLC)

Texas Municipal League Economic Development Handbook (2025):

<https://www.tml.org/DocumentCenter/View/5576/Economic-Development-Handbook>



3

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

4

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/development/sales-tax/edc/projects-ab.php>

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.

5

EDC - Performance Agreements

- Developer Capital Investment:
 - Include defined "Commencement" and "Completion" Dates
 - Define type of construction/improvements
- Schedule of Additional payroll/jobs created or retained
- Terms of repayment/recapture



6

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.



7

MDDs (Municipal Development Districts)

- Example:

Proposition A: Subject to the termination of the Palmer Economic Development Corporation, authorizing the creation of the Palmer Municipal Development District and the imposition of a sales and use tax at the rate of one-half of one percent (0.50%) to finance development projects beneficial to the district within the incorporated City limits and extraterritorial jurisdiction of the City of Palmer, Texas, which boundaries shall automatically conform to any changes in the corporate boundaries and extraterritorial jurisdiction of the City.

FOR
AGAINST

Proposition B: Subject to the creation of the Palmer Municipal Development District, the termination of the Palmer Economic Development Corporation.

FOR
AGAINST

8

City - 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.



9

Land as an Economic Incentive

- Independent Foundation Exception (Ch. 272 TLGC)
- Must have a recapture clause if the proposed project is not completed.
- Recommended Process:
 - PSA from the City to the EDC, that includes:
 - PSA from EDC to Developer
 - Restriction Agreement between City and Developer (Revert/Repurchase if in default)
 - Special Warranty Deed
- SB 543 (2023): Ch. 380, similar function (must publish in newspaper) prior to the transfer.



10



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).

11

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 to 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.

12

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.



13

QUESTIONS:

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14