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## MEMORANDUM

**TO:** Ken R. DeMerchant, Fort Bend County Commissioner, Precinct 4  
Ahmad Alaswad, Chief of Staff

**FROM:** Harry H. Thompson

**DATE:** August 24, 2022

**RE:** Fort Bend County TIRZ # 1 Creation Process Overview

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### **I. Executive Summary**

This memorandum provides a summary of steps required to designate a new Tax Increment Reinvestment Zone #1 (“TIRZ”) within Fort Bend County (the “County”) by November 1, 2022. The concept would be for regional road and regional drainage to be included in TIRZ infrastructure, as well as County facilities such as a new community center or library. The TIRZ would also provide for the construction and maintenance of certain regional parks and recreational facilities within the TIRZ.

In a TIRZ, created pursuant to Chapter 311 of the Texas Tax Code, property tax revenues collected by a governmental unit within the TIRZ’s boundaries are frozen at a base level, and this amount is defined as the “Base Year Value.” The amount of tax revenues collected by the governmental unit above the Base Year Value times the governmental unit’s participation percentage – the “Tax Increment” – is deposited into the TIRZ Increment Fund to pay for infrastructure and capital improvements.<sup>1</sup> Thus, counties that have created a TIRZ will receive property tax revenues from the Base Year Value, but the incremental property taxes attributable to property at the governmental unit’s participation percentage will be allocated to the TIRZ.

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<sup>1</sup> Current Year Value – Base Year Value = Captured Appraised Value. The taxes on the Captured Appraised Value = Tax Increment.

### **Proposed steps (more detail below):**

1. Commissioners Court Meeting #1 (*September 6*)
  - a. Set public hearing date for TIRZ creation hearing (proposed 9/27)
2. Publish notice of hearing
  - a. ASAP after September 6 meeting
3. Commissioners Court Meeting # 2 (*September 27*)
  - a. Hold public hearing
  - b. County to select five directors to serve on TIRZ Board
  - c. County to enter resolution designating/creating TIRZ
4. TIRZ Board Meeting #1 (ASAP after step 3)
  - a. TIRZ Board meets to approve Preliminary Plan and Tri-Party Agreement
5. Commissioners Court Meeting # 3 (*October*)
  - a. Approves Final Plan, sign Tri-Party Agreement

## **II. Prepare Preliminary TIRZ Financing Plan**

The County must prepare a Preliminary Project Plan and Reinvestment Zone Financing Plan (the "Preliminary Plan") before adopting an ordinance designating a TIRZ. *See* Tex. Tax Code § 311.003(b). The contents of the Preliminary Plan are established under Chapter 311.011 of the Texas Tax Code. This Preliminary Plan will form the outline of specific infrastructure and costs with budgets that will be further developed by the TIRZ Board after creation. The Preliminary Plan will identify classifications and categories of infrastructure and identify some of the regional facilities that the TIRZ is established to finance. *Enclosed please find the Preliminary Plan we have discussed with the County.*

## **III. Conduct Public Hearing**

- A. Set Hearing Date.** The County must set a date for holding a public hearing on the designation of the proposed TIRZ and on the benefits to the County and to property in the proposed TIRZ. The public hearing should ideally take place at a County Commissioners' Court session in September or October.
- B. Public Notice of Hearing.** The County must provide public notice of the hearing on the designation of the proposed TIRZ by publication in a newspaper of general circulation in the County at least 7 days before the hearing. Tex. Tax Code § 311.003(c).
- C. Public Hearing.** The County must hold a public hearing regarding the designation of the TIRZ. Tex. Tax Code § 311.003(c).
  - a. Interested persons may speak for or against the designation, the boundaries or the concept of tax increment financing. The County must provide a reasonable opportunity or the owner of property to protest the inclusion of the property in a proposed reinvestment zone. Tex. Tax Code § 311.003(d).

#### IV. TIRZ Creation and Organization

- A. **Resolution.** After the public hearing, the County must adopt a resolution designating the TIRZ. The creation resolution will create the Board of Directors and will also appoint the Directors.
- B. **Composition and Qualifications of TIRZ Board Directors.** The TIRZ Board of Directors must consist of at least five (5) but not more than (15) Directors, unless otherwise required by statute. Directors are appointed for two-year terms, and terms may be staggered. To be eligible for a Director position, the individual must be over the age of 18 and must meet one of the following two requirements: (1) reside in the county or in the county adjacent to where the TIRZ is located; or (2) own real property within the TIRZ (it does not matter if the individual actually resides there). Tex. Tax Code § 311.009.
- C. **Organization of TIRZ Board of Directors.** The TIRZ Board of Directors will meet in organizational session to elect officers, hire consultants, adopt housekeeping resolutions, and authorize the preparation of a Final Project Plan and Reinvestment Zone Financing Plan (the “Final Plan”). The TIRZ Board should meet as soon as possible after the County’s creation resolution.

#### V. Approve Final Project Plan and Financing Plan and Tri-Party Agreement

- A. **TIRZ Approval.** After the County has adopted the resolution creating the TIRZ, the TIRZ Board must adopt the Final Plan. This can be done at the same meeting as the TIRZ Board’s organizational session. The Final Plan should be substantially similar to the Preliminary Plan. Further, the Final Plan will determine the County’s percentage of tax participation, with allowance being made for the County’s to remove from the increment fund costs associated with the provision of County services to residential homes that are funded from ad valorem taxes. The TIRZ Board will need to also approve the Tri Party Agreement at its initial meeting (more information below).
- B. **County Approval.** After the Final Plan is adopted by the TIRZ Board, the County must approve a resolution adopting the same. Hopefully, this will occur as soon as possible following the TIRZ Board’s organizational meeting.

#### VI. Administration of the TIRZ

Fort Bend County Municipal Utility District No. 162 will be the vehicle to implement the TIRZ (see below for Tri Party Agreement discussion).

#### VII. Agreements

When the TIRZ is designated, the following agreements will be needed:

**A. Tri Party Agreement.** Agreement between the County, the TIRZ and the District to implement and administer the TIRZ. This Agreement will provide that the District will receive, on an annual basis, its designated portion of the Tax Increment. The District can then use these revenues to either “pay as you go” for the regional improvements, or use these revenues as security for “contract revenue bonds” which can fund the improvements. The District will, using the revenues remitted by the TIRZ, maintain any improvements constructed as part of the Final Plan.

**B. Potential Development Agreement with the Developer.** There may be development or reimbursement agreements between the Developers and/or the County, the TIRZ and the District. The timing of these agreements is often driven by the demands of the project and the timing of the Developers and the District. At this point, however, no developer is seeking reimbursement from the TIRZ, and would likely be reimbursed by the District using bonds secured by the TIRZ revenues.

HHT