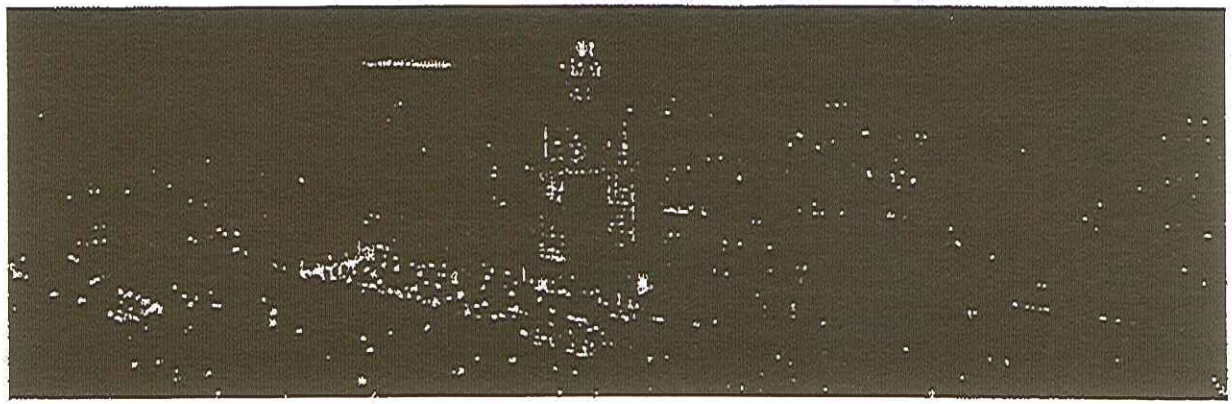
The Role of Planners in Tax-Stabilization Agreements (TSAs)



Ruben Flores-Marzan, AICP, LPP
Director
Department of Planning & Development (DPD)

Ways and Means Committee
February 26, 2014

Tax Stabilization Agreements (TSAs)

- Negotiated benefit(s) between a unit of government and a private entity for the dual purpose of offsetting a company's costs when opening, expanding and/or relocating to a particular destination and to expand economic growth in the jurisdiction.
- TSAs are just one of various tools available to governments to enable for sustained growth to occur:
  - Zoning bonuses
  - Impact fee waivers
  - Fast-track permitting
  - Grants
  - Loans
  - Tax Increment Financing (TIFs)

The Case for TSAs

- TSAs may:
  - Stimulate growth in stagnated areas
  - Create jobs (direct, indirect, induced)
  - Attract foreign investment
  - Diversify the economic base
  - Achieve shared goals as laid out in an adopted comprehensive community strategy/plan

The Case against TSAs

- TSAs:
  - May not be the most prudent way of using taxpayer dollars to generate sustained economic growth
  - May be perceived as granted to 'friends' for particular, individual projects that are not necessarily aligned with City goals
  - Take tax income away from other, equally important priorities (i.e. public services, infrastructure improvements)
  - Proponents would have developed their projects anyway
  - Require significant effort and resources to properly monitor and enforce over time
  - Potentially alienates existing businesses
  - Can fuel cannibalization between jurisdictions fighting for projects

Alternatives to TSAs

- Economic growth can be achieved by:
  - Capital Improvements Program: Provide funding for infrastructure projects that provide a public benefit to more than one property owner
  - Reducing 'red tape': Cut unnecessary/nonessential processes
  - Technology: Enable for online project submittals, open portals to enhance the sharing of information
  - Development and Implementation of a Comprehensive Plan/Strategy: Enable for the planning process to work by executing, monitoring and reevaluating a community's growth strategy
  - Tax Increment Financing (TIF) Districts: Selected areas of the community where the property tax collected on the increased property value of a new development is applied to pay for infrastructure enhancements and public service improvements
  - Public-Private Partnerships (P3s): Identify large-scale capital and public service improvements and structure long-term concessions/leases with the private sector

The TSA Process

- If a decision is made to enable for TSAs to continue playing a part in the City's economic policy, there should be criteria in place to ensure parties understand the process and its commitments:
  - Suitability: ensure project is a good match to address the circumstances affecting the proposed site and its vicinity
  - Consistency: ensure project is compatible with adopted community planning strategies, plans, programs and projects
  - Cost-benefits: ensure project is a win for both the proponent and the jurisdiction
  - Performance standards: ensure community receives tangent benefits from the project (jobs, capital improvements, goods and services provided by local businesses)
  - Legal requirements: ensure project complies with legally-binding terms so as to safeguard the public interest and taxpayer dollars

The Planners' Role

- DPD Planners could play a key role in terms of:
  - Suitability: Evaluating the environmental, economic, physical and social elements of the proposed project
  - Consistency: Identifying how the project's attributes further neighborhood and city-wide comprehensive planning goals, objectives and policies
  - Community Cost-Benefits: Weighing how these factors would impact the surrounding vicinity (Note: the economic component of the evaluation would have to be performed by an outside consultant)
  - Performance standards: Identification of proposed improvements and an evaluation of whether these are what the neighborhood needs. Tracking these projects (in collaboration with other City Departments) over time and analyzing how they impact the community would be the next step if a TSA is granted
  - Legal requirements: Provide technical assistance to the Law Department to ensure proponent complies with all the binding terms of the TSA agreement

Case Study: Ft. Worth, Texas

Fort Worth riverfront development looks like a winner

Posted Wednesday, Feb. 19, 2014 0 comments Print Reprints Share Like 3

ARTICLE COMMENTS

Have more to add? News tip? Tell us.

Fort Worth is considering $18.5 million in public incentives for a 63-acre development on prime riverfront land on the city's southwest side.

That's a lot of money, planned as rebates on some sales and property taxes gained by the city during the development's first 15 years. A City Council vote is expected March 4.

It's frustrating for taxpayers to see money flowing out to help developers with multimillion-dollar investments.

And not all the deals turn out well. They have to be examined case by case. This one, although not totally free of troubling points, looks like a winner.

Start with the land. It's part of the Lockheed Martin Recreation Association property off Bryant Irvin Road, along the Clear Fork of the Trinity River.

It's pristine acreage already surrounded by development, some of it high-dollar.

The development plan would capitalize on the location with public amenities, including a riverfront park, trails and a public area. For too long, Fort Worth has failed to take advantage of the natural beauty of the Trinity River.

The developer is Trademark Property Co., whose CEO, Terry Montasi, has been involved in Fort Worth real estate development and leasing for three decades.

Finally, projections say Fort Worth and other local taxing entities still benefit — a lot. The $18.5 million incentive package is tied to a minimum $185 million private investment. The total local tax benefit is expected to be more than $110 million.

Fort Worth requires 25-30 percent of the construction costs to be paid to local contractors, part of it to businesses led by minorities and women. Annual minimum supply and service expenditures must also go to local businesses.

The only worry about the proposal might be that much of the project is still being designed. Although the deal specifies how much commercial and residential space must be built in each of three development phases, exactly what that will look like is still up in the air.

But Fort Worth can cancel incentives if things go astray. And for the developers, there's too much at stake to mess it up.

Case Study: Ft. Worth, Texas

CITY OF FORT WORTH
2012 ECONOMIC DEVELOPMENT AGREEMENTS (EDPA) PERFORMANCE

Pursuant to Chapter 380, the City has established economic development programs and pursuant to the terms of these agreements, the City will fund from lawfully available revenues, which may include moneys in the City's General Fund, periodic economic development grant payments to the companies. The actual grant amounts will be calculated on the basis of percentages of ad valorem and/or sales taxes received by the City and attributable to certain real property developed by these companies during the terms of the respective agreements. The grant amount pursuant to the agreements with Prestige Hotel Fort Worth, LP, Renaissance Worthington, and Carol Fort Worth Partnership, LP also includes a component related to the hotel occupancy taxes paid to the City. Under the terms of the agreements, the companies are obligated to pay all ad valorem taxes to the City; the City will be obligated to fund and pay the grant payments based on actual performance.

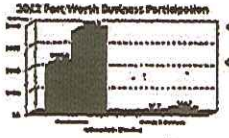
- Total EDPAs Approved: 24
- Total Active EDPAs: 22
- Total Estimated Investment (active projects): $1.1 Billion
- Total Estimated Jobs Created/Retained (active projects): 5,069
- Companies Received in Tax Incentives on New Investment: $9.7 Million
- Revenue to the City of Fort Worth: $1.2 Million

The charts below illustrate the total number or amount the companies committed to spend or have, compared to the actual city verified number or amount.

2012 Employment Summary

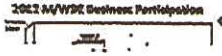
- Total full time jobs exceeded by: 4,349
- Fort Worth jobs exceeded by: 1,343
- Central City jobs exceeded by: 721

2012 Fort Worth Business Participation



- Total Fort Worth construction spending exceeded by: $147.4 million (196 percent)
- Actual Fort Worth supplier and service spending exceeded by: $11.5 million (325 percent)

2012 M/WBE Business Participation



- Total M/WBE construction spending exceeded by: $101.6 million (143 percent)

CITY OF FORT WORTH
TAX ABATEMENT AGREEMENTS FACT SHEET

Active City Council Approved Projects (Completed, In Compliance Phase)(As of August 2012)

Company	Year	Investment	Actual Investment	Actual Jobs Created/Retained	Actual Payroll	Actual Sales Tax	Actual Property Tax	Actual Hotel Occupancy Tax	Actual Other Taxes	Actual Total Tax Revenue	Actual Grant Payments	Actual Net Tax Revenue
OccAgra Foods, Inc.	10	2013	$ 12,600,000	$ 6,654,139	$ 1,498,800	50	$ 810,000	$ 42,000	0%	$ -	$ 172,476
Bell Helicopter Textron, Inc.	1	2013	$ 22,164,884	$ 1,500,767	$ 1,138,149	4000	$ 1,947,000	$ 116,287	73.0%	$ 300,042	$ 68,700
Coca-Cola Enterprises	10	2014	$ 8,964,000	$ 4,696,479	$ 1,300,116	721	$ 300,000	$ -	0%	$ 30,000	$ 10,700
The Fort Worth Depot, LLC	10	2015	$ 12,851,000	$ 4,360,211	$ 10,300,000	7	$ 102,000	$ 60,000	100%	$ 117,919	$ -
[illegible], Inc., f.k.a., Dress Optimum Center	10	2015	$ 35,000,000	$ 10,188,861	$ 13,110,861	1300	$ 36,554	$ 20,504	0%	$ -	$ 200,000
Cost Savangar, Inc.	10	2015	$ 60,107,764	$ 7,588,979	$ 3,700,971		$ -		0%	$ -	$ 200,000
Old Westbury LLC	10	2015	$ 38,806,879	$ 10,472,700	$ 6,764,216	7	$ 501,300	$ 100,300	100% Abated 201 [illegible]	$ 347,721	$ 91,970
CUNA Mutual Insurance Society	10	2017	$ 12,730,700	$ 8,958,201	$ 1,954,000	104	$ -	$ -	20%	$ 10,300	$ 73,102
Carol Fort Worth Partnership, LP	10	2018	$ 201,400,187	$ 81,211,811	$ 31,420,849	500	$ 1,006,010	$ 100,200	100%	$ 841,300	$ -
Allied Stainless, Inc.	10	2019	$ 37,000,000	$ 8,000,000	$ 8,000,001	377	$ 1,004,000	$ 30,504	30%	$ 41,012	$ 90,400
Charter Wireless, LLC	10	2019	$ 27,300,010	$ 2,411,000	$ 1,200,212	400	$ 3,000,040	$ 7,200,400	21.70%	$ 50,245	$ 213,002
Gas Cross Blue Shield of Texas	10	2020	$ 104,027,171	$ -	$ -	40	$ -	$ 17,000	40%	$ 300,200	$ 400,440
Lancaster Avenue, Ltd.	10	2021	$ 1,551,230	$ 170,312	$ 173,712	0	$ 37,300	$ 30,000	62.30%	$ 14,017	$ 1,001
Fort Industries (USA), Inc.	10	2021	$ 30,000,041	$ -	$ 1,101,310	107	$ -	$ 17,000	30%	$ 80,000	$ 100,001
TOTAL			$ 704,402,006	$ 140,304,170	$ 67,100,107	7,405	$ 8,200,000	$ 8,300,000		$ 2,[illegible]	$ 2,[illegible]

New City Council Approved Projects (Commitments, Not Yet Completed)(As of August 2012)

Company	Year	Investment	Actual Investment	Actual Jobs Created/Retained	Actual Payroll	Actual Sales Tax	Actual Property Tax	Actual Hotel Occupancy Tax	Actual Other Taxes	Actual Total Tax Revenue	Actual Grant Payments	Actual Net Tax Revenue
Kiam Lake	10	2010	$ 11,000,000	$ 1,000,000	$ 1,000,000	700	$ 60,000	$ 30,000	60%	$ 30,000	$ 10,000
ATC Logistics & Electronics, Inc.	9	2011	$ 17,500,000	$ 300,000	$ 300,000	2,000	$ 600,000	$ 300,000	70%	$ 110,700	$ 47,000
Cavalry Storage Group, LLC	10	2011	$ 41,000,000	$ 1,000,000	$ 800,000	120	$ 300,000	$ 300,000	70%	$ 210,000	$ 100,100
Gaucher GP II, LLC	10	2012	$ 30,000,000	$ 10,000,000	$ 5,000,000	8	$ 70,000	$ 60,000	70%	$ 200,000	$ 60,000
CONDROO 4000 Investments, LP & Rocket Venture Operations, LP	1	2011	$ 12,000,000	$ 2,000,000	$ 2,000,000	270	NA	NA	60%	$ 100,000	$ 20,000
Lancaster Preceder, LLC	5	2010	$ 22,000,000	$ 6,000,000	$ 5,012,000	2	$ 60,000	$ 20,000	60%	$ 100,000	$ 20,000
NBO Recreation, LLC	10	2012	$ 60,000,000	$ 2,000,000	$ 2,100,000	40 (up to 100)	$ 100,000	$ 60,000	60%	$ 000,000	$ 100,000
TOTAL			$ 240,700,000	$ 24,000,000	$ 20,000,000	[illegible]	[illegible]	$ 000,000		$ 1,000,000	$ 400,700

Case Study: Ft. Worth, Texas

CITY OF FORT WORTH
ECONOMIC DEVELOPMENT GRANT PROGRAM AGREEMENTS FACT SHEET

Active City Council Approved Projects (Completed, In Compliance Phase) (As of August 2013)

Project	Term	Completion Date	Total Business Investment	Construction Investment (Not Incl. FF&E)	Permanent Investment (Incl. FF&E)	Jobs Created (Permanent)	Total Grant Payment	Total Grant Payment (Current Year)	Total Grant Payment (Previous Years)	% Performance Measures Met	Total Amount Forgiven	Total Amount Owed
TLC Greenfield, LP	9	2015	$ 51,263,987	$ 17,842,176	$ 10,784,884	0	$ -	$ -		100%	$ 784,708	$ -
Railroad Industrial Park Investors, LP, Railroad Business Park	10	2015	$ 4,987,751	$ 2,247,892	$ 1,632,875	290	$ 9,906,987	$ 9,906,987		90% OF 90%	$ 458,731	$ -
RadioShack Corporation	11	2017	$ 222,958,635	$ 122,971,348	$ 67,554,462	1060	$ 2,584,310	$ 181,843		100%	$ 162,791	$ 9,196
TTI, Inc	5	2017	$ 584,706	$ -	$ -	820	$ -	$ -		100% for seed	$ 178,941	$ 212,306
Robert G. Muckleroy Funeral Office	10	2022	$ 800,581	$ -	$ -	0	$ -	$ -		100%	$ 10,390	$ -
TD Ameritrade Inc	10	2022	$ 7,274,377	$ -	$ -	1002	Not Applicable at this time	Not Applicable at this time		50%	$ 12,195	$ 12,195
Columbia North Hills Hospital Subsidiary, LP (PHI)	10	2022	$ 8,084,743	$ 6,166,376	$ 9,441	65	$ 632,782	$ 60,214		70% OF 90%	$ 6,981	$ 2,992
SCMOH Washington, Inc.	20	2024	$ 9,272,974	$ 2,476,580	$ 3,149,969	219	$ -	$ -		100%	$ 93,845	$ 45,982
Trinity Bluff Acquisition Corporation (Phase I)	14	2024	$ 26,141,918	$ -	$ 5,896,746	7	$ -	$ 588,263		100%	$ 153,530	$ 94,995
Pier 1 - FTW, Inc.	20	2025	$ 82,898,276	$ 33,429,896	$ 40,070,524	not provided	$ 1,886,873	$ 1,886,873		80% OF 90%	$ 448,334	$ 174,356
Cabela's Retail, Inc.	20	2025	$ 61,301,302	$ 13,298,575	$ 1,472,822	300	$ 28,156	$ -		100% OF 97%	$ 417,912	$ 462,061
Museum Place Holdings, LLC (PHI)	15	2025	$ 66,898,371	$ 41,897,960	$ 30,300,158	4	$ 57,896	$ 57,896		50%	$ 196,362	$ 179,616
Cypress Equities, West 7th Development (PHI & II)	15	2026	$ 179,436,898	$ 30,394,490	$ 15,366,133	16	$ 136,386	$ 83,337		84.5%	$ 240,512	$ 667,344
Target Corporation	21	2027	$ 10,301,691	$ 3,996,996	$ 1,996,136	199	$ -	$ 66,401		100%	$ 566,612	$ 198,348
Omni Fort Worth Partnership, LP	15	2027	$ 261,456,127	$ 61,011,581	$ 31,429,998	300	$ 1,998,810	$ 196,239		100%	$ 2,799,142	$ 87,116
Town Center Mall, LP	20	2027	$ 17,262,171	$ 6,491,497	$ 6,429,420	1010	$ 147,248	$ 147,248		80% 100.5% & 30% RP & BPP	$ 213,179	$ 496,099
Kimco Montgomery Plaza, LP	22	2028	$ 44,541,726	$ 18,664,610	$ 11,067,834	310	$ -	$ 65,702		100%	$ 964,513	$ 288,450
Presidio Hotel Fort Worth, LP	20	2029	$ 28,281,286	$ 7,411,923	$ 3,480,415	196	$ 107,573	$ 38,111		87%	$ 610,886	$ 78,290
LPG Trinity Parks LP (Phase II)	20	2031	$ 11,436,365	$ 2,548,305	$ 1,992,929	7	$ -	$ 196,382		50%	$ 37,902	$ 37,902
LPG Trinity Parks LP (Phase III)	20	2031	$ 36,880,416	$ 7,409,308	$ 6,126,331	Combined with Phase II (Only one set of requirements for both phases)				100%	$ 286,560	$ -
Oliver's Fine Foods	20	2032	$ 1,594,386	$ -	$ 716,712	24	$ 267,798	$ -		100%	$ 9,662	$ 4,836
Acme Brick Company	32	2038	$ 22,726,738	$ 6,697,844	$ 4,890,762	118	$ -	$ -		100% OF 100%	$ 622,374	$ 311,187
		TOTAL	$ 1,066,815,144	$ 375,791,347	$ 237,798,737	5,010	$ 19,717,319	$ 19,166,189			$ 8,888,908	$ 3,238,947

New City Council Approved Projects (Commitments, Not Yet Completed)(As of August 2013)

Project	Term	Completion Date	Total Business Investment	Construction Investment (Not Incl. FF&E)	Permanent Investment (Incl. FF&E)	Jobs Created (Permanent)	Total Grant Payment	Total Grant Payment (Current Year)	% Performance Measures Met	Total Amount Forgiven	Total Amount Owed
Bell Helicopter Textron Inc	10	2006	$ 236,000,000	$ 21,000,000	$ 17,500,000	4000	$ 1,000,000	$ 500,000	80% RP & BPP	$ 1,007,400	$ 491,000
BrandFX Body Company	5	2015	$ 1,300,000	$ -	$ -	65	$ -	$ 100,000	80% BPP	$ 10,004	$ 1,112
Fenix Mfg. Corp.	5	2018	$ 3,800,000	$ -	$ -	60	$ 1,700,000	$ 900,000	46% BPP	$ 11,978	$ 17,906
GE Transportation	10	2024	$ 156,000,000	$ 38,000,000	$ 26,000,000	330	$ 400,000	$ 100,000	50% RP & BPP	$ 730,000	$ 800,363
SOCAMation Venture Operations LP	24	2026	$ 16,000,000	$ 2,000,000	$ 2,000,000	276	$ -	$ -	84% RP & BPP	$ 110,200	$ 20,500
Our Nation's Best Sports	10	2025	$ 3,000,000	$ 375,000	$ 612,000	36	$ 51,000	$ 42,500	50% RP & BPP	$ 18,470	$ 15,175
Patterson Equity Partners, LLC	30	2035	$ 18,000,000	$ 3,000,000	$ 2,000,000	20	$ 100,000	$ 50,000	100% mineral leases	$ -	$ 50,000
Renaissance Square, LLC	20	2034	$ 46,000,000	$ 11,000,000	$ 11,000,000	80	$ 100,000	$ 50,000	100% BPP & Sales	$ 63,871	$ -
Sundance Plaza, LLC	15	2029	$ 65,000,000	$ 15,500,000	$ 16,200,000	5	$ 200,000	$ 100,000	50% Sales	$ 165,067	$ 666,730
Trademark Property Company	18	2025	$ 60,000,000	$ 7,200,000	$ 6,000,000	10	$ 50,000	$ 30,000	50% RP, BPP, Sales	$ 212,730	$ 212,750
Wal-Mart Stores Inc.	10	2024	$ 30,000,000	$ -	$ -	400	$ 210,000	$ 90,000	73% RP & BPP	$ 192,275	$ 84,125
Wal-Mart Stores Texas , LLC	3	2017	$ 18,000,000	$ -	$ 2,000,000	50	$ -	$ -	50% RP & Sales	$ 294,400	$ 294,400
		TOTAL	$ 615,300,000	$ 98,175,000	$ 84,312,000	5,332	$ 3,311,000	$ 1,910,000		$ 1,820,411	$ 2,254,761

The Path Forward

- A formal, clearly defined TSA framework is needed
- City Council should identify the City Departments that would be involved and their respective roles
- Resources should be allocated to this ongoing effort
- Ways & Means should consider integrating DPD as a member of its TSA Task Force in a supporting capacity