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Public Finance Agreements

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Overview

- What are public finance agreements?
- What are the available tools?
    - Public improvement fees
    - Tax rebate agreements
    - Tax increment financing
    - Metropolitan districts
    - Direct contributions, waivers of fees, reimbursements
- How do these pieces fit together?
- Considerations

Public Finance Agreements
What are they?

- Public Finance Agreements are agreements between a governmental entity and a developer whereby the governmental entity agrees to provide certain financial support directly or indirectly in exchange for the construction of public improvements.

What tools can be used as part of a Public Financing Agreement?

- Public Improvement Fees
- Tax Rebate Agreements
- Tax Increment Financing
- Metropolitan Districts
- Direct Contributions
- Waiver or Rebate of Development Fees
- Reimbursement Programs

Public Improvement Fees
What are they?

- A public improvement fee ("PIF") is a fee imposed by the owner of real property on retail or other transactions, such as lodging.
    - PIF on retail sales is typically imposed as a percentage of gross sales, similar to a sales tax.
    - PIF on lodging is typically imposed as a percentage on the total lodging price paid, similar to a lodging tax.
- Though PIFs may function similar to a sales tax or a lodging tax, they <u>are not taxes</u>.
- The PIF is imposed by the owner of real property recording a covenant that runs with the land.
    - PIF revenue must be spent on improvements that benefit (or touch and concern) the property that is subject to the PIF.

Credit PIFs

- There are two types of PIFs – Credit PIFs and Add-on PIFs.
- A Credit PIF is where a municipality grants a credit against a portion of the sales tax or lodging tax due to the municipality that corresponds to the PIF being collected.
    - Example: The City has a 2% sales tax. The City grants a 1% credit if a 1% PIF is collected. With the credit, the City collects a 1% sales tax and the property owner (through a PIF collection agent) collects the 1% Credit PIF.
- The credit is granted at the cash register and is only granted to the extent that the Credit PIF is actually collected by the retailer from the consumer.
- In exchange for granting the credit, the developer agrees to use the Credit PIF proceeds to construct public infrastructure.
- Attractive for developers because consumers pay the same effective rate.
- Less attractive for the municipality because it is collecting less than its full tax rate.
- The credit for the Credit PIF is established by the municipality adopting a resolution or an ordinance granting the credit.

Add-on PIFs

- An Add-on PIF is where the PIF is added to the cost of the goods sold or accommodations provided without a credit being granted against the existing tax.
    - Example: The City has a 2% sales tax. The real property owner imposes a 1% Add-on PIF on goods sold at retail. The purchaser pays an effective rate of 3% on the goods.
- Less attractive for developers because consumers pay a higher effective rate at establishments on their property than at establishments on property that does not impose an Add-on PIF.
- More attractive for the municipality because it is collecting its full tax rate.
- Imposition requires no action by the municipality.

Tax Rebate Agreements

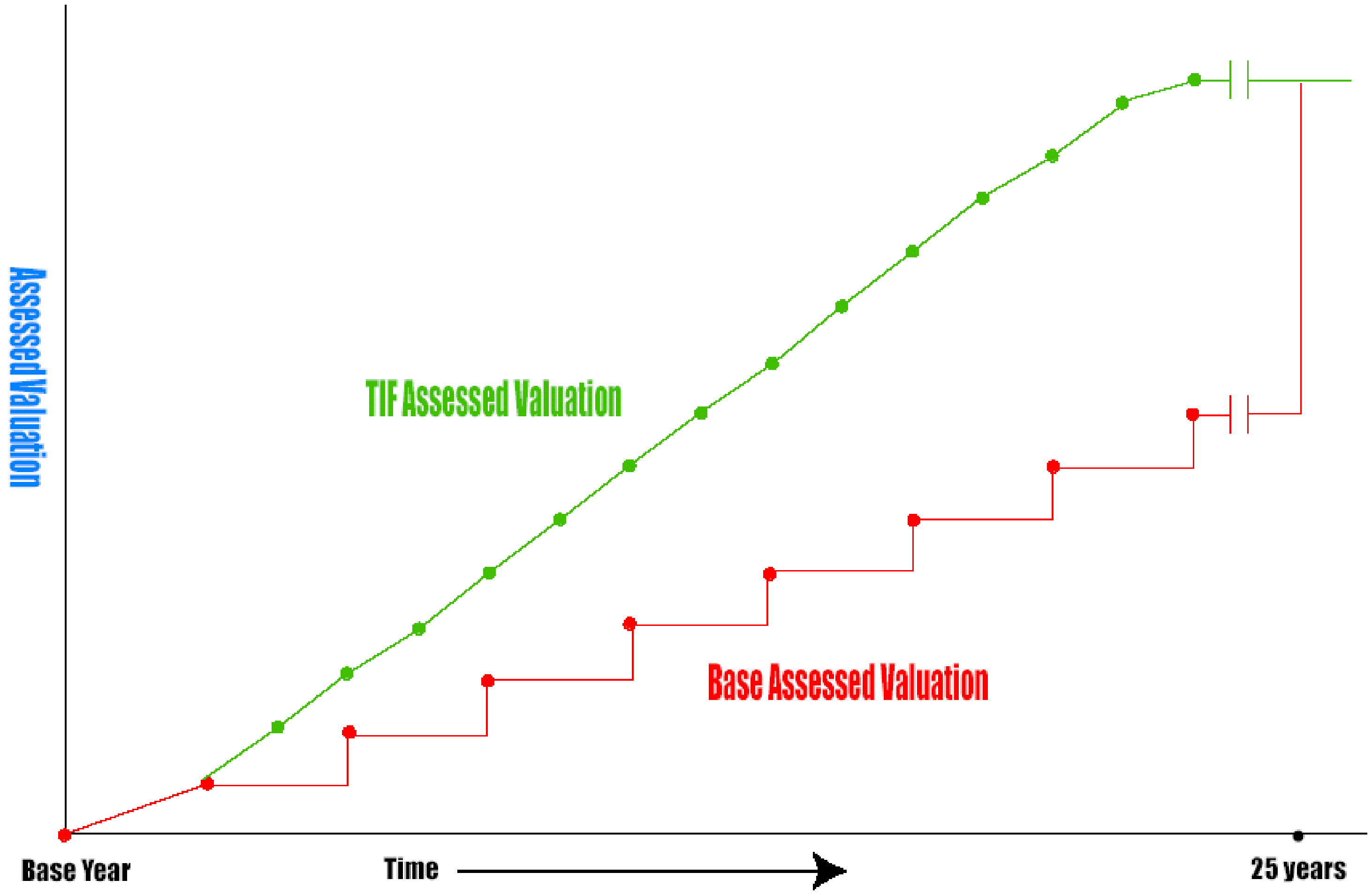
- Agreement where the municipality collects its tax, such as sales tax or lodging tax, at the full rate and then agrees to rebate all or a portion of the amount collected from a specific taxpayer back to the taxpayer.
- The agreement has to be subject to annual appropriation by the municipality.
- The nature of the agreement being subject to annual appropriation makes it less desirable to developers and the investors.

Tax Increment Financing ("TIF")

- Available to Urban Renewal Authorities, Downtown Development Authorities and Public Highway Authorities
- Once an area is established and a plan is adopted, the property tax base and/or municipal sales tax base for the area is "frozen."
    - This means that after the date of plan adoption, the assessed value to which the mill levy for the municipality, the school district, the county, and other overlapping taxing entities would be the same each year with adjustment for general reassessments.
    - Example: If the assessed value in an area is $1 million on the date of plan adoption, then the mill levy for each of the overlapping taxing jurisdictions is applied to that $1 million assessed value each year of the plan. If the assessed value of property in the area increases to $10 million, the taxes derived from multiplying the combined mill levy times the $1 million base go to the overlapping taxing jurisdictions and the mill levy times the $9 million increase goes to the URA.

How is increment calculated?

TIF CHART



Metro Districts
What Are They?

- Formed under C.R.S. Section 32-1-101, *et seq*.
- Independent quasi-municipal corporation and political subdivision of the state.
- Metropolitan districts provide two or more services.
- Services which may be provided include:
  - Fire Protection
  - Mosquito Control
  - Parks and Recreation
  - Safety Protection
  - Sanitation (sewers)
  - Solid Waste disposal or collection and transportation
  - Streets
  - TV relay and translator
  - Water
  - Transportation (Mass Transit)

Metro Districts
Revenue Raising Powers

- May levy a property tax imposed on the property within the district.
- May levy special assessments on specially benefitted property within the district.
- May impose fees, rates, tolls, charges and penalties for revenue-producing services or facilities.
- May levy sales taxes for certain purposes on property that is not also within the boundaries of an incorporated municipality, subject to certain conditions.

Other Tools

- The City could appropriate funds from the general fund or special funds for specific public improvements.
- The City could choose to waive or rebate certain development or permit fees.
- The City could reimburse the developer for certain improvements, such as for oversizing certain improvements.

The "But-For" Argument

- Absent the investment by the municipality, development may not happen or the type of development that is desired would not occur.
- *Without* development, tax revenues remain stagnate or decline.
- *With* municipal investment, development occurs, and sales, lodging and property tax revenues increase.

How do the pieces fit together?

- The municipality usually enters into one or more agreements to deploy one or more of the tools identified.
- A Public Finance Agreement is used to reflect the agreement of the parties, the flow of revenues and to set restrictions on how revenues are used.
- Typically, revenues flow to a metropolitan district that issues bonds to finance the public infrastructure.
- The bonds are then payable from the revenue flowing to the metropolitan district through the Public Finance Agreement or other agreements.
- Bond repayment sources could include:
    - PIF revenue
    - Rebated tax revenue
    - TIF revenue; and
    - Metropolitan district revenue

Considerations

- With a Credit PIF, will the City still generate enough tax revenue to provide services to the new project and the rest of the City?
- Will an Add-on PIF create a burden on citizens or deter visitors?
- Does a tax rebate agreement increase costs too much by introducing risk?
- Should TIF be used on this project or another urban renewal project in the urban renewal plan area?
- Is a metropolitan district appropriate for this project?

QUESTIONS?