



Port Authority Transportation Reinvestment Zone: Executive Summary

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PORT AUTHORITY TRANSPORTATION REINVESTMENT ZONE: EXECUTIVE SUMMARY

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CHAPTER 1. EXECUTIVE SUMMARY

The transportation reinvestment zone (TRZ) is a relatively new tool for infrastructure finance that allows governmental entities with taxing authority to set aside funds for local match contributions for transportation projects and capture the land value increases that result from the transportation projects. In 2013, the Texas Legislature authorized port authorities and navigation districts to use TRZs. This research summarizes:

- The history of the TRZ.
- Its uses in port funding and financing since passage of the enabling legislation.
- The character of the existing port authority TRZs in Texas.
- Land development issues relevant to those TRZs.

BACKGROUND

The 80th Texas Legislature created TRZs in 2007. In 2013, lawmakers made TRZs available to port authorities and navigation districts, the governmental entities that operate most of the Texas ports. TRZs work by designating the area around a needed transportation project as an impact zone, and allowing the governmental entity that built the project to capture some or all of the increment in local property and sales tax revenues that result from the growth in the zone's tax base. A TRZ has a five-stage lifecycle: initiation, zone formation, public hearing and adoption, TRZ operation, and termination.

ROLE OF TRZS IN PORT FUNDING AND FINANCE

TRZs join a suite of funding sources and finance mechanisms that ports currently use but that do not address all of a port's financial needs. Local, state, and federally available funding sources include:

- Legislatively provided direct and indirect tools.
 - The Port Access Account Fund (which was never capitalized).¹
 - TRZs for Transportation Code projects.
 - Port authority and navigation district TRZs.
- Transportation Investment Generating Economic Recovery (TIGER) Grants.
- Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) program.

¹ In 2001, the Port Access Account Fund was created by the 77th Texas Legislature to provide funds for Texas ports to finance security improvements, port infrastructure projects, and related studies. However, HB 3088 abolished and consolidated fund accounts. Any fund not specifically exempted by the bill was abolished. The Port Access Account Fund was not specifically exempted and was therefore never actually created.

- Port Security Grants.
- Taxable Property Values.

Aside from cash flow financing (fees and taxes), Texas ports also use general obligation bonds, revenue bonds, notes payable, and capital leases.

A port authority's ability to influence land use decisions is typically limited to mechanisms that can be applied either to property that a port owns and from which it can generate income (facility usage or long-term use fees), or to property within its taxing jurisdictions (tax abatements, foreign trade zones, enterprise zones initiatives).

TRZs, on the other hand, can overcome some of the limitations of traditional funding sources and mechanisms. First, they allow ports to develop infrastructure in areas adjacent to port property not owned or controlled by the port. This flexibility helps a port address first or last mile connectivity issues like improvements to nearby roadways or waterways not owned by the port but used to access it. TRZs can also provide for collaboration with counties or cities that also have TRZs, so that together they can build projects that benefit all parties.

There is one practical limitation to port authority TRZs when it comes to targeting infrastructure that is specifically port related. Several TRZs around the state have used their tax increment funds to acquire funding from the state infrastructure bank (SIB). However, because the bank's funding comes from the federal and state government's highway programs, the SIB cannot currently be used to finance port projects because port property is not considered part of the state highway system.² In such cases, it would be technically possible to go to the bond market or other lenders, but to date the cost of such financing has been prohibitive.

ESTABLISHED PORT AUTHORITY TRZS

There are currently four navigation districts that have created port authority TRZs, all established in December 2013. The first three (Port of Beaumont, Port of Port Arthur, Sabine-Neches Navigation District) are located in Jefferson County and all have the stated purpose of providing part of the local match funding required for the federal government to improve the Sabine-Neches Waterway. The Port of Brownsville has not declared a stated intention for its TRZ.

Of significance is the fact that, in all four cases, TRZ boundaries are the same as navigation district boundaries and navigation district boundaries far exceed the boundaries of the port facilities. Major cities are included within the navigation district boundaries, meaning that land

² As per federal regulations, the projects must be eligible for funding under the existing federal highway rules (Title 23, United States Code) to comply with SIB requirements. This usually requires a project to be on a state's highway system and included in the statewide Transportation Improvement Plan (<http://www.txdot.gov/inside-txdot/division/debt/sib.html>).

uses are not limited to commercial and industrial uses. Most properties, in fact, are residential or agricultural.

LAND DEVELOPMENT FACTORS FOR PORT AUTHORITY TRZS

Port economic activity and the investments necessary to support that activity create demand for land for industrial, commercial, and residential uses. Ports need to invest in expanding and renewing their facilities on an ongoing basis to keep up with competition from other ports and to cater to their customers and cargo demands. These investments (by the ports or business located in port regions) create demand for land, spur economic activity, and therefore have an impact on tax collections.

Industrial uses directly related to port activity include cargo handling and transfer operations, cargo storage and warehousing, break bulk (or cargo shipped individually) consolidation, and trucks and chassis areas. Additionally, industrial plants often locate close to ports in order to have direct access to waterborne transportation for the raw materials used in their nearby facilities or for the finished products they need to ship. Commercial land demand near ports also arises when businesses and firms locate near ports to support port-generated demands and the movement of cargo. Transportation-related business activities also contribute significantly to employment opportunities at the ports. Ports create demand for residential land use primarily through the needs of those who live and work in and around the port areas. Residential areas represent a significant portion of a navigation district's property tax base.

In addition to port economic activity, other factors such as highway and railroad accessibility increase demand for industrial and commercial land in seaport areas. The port master plans for Port of Brownsville, Port of Port Arthur, and Port of Beaumont provide detailed information on accessibility to highways and railroads. Moreover, these plans also provide the list of future highway and railroad improvements that will serve expected port traffic demand. The plans only provide this information qualitatively. Hence, the research team's next steps will be to develop a methodology to quantify these factors in order to help inform the evaluation of Port Authority TRZ Revenue Potential.

CHAPTER 2. FUNDAMENTALS OF PORT AUTHORITY TRANSPORTATION REINVESTMENT ZONES

BACKGROUND

The state legislature has created an innovative transportation funding mechanism called the transportation reinvestment zone that allows local governments to set aside funds for local match contributions for the transportation projects most critical to their communities. TRZs of Texas are an increasingly important funding source for the expansion and improvement of economically critical links in the U.S. Interstate and Texas State Highway Systems.

TRZs create transportation project funding by capturing and leveraging the increase in real estate/land development value resulting from a transportation project. Development and expansion of transportation projects often spurs land development in areas around the project. A TRZ is the legal instrument that allows a local jurisdiction to designate an area around a project as an impact zone in order to capture some or all of the increment in local property and/or sales tax revenues resulting from the growth in the zone's tax base. That incremental tax revenue is used to support funding and financing of the project. Thus, the land development attributable to the project is used to finance the project.

EVOLUTION OF THE TRZ LEGAL FRAMEWORK

The creation of the TRZ concept dates to Texas legislation first enacted by Senate Bill 1266 (SB 1266) in the 80th Legislative Session in 2007. TRZs are an innovative tool that allows local governments to raise funds to help pay for transportation improvements using all or part of the incremental growth in property and sales taxes from a designated area around the project. SB 1266 amended Chapter 222 of the Transportation Code, and the TRZ provisions appear in §§ 222.105-107. SB 1266 laid the foundation for the development of two types of TRZs—municipal TRZs and county TRZs (*J*). Since SB 1266 was first enacted, a number of municipal and county TRZs have been established in different communities throughout the state.

After 2007, the TRZ legal framework evolved in subsequent legislative sessions as a response to first implementers and their experiences with technical issues that were present in the legislation as originally conceived in SB 1266. The bills approved by the legislature since then have modified or expanded the use and types of TRZs or simply clarified the process or requirements to establish one. During the 83rd Legislative session in 2013, the legislature filed and enacted three bills into law that extended the TRZ concept to other types of projects and/or jurisdictions:

- Senate Bill 1747—County Energy TRZs.
- House Bill 2300—County Energy TRZs.
- Senate Bill 971—Port Authority TRZs.

The first two of these bills, Senate Bill 1747 and House Bill 2300, dealt with the creation of a new type of county TRZ called a county energy transportation reinvestment zone (CETRZ). CETRZs aim to help counties in shale energy regions alleviate pavement deterioration to roads, bridges, and other infrastructure caused by oil and gas exploration.^{3,4} This legislation also created a grant-based fund administered by TxDOT for transportation infrastructure projects located in these areas, which counties that have created a CETRZ can access.

On the other hand, Senate Bill 971 (SB 971) expanded the TRZ concept to all modes of transportation by enabling port authorities and navigation districts to establish Port Authority TRZs.⁵ This expansion is an important development because, compared to land transportation modes, there are few federal or state loan or grant programs that are dedicated specifically to the marine mode. In fact, there is currently no source of direct state investment in deep or shallow-draft ports in Texas. In response to this need for new and creative approaches to funding port-related infrastructure, SB 971 added the Port Authority TRZs tool as another method to fund infrastructure in these multimodal facilities.

PORT AUTHORITY TRZ STATUTORY FRAMEWORK

Although SB 971 only amended the Texas Transportation Code, there are a number of already existing statutes that affect the planning, implementation, and financing of Port Authority TRZs, such as the state's water, local government, and tax codes. These different laws, statutes, and regulations provide the legal framework of Port Authority TRZs.

SB 971 amended the Texas Transportation Code by adding Section 222.1075 (Subchapter E, Chapter 222), which authorized port authorities and navigation districts to form a TRZ after finding that (a) the area within the TRZ is unproductive and underdeveloped and (b) that forming the TRZ would "improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade" (2). This change expanded the TRZ concept to all modes of transportation. The bill also amended Section 222.108, subsection (d) to modify the definition of transportation project to include the transportation projects described in Transportation Code Section 370.003 as well as the port security, transportation, or facility projects described by Section 55.001(5) (3, 4). As a result of this change, Port Authority TRZs are applicable to both port security projects and transportation projects. SB 971 enables port authorities to (a) designate TRZs for port projects, (b) issue bonds, and (c) authorize an assessment.

³ Senate Bill 1747. Texas Legislature Online. <http://www.legis.state.tx.us/tlodocs/83R/billtext/html/SB01747F.htm>.

⁴ House Bill 2300. Texas Legislature Online. <http://www.legis.state.tx.us/tlodocs/83R/billtext/html/HB02300I.HTM>.

⁵ Senate Bill 971. Texas Legislature Online. <http://www.capitol.state.tx.us/tlodocs/83R/billtext/html/SB00971F.htm>.

PORT AUTHORITY TRZ DEFINITIONS

There are a number of important legal definitions that must be kept in mind when dealing with Port Authority TRZs in particular, and with all types of TRZs in general. Most of these definitions are found in Transportation Code Section 222.1075, Section 370.003, and Section 55.001(5).

For those definitions applicable only to Port Authority TRZs, SB 971 introduced definitions for port authority, port commission, and port project:

- **Port authority** means a port authority or navigation district created or operating under either one of the following articles of the Texas Constitution (5):
 - Section 52, Article III (*Counties, Cities, or Other Political Corporations or Subdivisions*) authorizes counties, cities, and other political corporations or subdivisions to issue bonds and levy taxes for the purposes of improving rivers, bays, creeks, streams, and canals to prevent overflow, to provide irrigation, and to permit navigation (6). As per the Texas Water Code, navigation districts can be created and can operate under this article of the Texas Constitution (i.e., Section 52, Article III) (7).
 - Section 59, Article XVI (*Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts*) authorizes the creation of conservation and reclamation districts for the purpose of conserving and developing natural resources, including the improvement, preservation, and conservation of inland and coastal water for navigation, and controlling storm water and floodwater of rivers and streams in aid of navigation. This section authorizes these districts to issue bonds and levy taxes for those purposes (6). The Texas Water Code, in its Chapter 62, provides the statutory framework for navigation districts created under Section 59 of the Constitution (8).
- **Port commission** is the governing body of a port authority or navigation district.
- **Port project** is defined as a project “that is necessary or convenient for the proper operation of a maritime port or waterway and that will improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade, including dredging, disposal, and other projects.” Other projects are further defined by Section 370.003 and Section 55.001(5) of the Transportation Code as follows:
 - *Section 370.003* includes, among others, port security, transportation, and facility projects eligible for funding under the code’s Section 55.002 (Port Development Funding), such as:
 - Construction or improvement of transportation facilities within the jurisdiction of a maritime port.
 - Dredging or deepening of channels, turning basins, or harbors.

- Construction or improvement of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, or any facilities necessary or useful in connection with maritime port transportation or economic development.
- Construction or improvement of facilities necessary or useful in providing maritime port security.
- Acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce.
- Acquisition of land to be used for maritime port purposes.
- Acquisition, improvement, enlargement, or extension of existing maritime port facilities.
- Environmental protection projects.
- *Section 55.001(5)* defines a “port security, transportation, or facility project” as a project that is necessary or convenient for the proper operation of a maritime port and that will improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade (4).

On the other hand, Section 222.1075 also provides definitions that apply to all TRZs in general, but have been adapted to the Port Authority TRZ concept, for concepts such as (a) tax increment; (b) captured appraised value; and (c) tax increment base (2). These definitions are presented below and illustrated in Figure 1:

- **Annual tax increment.** The amount of a port authority’s *tax increment* for any given year is defined as the amount of ad valorem taxes levied and collected by the port authority (or by the commissioners court on behalf of the port authority) for that year on the *captured appraised value* of real property taxable by the port authority and located in a TRZ. This increment is illustrated by the red area in Figure 1 (b).
- **Captured appraised value.** The captured appraised value of real property taxable by a port authority for a year is defined as the total appraised value of all real property taxable by the port authority and located in a TRZ for that year less the *tax increment base* of the port authority. This value is illustrated by the red area in Figure 1 (a).
- **Tax increment base.** The tax increment base of a port authority is defined as the total appraised value of all real property taxable by the port authority and located in a TRZ for the year in which the zone was designated (the base year). This base is illustrated by the area below the blue dashed line in the top chart of Figure 1 (a).

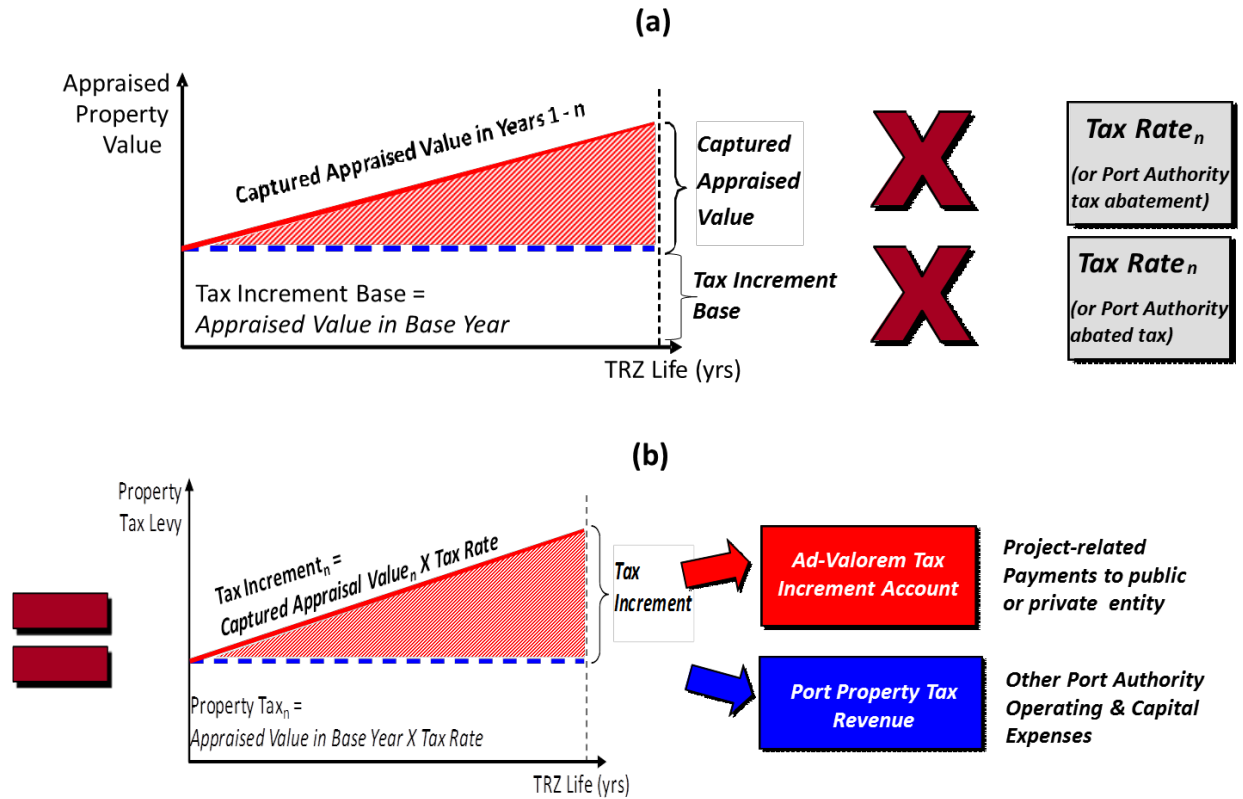


Figure 1. Port Authority TRZ Definitions (Adapted from (9)).

ESTABLISHED PORT AUTHORITY TRZS

There are currently four navigation districts in Texas that have created Port Authority TRZs, all established in December 2013. The first three (Port of Beaumont, Port of Port Arthur, Sabine-Neches Navigation District) are located in Jefferson County, and all have the stated purpose of providing part of the local match funding required for the federal government to improve the Sabine-Neches Waterway. The fourth, the Port of Brownsville, has not declared a stated intention for its TRZ. Of significance is that, in all four cases, TRZ boundaries are the same as navigation district boundaries, and navigation district boundaries far exceed the boundaries of the port facilities.

CHAPTER 3. ROLE OF PORT AUTHORITY TRZS IN PORT FUNDING AND FINANCING

This chapter puts Port Authority TRZ funding in the context of current funding and financing practices of Texas ports and explores how this new mechanism might fit into a port authority's funding and financing portfolio. The first section of this chapter reviews the funding mechanisms and financing methods currently used by port authorities.⁶ Since the ability of the TRZ mechanism to generate revenue depends on land development and value trends within it, the second section describes the different ways in which port authorities are able to influence such development within their jurisdictions. Finally, the third and last section of this chapter describes the role that Port Authority TRZs may play in the funding of improvements to enhance the connectivity of ports to rail corridors and the U.S. Interstate and Texas State Highway Systems.

FUNDING MECHANISMS AND FINANCING METHODS OF TEXAS PORTS

The terms funding and financing are often used interchangeably, but they are indeed different. While funding refers to where the financial resources to ultimately pay for the cost of the infrastructure will come from, financing refers to how the capital needed to pay for it is acquired. This section reviews the funding mechanisms and financing methods currently used by port authorities in Texas, and it is divided into three parts. The first part describes the Texas ports that are included in the review. The second part discusses funding sources available at the state, federal, and local level for port authorities to pay for their investment and operational needs. The third part describes the financing methods that Texas port authorities typically use to leverage their funding sources and secure the capital needed for infrastructure investment. The discussion in this section is based on the annual financial statements for the navigation districts between 2004 and 2014.⁷

Navigation Districts Reviewed

In 2014, Texas ranked second in the nation in total waterborne tonnage transported, with 507 million tons (or 17 percent of the total U.S. maritime freight tonnage transported on both deep- and shallow-draft waterways). The state has 12 navigation districts with taxing authority that handle cargo shipments at their facilities or facilitate cargo-handling activities. These include:

⁶ As noted in the previous chapter, port authorities in Texas can assume several legal forms. All of the port authorities that are discussed in this chapter are navigation districts with taxing authority that handle cargo shipments at their facilities or facilitate cargo handling activities. The Port of Galveston, which is a municipal agency, and the Port of Texas City, which is a privately owned facility and not a port authority, are not included; shallow-draft ports that are used for commercial fishing and recreational purposes and do not handle commercial cargoes are also not included.

⁷ Except for Port Arthur, which are based on FY 2013 financials. The port authority staff indicated that the FY 2014 financials were not available.

- Port of Houston.
- Port of Harlingen.
- Sabine-Neches Navigation District.
- Port of Corpus Christi.
- Port of Port Isabel.
- Port of Victoria.
- Port of Beaumont.
- Port of Brownsville.
- Calhoun Port Authority.
- Port Freeport.
- Port of Orange.
- Port of Port Arthur.

For the purpose of this review, based on the potential applicability of the Port Authority TRZ mechanism, the two navigation districts below were excluded from the analysis:

- **The Port of Houston Authority (POHA)** does not have taxing authority, but is instead dependent on a) Harris County Commissioners Court to levy taxes on behalf of the port authority and b) the office of the Harris County Tax Assessor-Collector to collect those taxes on behalf of the authority. The taxes that are levied are used to cover the debt service for general obligations bonds that have been approved by the voters of Harris County (see the discussion of general obligation bonds below). Since POHA does not have the power to levy or collect taxes on its own, it does not have the ability to take advantage of the Port Authority TRZ mechanism to support projects in its capital investment plans, and was therefore not considered in this study.
- **The Port of Harlingen's** situation is very similar to that of the Port of Houston in that it must go through the Cameron County Commissioners Court to levy and collect taxes. The port has only invoked its taxing authority in two distinct time periods—the 1940s and the 1980s. Since the Port of Harlingen does not have the power to levy or collect taxes on its own, it also does not have the ability to take advantage of the Port Authority TRZ mechanism, and was not considered for further analysis.

The remaining 10 navigation districts in the list are the subject of this review of funding and financing practices. There are three navigation districts that stand out from this group:

- Sabine-Neches Navigation District (SNND).
- Port of Corpus Christi.
- Port of Port Isabel.

The **Sabine-Neches Navigation District (SNND)** is a unique organization among the state's navigation districts. It was created to serve as the non-federal sponsor for dredging activities on the Sabine-Neches Waterway, which serves the Ports of Orange, Beaumont, and Port Arthur. The U.S. Army Corps of Engineers (USACE) is responsible for maintaining the waterway, but any improvements to the authorized dimensions of the waterway must be cost-shared with a non-federal sponsor. Typically, the non-federal sponsor bears approximately 50 percent of the cost of constructing an improved waterway. As a non-federal sponsor, SNND is also responsible for providing adequate dredged material placement areas for both maintenance and new construction

activities. Because its focus is on the waterway that serves three ports and it is technically eligible to create a Port Authority TRZ, it is included in the discussion, even though it does not have any cargo-handling facilities.

On the other hand, **Corpus Christi and Port Isabel** stand out because they have never levied taxes and do not currently have any property tax income. However, they are still authorized to create a Port Authority TRZ if they choose to initiate a tax levy.

Funding Mechanisms

The four main local, state, and federal funding mechanisms available to Texas ports are as follows: (a) direct and indirect funding tools provided by the state legislature; (b) transportation investment generating economic recovery (TIGER) grants; (c) port security grants; and (d) property taxes. The paragraphs that follow describe each of these mechanisms.

Direct and Indirect Funding Tools Made Available by Texas Legislature

As noted earlier, there is currently no source of direct state funding options for ports in Texas (10). The 77th Texas Legislature created one direct funding vehicle—the Port Access Account Fund—in 2001 to provide funds for Texas ports to finance security improvements, infrastructure projects, and related studies. However, as discussed in an earlier footnote, the fund did not survive the bill that abolished and consolidated certain funds for the 77th Legislature and was never actually allocated funds.⁸ In terms of indirect funding tools, the state legislature recently created the TRZ and Port Authority TRZ mechanisms described in Chapter 1.

Transportation Investment Generating Economic Recovery Discretionary Grants

TIGER grants are awarded through a competitive selection process that has allocated \$4.1 billion nationally since 2009 for projects that “promise to achieve critical national objectives” and “have a significant impact on the nation, a region, or a metropolitan area.” Awarded projects are also expected to have a state or local match funding component. The program is currently in its seventh round (TIGER 2015), which has been funded at \$500 million.

The eligibility requirements of TIGER allow project sponsors at the state and local levels to obtain funding for multimodal, multijurisdictional projects that are more difficult to support through traditional DOT programs. TIGER can fund port and freight rail projects that have limited sources of traditional federal funds. There have been three port-related TIGER grants awarded to Texas ports over the life of the program (see Box 1).

⁸ The fund remains in statute, but no funds have been allocated to it since the 77th Legislature.

Box 1: TIGER Grants Awarded to Texas Ports

- **Port of Brownsville:** In 2012, \$12 million was awarded for the construction of a 600-ft cargo dock to expand marine highway container operations. The grant covered 45 percent of the estimated total project cost. An additional \$10 million was raised through the issuance of revenue bonds. According to the port's 2014 annual report, the balance of the project (\$4 million) was paid for out of other operational funds. Although the container service for which the improvements were constructed was discontinued, the facility is still used extensively for general and break-bulk cargoes.
- **Port of Corpus Christi:** In 2012, \$10 million was awarded to build a rail siding along the Nueces River. The grant covered 56 percent of the estimated total project cost. The port provided the remainder (which came to \$9 million) out of cash reserves. Half of this amount will be recovered from the railroads through a special surcharge.
- **Port of Houston:** In 2013, \$10 million was awarded to the Port of Houston to extend the Bayport Terminal wharf from 3,300 feet in length to 4,000 feet in length. The grant covered 21 percent of the estimated total project cost.

Fostering Advancements in Shipping and Transportation for the Long-Term Achievement of National Efficiencies (FASTLANE) Program Grants

The Fixing America's Surface Transportation Act (FAST Act) established the Nationally Significant Freight and Highway Projects (NSFHP) program to provide federal financial assistance to projects of national or regional significance and authorized the program at \$4.5 billion for fiscal years (FY) 2016 through 2020, including \$800 million for FY 2016 to be awarded by the Secretary of Transportation. The grants from the NSFHP program are referred to as FASTLANE grants. The program provides dedicated, discretionary funding for projects that address critical freight issues facing our nation's highways and bridges, and for the first time in the U.S. Department of Transportation's (USDOT's) 50-year history, establishes broad, multiyear eligibilities for freight infrastructure.

The grants are awarded by USDOT on a competitive basis to projects of national or regional significance that meet statutory requirements (ports are included). NSFHP grants may be used for the construction, reconstruction, rehabilitation, acquisition of property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, equipment acquisition, and operational improvements directly related to system performance. NSFHP grants may also fund developmental phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering, design, and other preconstruction activities, provided the project meets statutory requirements.

FASTLANE grants may be used for up to 60 percent of future eligible project costs. Other federal assistance may satisfy the non-federal share requirement for an NSFHP grant, but total federal assistance for a project receiving an NSFHP grant may not exceed 80 percent of the future eligible project costs.

Eligible projects for NSFHP grants are: highway freight projects carried out on the National Highway Freight Network (23 U.S.C. 167); highway or bridge projects carried out on the National Highway System (NHS) including projects that add capacity on the Interstate System to improve mobility or projects in a national scenic area; railway-highway grade crossing or grade separation projects; or a freight project that is 1) an intermodal or rail project, or 2) within the boundaries of a public or private freight rail, water (including ports), or intermodal facility. A project within the boundaries of a freight rail, water (including ports), or intermodal facility must be a surface transportation infrastructure project necessary to facilitate direct intermodal interchange, transfer, or access into or out of the facility and must significantly improve freight movement on the National Highway Freight Network. For a freight project within the boundaries of a freight rail, water (including ports), or intermodal facility, federal funds can only support project elements that provide public benefits.

To date, no funds have been awarded to a Texas entity.

In addition to the FASTLANE grants, the act allows states to obligate up to 10 percent of their total freight apportionment for intermodal or freight rail projects, which specifically includes ports.

Port Security Grants

The purpose and permitted uses of port security grant funds have evolved over time. In FY 2005, Congress appropriated funds specifically to address physical security enhancements for critical national seaports. The allowable uses of the funds have been modified on multiple occasions since then, and the funds are no longer used solely for the purchase of physical assets. According to the latest (FY 2015) guidance published by the Federal Emergency Management Administration, port security grant funds are intended to improve port-wide maritime security risk management, enhance maritime domain awareness, support maritime security training and exercises, and maintain or reestablish maritime security mitigation protocols that support port recovery and resiliency capabilities. These investments must address vulnerabilities in port security identified by the U.S. Coast Guard and support the prevention, detection, response, and/or recovery from attacks involving improvised explosive devices and other non-conventional weapons.

Because of the evolving nature of the purpose and permitted uses, it is difficult to determine how much of port security grant funding has been used for physical enhancements and how much has been used for items such as training and exercises. Nonetheless, this source of funding has been significant and has had a direct effect on security-related asset growth in Texas ports, which have collectively received over \$100 million in Port Security Grant Awards between 2005 and 2014 (11, 12, 13, 14, 15, 16, 17, 16). These grants are very limited in scope and do not directly address infrastructure that would enhance cargo throughput capacity or promote economic development.

They do, however, provide funds that allow ports to divert fewer of their infrastructure dollars away from cargo-related projects to projects that are required to meet federal security mandates.

Taxable Property Values

The ability to raise funds via the issuance of general obligation bonds is directly proportional to the total appraised value of property within the port’s taxing jurisdiction (i.e., its property tax base) and the applicable tax rate. Within the Texas port system, there is a vast range of total appraised values within each port’s taxing jurisdiction. These disparities in total appraised taxable property value make it much more difficult for ports with smaller tax bases to raise funds than for ports with larger tax bases. To put it in perspective, these values range from \$2.4 billion to \$10.5 billion for cargo-handling ports, and up to \$22.6 billion for SNND, which does not have its own cargo facilities. This disparity means that the same hypothetical tax rate at the most property-rich cargo port (\$10.5 billion) will generate 4.4 times as much income as it will at the lowest value port (\$2.4 billion).

Financing Mechanisms

Aside from cash flow financing (including both fees and taxes), the four primary financing mechanisms used by Texas ports are general obligation bonds, revenue bonds, notes payable, and capital leases. Table 1 shows which of these mechanisms each port has used during the 10-year analysis period between 2004 and 2014.

Table 1. Financing Mechanisms Used by Each Port.

Port	GO Bonds	Revenue Bonds	Notes Payable	Capital Lease
Port of Beaumont	X	X		
Port of Brownsville	X	X	X	X
Calhoun Port Authority		X		
Port of Corpus Christi		X		X
Port Freeport	X	X	X	X
Port of Orange				
Port of Port Arthur ⁹	X	X		
Port of Port Isabel				
Sabine-Neches Navigation District		X		
Port of Victoria	X			

Sources: (11–18)

General Obligation Bonds

A general obligation bond is a bond that is secured by the taxing and borrowing power of the entity issuing it. Voters must approve such bonds (and the authority to levy ad valorem property taxes to cover debt service) before such bonds may be issued. An analysis of the outstanding

⁹ Port Arthur’s entries in this and the following two tables are based on FY 2013 financials. The port authority staff indicated that the FY 2014 financials were not available.

balance for general obligation bonds by port authorities between the years 2004 and 2014 shows no discernible trend. The data show that for the system as a whole, there has been a marked decrease in the overall outstanding balance of general obligation bonds. The total outstanding balance for all ports in 2014 was about \$68.7 million, which represents a decrease of almost \$30 million since 2004. Three ports reduced their balance, while two ports issued new bonds.

The use of general obligation bonds is typically driven by local conditions, primarily (a) the expectation (or lack thereof) of improved business activity that will generate increased economic activity at the port and (b) the willingness of the local population to tax itself. The cost of general obligation bond financing is determined by the credit rating of each port authority. Because general obligation bonds are secured by the taxing authority of the port authority, and less subject to the dynamics of the port business (economic cycles, changes in trade flows, competition, etc.), they are generally considered as having a lower risk (and better credit rating) than revenue bonds. For example, in 2003, the Moody's rating for the general obligation bonds of the Port of Brownsville was A2, while the rating for their first lien 2002 revenue bonds was A3. By 2010, the Moody's rating for general obligation bonds had improved to Aa3 and for revenue bonds to A1 (19). According to the credit rating agency Standard & Poors (S&P), the credit ratings of U.S. ports have improved overall since the late 1990s, when most ports were in the S&P BBB category (20). Since then, ratings have improved, and currently S&P A is the most common category. Additionally, S&P notes that as a result of the market dynamics present in the port business and mentioned earlier, most ports find it difficult to achieve ratings in the AA category, while the AAA category is prohibitive (20).

Revenue Bonds

Revenue bonds are debt securities, which have a defined source of anticipated funds to pay both the principal and the interest. These funds may come from an activity, project, or revenue source that is not related to the capacity to levy taxes. From an investor's perspective, these bonds are riskier than general obligation bonds. For this reason, these revenue bonds often carry a requirement for the ratio of net revenues to revenue bond debt service to be a certain amount or greater. Typically, this ratio is in the range of 1.25 to 1.5. Not all of the ports have revenue bonds outstanding, and of those that do, not all report their ratios. In 2014, three ports reported their ratio: Freeport—2.25:1, Beaumont—4.92:1, and Brownsville—28.09:1. These ratios indicate that the ports are generating more than enough cash flow from operations to satisfy bond indenture requirements. An analysis of the port authorities' outstanding balance of revenue bonds between 2004 and 2014 shows an overall growth of \$33 million over the 10-year period. Of the balances that have increased, Freeport accounts for 60 percent, Beaumont accounts for 25 percent, and SNND accounts for about 14 percent. Given that their balance sheet shows that their assets have grown by almost \$660 million in the same time period, this trend suggests a modest growth rate for revenue bonds (12).

In terms of credit ratings, and noted earlier, revenue bonds are directly affected by the dynamics of the port business, and are comparatively considered to have a higher risk than general obligation bonds. Credit ratings for revenue bonds of ports have also improved overall since 2001, as illustrated by the example of the Port of Brownsville, which improved from a Moody's A3 in 2000 to A1 in 2010 (19).¹⁰

Notes Payable

Only one port, Freeport, reported notes payable as a financing tool in the 2014 financials (Brownsville paid off a note that was reported in 2004). Notes payable are simply a loan from a bank or other lending institution that is typically collateralized with the asset being financed.¹¹

Capital Lease

A capital lease is a lease agreement in which the lessor agrees to transfer the ownership rights to the lessee after the completion of the lease period. A capital lease is considered to have the economic characteristics of asset ownership and is considered as a purchased asset for accounting purposes. Only one port had a capital lease on the books as of 2014—the Port of Corpus Christi. Two other ports reported capital lease agreements that ended during the 10-year period—Brownsville and Freeport.¹²

INFLUENCE OF PORT AUTHORITIES ON LAND USE DECISIONS

Because the ability of the TRZ mechanism to generate revenue depends on land development, value trends, and patterns within its boundaries, it is critical to understand if and how port authorities are able to influence such development. TRZs generally cover large swaths of land, as evidenced by all four Port Authority TRZs that have been established to date. As noted earlier, the boundaries of these Port Authority TRZs (Port of Beaumont, Port of Port Arthur, SNND, and Port of Brownsville) are the same as the boundaries of their corresponding navigation districts (i.e., taxing jurisdiction). In turn, the navigation district boundaries far exceed the boundaries of their port facilities. Additionally, major cities are included within the navigation district

¹⁰ The Brownsville Navigation District's Moody's rating was downgraded in January 2016 from A1 to A2. This downgrade was, according to Moody's, in part due to a "significant increase in the district's debt profile, manageable but still significant, exposure to oil-related activity, and narrowed yet still adequate debt service coverage" (34).

¹¹ In the case of Freeport, the port authority entered in a note payable arrangement to refinance the purchase of two cranes. The balance on the note was \$14.1 million at the end of FY 2014.

¹² Brownsville entered into a 10-year lease that started in 2001 to finance the purchase of a mobile harbor crane valued at \$2.65 million. Freeport leased four trailers under two capital leases that expired in 2004 and 2006. The cost of these assets was \$204,409. In the case of Corpus Christi, the authority entered into a lease agreement with Gulf Compress. Under the terms of the lease, Gulf Compress constructed 550,000 square feet of cotton warehouses on property owned by the port. On January 21, 2005, the warehouses were completed and ownership was transferred to the authority in consideration of a 30-year prepaid lease.

boundaries, meaning that land uses within their TRZs are not limited to commercial and industrial uses. Most properties, in fact, are residential or agricultural.

It is therefore important to understand not only to what extent port authorities influence land development patterns within property they own, but more importantly, how they influence it within their overall taxing jurisdictions. This section reviews the tools that Texas port authorities have available to influence land development within property they own and elsewhere within their taxing jurisdiction. The first part reviews land development influence within port-owned property, while the second part discusses the tools ports use to influence development outside port-owned property.

Land Development within Port-Owned Property

Port-owned property is property tax exempt and therefore does not contribute directly to TRZ revenue. However, the development dynamics within port property do influence the development of tax-paying land surrounding it and are important to understand. Ports need to invest in expanding and renewing their facilities on an ongoing basis to keep up with competition from other ports and to cater to their customers and cargo demands. These investments (by the ports or businesses located in port regions) create demand for land, spur economic activity, and impact tax collections. Land development within port-owned property is generally planned and controlled by the port authority, is responsive to the authority's expectations of future port economic activity, and is reflected in a master plan. Port authorities have two direct influences on land use for the property they own:

- **Facility usage fees:** Each port authority (except SNND) has public docks, warehouses, and storage spaces for which fees are charged based on the level of activity. Dockage is charged for the right to moor at a public berth and is typically based on the size of the vessel and the length of stay. Wharfage is a charge that is typically assessed per unit of cargo (e.g., ton or barrel) that moves across the dock. Storage is charged for cargoes that remain in a warehouse or in a storage area beyond a stipulated length of time.
- **Long-term leases:** Ports lease portions of their property to businesses on a long-term basis. These leases usually stipulate the allowable uses of the property and any operating requirements that the port authority feels may be important to impose.

All of the port authorities, with the exception of SNND, generate significant income from leasing real estate and/or terminals owned by the port authority. The SNND uses its land for placement area purposes and does not have a policy to lease land for other purposes. Several navigation districts publish information about their leasing policies and practices. The leasing policies and practices of navigation districts illustrate the factors or criteria that port authorities consider in developing and leasing port-owned property to new tenants, which include the following:

- Generation of waterborne cargo (sometimes with minimum annual throughput requirements).
- Encouragement to use other port facilities and multimodal links.
- Improvement of navigation.
- Job creation and synergies with existing port tenants.

In addition to economic activity generated by the port and port tenants, other factors such as highway and railroad accessibility increase demand for industrial and commercial land in seaport areas. It is for this reason that the port master plans for Port of Brownsville, Port of Port Arthur, and Port of Beaumont provide detailed information on accessibility to highways and railroads. Moreover, these plans also identify future highway and railroad improvements that will serve expected port traffic demand.

Land Development within Taxing Jurisdiction

The revenue of a Port Authority TRZ is generated by the development of land within the navigation district's taxing jurisdiction and outside port-owned property. Although port authorities are not able to directly influence development of land within their jurisdiction that lies outside port property, there is a range of tools that allow them to indirectly do it. These tools include tax abatements, foreign-trade zones, enterprise zones, and special development initiatives.

Tax Abatements

Tax abatements are tools used by counties, cities, and special districts to promote economic activity through property tax exemptions or reductions (19). In essence, a tax abatement in the context of a navigation district would be an agreement between the district and a taxpayer that exempts all or part of the increase in the value of the real property and/or tangible personal property from taxation for a period not to exceed 10 years (20). In order for the board (or commission) of a navigation district to consider a request for a tax abatement, Chapter 312 of the Tax Code requires that the Board of Commissioners adopt guidelines and criteria establishing eligibility to qualify for a tax abatement. The code also specifies a number of terms and conditions that must be included in a tax abatement agreement.

Navigation districts with abatement agreements include Beaumont, Port Arthur, and the SNND. SNND has a formal written policy governing how it will consider and approve or disapprove requests for tax abatements. Calhoun Port Authority has its own tax abatement program and participates in county tax abatements. Port Freeport participates in the Brazos Harbor Industrial Development Corporation tax abatement district, but it does not appear to have active abatement agreements in place. The Port of Brownsville is the only navigation district that does not consider tax abatements.

Foreign-Trade Zones

Foreign-trade zones (FTZs) are another tool available to port authorities to use to influence development outside port property. According to U.S. Customs and Border Protection (CBP), FTZs are secure areas under CBP supervision that are generally considered outside the customs territory of the United States (also referred to as CBP territory) upon activation (21). FTZs are located in or near CBP ports of entry and are considered the U.S. version of what are internationally known as free trade zones or free economic zones. Under FTZ procedures, the usual formal CBP entry procedures for foreign merchandise and payments of duties are not required unless and until it enters CBP territory for domestic consumption. Upon entry, the importer generally has the choice of paying duties at the rate of either the original foreign merchandise or the finished product. A zone user (e.g., a manufacturer) is able to avoid ad valorem taxes on all merchandise in the zone that is of foreign origin or that is destined for export. This arrangement has a number of benefits to businesses located in the FTZ.

FTZs are sponsored by qualified public or public-type corporations (also called grantees), which may themselves operate the facilities or contract for their operations with public or private firms (also called operators). A typical general-purpose FTZ provides leasable storage/distribution space to users in warehouse-type buildings with access to different modes of transportation, such as ports. Other zones include an industrial park site with lots on which zone users can build their own facilities. Free trade subzones are normally private plant sites authorized by the U.S. Foreign-Trade Zones Board (part of the U.S. International Trade Administration) and sponsored by a grantee for operations that usually cannot be accommodated within an existing general-purpose zone. There are a number of Texas port authorities that participate as FTZ grantees and/or operators (see Table 2). Participation in a FTZ arrangement allows port authorities to influence land development by providing incentives for businesses to locate in or near the port area.

Table 2. Foreign-Trade Zones Administered by Texas Port Authorities (22).

Zone	Grantee/Operator
FTZ No. 62 Brownsville	Brownsville Navigation District (Grantee/Operator)
FTZ No. 115 Beaumont	Foreign-Trade Zone of Southeast Texas Inc. (Grantee) Port of Beaumont (Operator)
FTZ No. 116 Port Arthur	Foreign-Trade Zone of Southeast Texas Inc. (Grantee) Port of Beaumont (Operator)
FTZ No. 117 Orange	Foreign-Trade Zone of Southeast Texas Inc. (Grantee) Port of Beaumont (Operator)
FTZ No. 122 Corpus Christi	Port of Corpus Christi Authority (Grantee/Operator)
FTZ No. 149 Freeport	Port Freeport (Grantee/Operator)
FTZ No. 155 Calhoun/Victoria Counties	Calhoun-Victoria Foreign-Trade Zone Inc. (Grantee) Calhoun Port Authority (Operator)

Enterprise Zones

Enterprise zones (EZs) are geographic areas in which businesses can be eligible for subsidies. According to the Texas Comptroller of Public Accounts, an EZ is an economic development tool that allows communities to partner with the state to offer a package of local and state tax and regulatory benefits to new or expanding businesses in economically distressed areas (23). More specifically, an EZ is a geographic area nominated by a city or county or a combination of cities and/or counties through an application to the Texas Department of Economic Development. The area must meet at least one of two possible primary distress criteria (high unemployment or population loss) and one of seven secondary distress criteria that are currently considered. The area must have a continuous boundary and be at least one square mile in size, but not larger than 10 square miles or 5 percent of the governing body's/bodies' jurisdiction (up to 20 square miles), whichever is larger. The designation period for a zone is seven years.

EZ subsidies often include various corporate income tax credits, property tax abatements, and other tax exemptions and incentives. Zones range in size from hundreds to several thousand acres. The law requires local communities to nominate a company as an enterprise project to be eligible to participate in the EZ Program. Allocations of enterprise projects to the state and local communities are limited per biennium. Texas port authorities that have EZs in or adjacent to port property include Brownsville, Corpus Christi, Freeport, Beaumont, Orange, Port Arthur, and Victoria (26).

Special Development Initiatives

Several Texas ports reported undertaking special, targeted initiatives to develop property in and around the port:

- **Beaumont:** The port owns approximately 828 acres of property in Orange County on the east side of the Neches River. This property is not located within the jurisdiction of the Port of Beaumont Navigation District. Approximately 240 acres has been leased for 50 years for the development of a crude-by-rail terminal that began operations in December 2013. Another 453 acres of the Orange County property has been leased to the same tenant under a development agreement. In addition, about 135 acres is under a long-term easement granted to SNND to be used as a dredge material disposal area.
- **Brownsville:** The Port of Brownsville's new franchise agreement with the Broe Group/OmniTrax to develop an industrial park with an incubator site is intended to open up new areas within the port-owned property for development. Further, the port is in the process of staffing a newly created marketing department to market the port to potential customers for industrial development and for increasing cargo tonnages.
- **Port Arthur:** There have been limited efforts for redevelopment and/or gentrification in areas near the port. Most efforts are tied to various federal or local grant-funded programs, such as the Economic Development Administration or the Community

Development Block Grant, or to local economic development corporations. A number of publically funded studies and consultant recommendations exist for revitalization of the central business district and other areas outside the port. The studies typically recommend residential and mixed commercial redevelopment. Some public grant funding has funded studies and made modest improvements. There has been very limited private investment to date. In the past year, efforts have been undertaken to establish a TRZ in downtown Port Arthur.

POTENTIAL BENEFIT OF PORT TRZ

This section explores the potential role that Port Authority TRZs could play in the funding of improvements to enhance the connectivity of ports into rail corridors and the U.S. Interstate and Texas State Highway Systems. It also discusses how these TRZs may effectively enhance a port authority's funding/financing portfolio. The first part of the section provides context by describing some of the limitations of the traditional funding tools available to port authorities. The second part discusses the potential roles that Port Authority TRZ financing may play. The third part identifies some practical limitations to the use of the tool.

Limitations of Traditional Port Funding Tools

The existing funding tools available to port authorities and navigation districts are all focused on the development of infrastructure on property owned by them. Port Authority TRZs can enable ports to develop port infrastructure on property they do not own by providing financial resources above and beyond operating income and regular tax revenues. The need to develop infrastructure on non-port property was the primary motivation for the creation of the three TRZs in Jefferson County—specifically, the need to provide local match funds for the widening and deepening of the Sabine-Neches Waterway.¹³

Port authorities already use various mechanisms to influence development near the port. Mechanisms like FTZs, tax abatements, and special purpose districts influence business operating costs (for businesses located at ports) by altering taxes but are not directly geared toward the specific development of port infrastructure. Indirectly, however, the growth of these businesses adds value and revenues to ports, which have traditionally been used to finance port investments via bonding. What is missing is a mechanism for port authorities to develop infrastructure in areas adjacent to the port that will have a direct influence on the port's operating capacity and efficiency, such as improved access to and mobility around the port.

¹³ The Port of Port Arthur commission specifically noted various on-port and off-port projects they might consider pursuing, but the waterway project was an important driver.

Potential Roles of Port Authority TRZs

The Port Authority TRZ mechanism could significantly help port authorities address infrastructure needs in areas adjacent to port property that can improve the port's efficiency or security. This tool could allow navigation districts to address last-mile connectivity issues and capacity constraints without placing an undue burden on the districts' financial condition.

Port Authority TRZs make it possible for port authorities to team with counties and/or cities that also have TRZs to construct projects that will benefit all parties. When it is politically and economically expedient to do so, multiple entities can all dedicate their TRZ resources to one project or set of projects that will enhance the transportation infrastructure within the overlapping TRZ designated area and promote economic development.

Although unrelated to ports, a recent example in the El Paso metropolitan area illustrates how this could be done. In this example, the County of El Paso TRZ, the City of Socorro TRZ, and the City of Horizon TRZ all combined resources to develop a project that was in the common interest. This project consisted of the improvement of eight roadways located in three different jurisdictions within the County of El Paso. These jurisdictions include the county itself, as well as the cities of Socorro and Horizon. The proposed improvements are expected to mitigate increasing congestion on the existing roads and expedite development of the area. The project had an estimated cost of \$90 million, and the three jurisdictions were interested in jointly funding it by using the TRZ mechanism in each one of their jurisdictions to generate the funds to pay for the improvements. Figure 2 shows the location of the projects within the three jurisdictions involved. The two city TRZs overlap with the county TRZ.

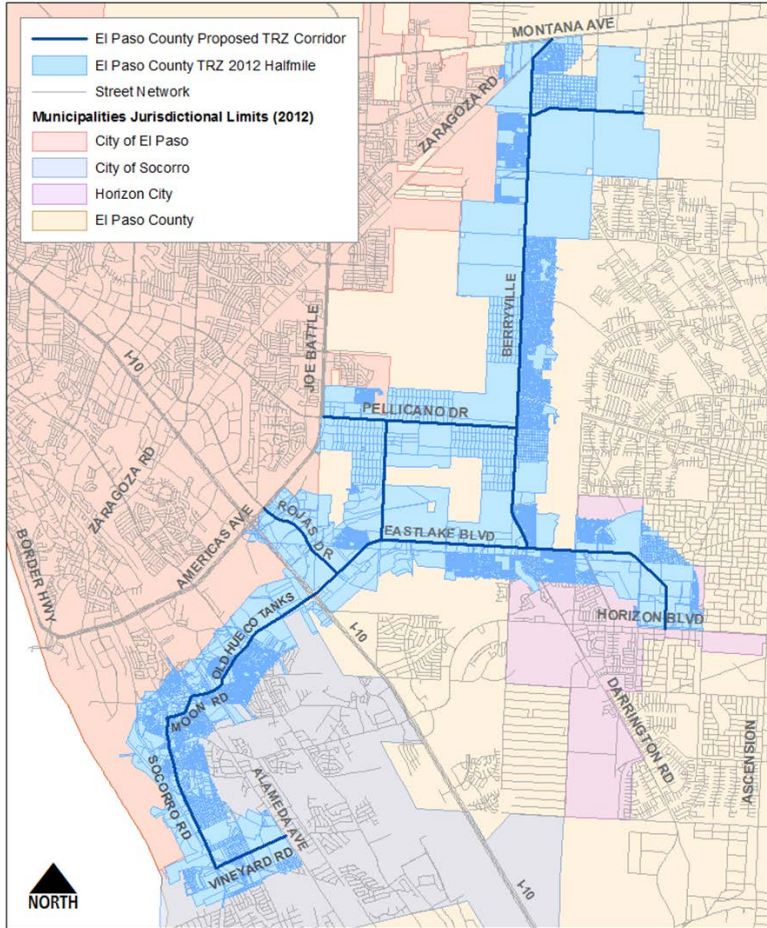


Figure 2. County of El Paso TRZ, City of Socorro TRZ, and City of Horizon TRZ.

The three jurisdictions signed a memorandum of understanding that spelled out the agreement to jointly fund the project, including the decision to have the Camino Real Regional Mobility Authority (CRRMA) be the agency that would serve as the project developer (i.e., contract out the works). Each of the three jurisdictions signed an agreement with the CRRMA to pledge their TRZ revenue, which the CRRMA would then use to secure a State Infrastructure Bank loan to pay for the project. However, a few months later, a Texas attorney general opinion made it clear that the use of a county’s TRZ revenue to secure debt for a transportation project could be constitutionally challenged (24, 25).¹⁴ In light of this challenge, the County of El Paso decided to instead use revenue from its newly established optional vehicle registration fee to meet its pledge to the CRRMA. There are several examples of multijurisdictional projects across the country where funds from various sources are pooled together (public/private partnerships are a classic example).

¹⁴ Counties are currently constitutionally prevented from being able to use TRZ revenue to repay debt incurred for a project aimed at developing or redeveloping an area, including a transportation project. See Attorney General’s opinions GA-1076 (<https://texasattorneygeneral.gov/opinions/opinions/50abbott/op/2014/pdf/ga1076.pdf>) and KP-004 (<https://texasattorneygeneral.gov/opinions/opinions/51paxton/op/2015/kp0004.pdf>).

If the county TRZ constitutionality issue had not been a problem, this arrangement would have worked out as far as an overlapping TRZ funding pledge. A parallel to a port authority situation could be easily created by substituting the county figure in the El Paso case for a navigation district that overlaps boundaries with a city or has property in an unincorporated area of a county. In such a situation, the joint TRZ funding agreement would be a viable mechanism.

Practical Limitations

There is one practical limitation to Port Authority TRZs when it comes to targeting infrastructure that is specifically port related. Several TRZs around the state have used their tax increment funds to acquire funding from the SIB. However, because the bank's funding comes from the federal and state government's highway programs, the SIB cannot currently be used to finance port projects because port property is not considered part of the state highway system.¹⁵ In such cases, it would be technically possible to go to the bond market or other lenders, but to date the cost of such financing has been prohibitive. On the other hand, TRZ revenues could technically be used by a port authority to secure a SIB loan for a project if such project is located on the state highway system.

¹⁵ As per federal regulations, projects must be eligible for funding under the existing federal highway rules (Title 23, United States Code) to comply with SIB requirements. This usually requires a project to be on a state's highway system and included in the statewide transportation improvement plan (<http://www.txdot.gov/inside-txdot/division/debt/sib.html>).

CHAPTER 4. PLANNING AND IMPLEMENTATION OF PORT AUTHORITY TRZS

This chapter discusses the various stages in the process of planning and implementing a Port Authority TRZ. As noted earlier, the process to establish a Port Authority TRZ is essentially the same as the process followed to establish a municipal TRZ. This process can be summarized in five stages and is illustrated in Figure 3. The following sections explain in detail each stage and have been adapted to the Port Authority TRZ concept from TxDOT's *Transportation Reinvestment Zone Handbook* by Vadali et al. (26).

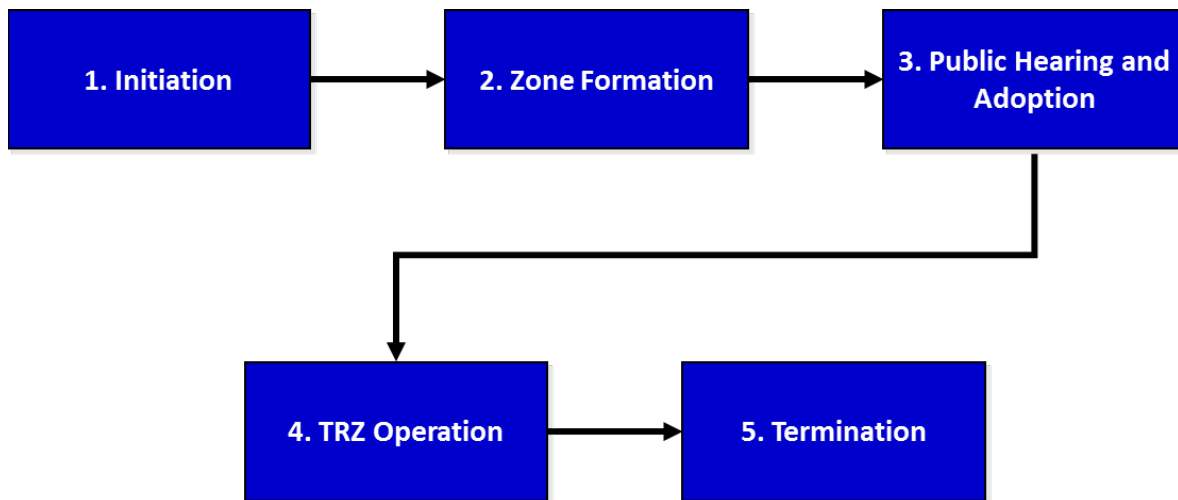


Figure 3. Implementation Stages for Port TRZs.

STAGE 1. INITIATION

The process of implementing a Port Authority TRZ starts with the initiation stage. This stage consists of selecting an eligible target area for TRZ funding that is unproductive or underdeveloped as required by SB 971. The funds generated by the TRZ should be used for a project that is necessary or convenient for the proper operation of a maritime port or waterway and that will improve security, movement, and intermodal transportation of cargo or passengers in commerce and trade, as described by Texas Transportation Code Section 222.1075 (a)-(3).

The key requirement under the legislation for designating a TRZ is to demonstrate the eligibility of the area as undeveloped or underdeveloped. In order to meet this requirement, port authorities can benefit from developing one or more of the following:

- An economic impact analysis (EIA) study of the proposed project and the economic value it can create. For instance, port projects must demonstrate not only potential maritime trade benefits but also how these would ultimately encourage economic development in the TRZ area. There are many tools available to help with parts of such an analysis, but none of them is comprehensive enough to cover the entire range of

impacts, and analysts often have to rely on subjective measures. The state-of-the-art analysis must improve in this regard. It is equally important to realize that not all projects are TRZ worthy.

- A preliminary increment capture analysis to assess Port Authority TRZ revenue. As per Section 222.1075 (j), a port authority may assess all or part of the cost of the project against property within the TRZ. This assessment relies on appraisal data, real properties pace of development and land use dynamics, and forecasts for real property values.
- A demonstration of unproductive or underdeveloped land in the corridor.

Some of the data sources that will need to be tapped into to secure the data needed for this type of analysis include TxDOT, the county appraisal districts, the Texas Comptroller of Public Accounts, and various other economic resources and sites. The types of data include:

- Project-related information (costs, tentative limits, and project type).
- Parcel layers from appraisal districts and other sources.
- Appraisal data.
- Land-use information.
- Any other supporting information to develop the EIA study, such as demographics.

The results of these preliminary assessments could be used to initiate a dialogue with stakeholders, such as navigation district board commissioners, county commissioners, TxDOT, metropolitan planning organizations, and other stakeholders to build support. The identification of a TRZ champion facilitates this process since it requires a significant amount of interagency collaboration.

STAGE 2. ZONE FORMATION

This second stage of the TRZ implementation process involves three substeps: (a) determination of zone boundaries; (b) provision of a 60-day notice; and (c) refinement of the TRZ increment capture analysis conducted in Stage 1.

Determination of Zone Boundaries

The first step is to define zone boundaries and identify the parcels that will be within the Port Authority TRZ. The port authority determines zone boundaries by designating a contiguous geographic area within its jurisdiction as a TRZ under Section 222.1075 (c). The zone should have its boundaries defined with sufficient definiteness to identify them with ordinary and reasonable certainty (Section 222.1075 (f)-(1)). In addition, the parcels within the TRZ boundaries should be identified and listed. This identification requires that a zone map showing all the affected parcels and areas must be developed as a TRZ, and the zone must be assigned a number (example, TRZ # 1). Following that step, a benchmark year for tax increment collection

(i.e., the base year when the TRZ is established) has to be established as a basis for tax increment calculation.

Additionally, when establishing zone boundaries, agencies must keep in mind the following:

- Zone boundaries are limited to a maximum footprint of the entire navigation district.
- Although actual zone boundaries are usually established around the project, it is possible to establish zone boundaries prior to knowing exact project limits, as long as the project remains within zone boundaries.
- Pre-existing navigation district revenue commitments within the TRZ boundaries (e.g., tax abatements or other tax incentives) must be clearly identified, since these incentives will take precedence and reduce the amount of TRZ revenue collected (see Box 2).

The law allows port authorities to amend TRZ boundaries once they are established with some limitations. Zone boundaries can be expanded, but not reduced (i.e., parcels can be added but not dropped). Therefore, there is a need for rigorous diligence in this stage to avoid future conflicts that would prevent the port authority from granting other desired property tax incentives targeted to specific parcels for economic development purposes.

Box 2: Pre-Existing Agreements and Abatements

Consistent with the requirements for municipal and county TRZs, SB 971 establishes that any previous property tax relief and abatement agreements authorized by the port authority (including those under Chapter 312 of the Tax Code) are to be excluded (deducted) from the annual tax increment paid into the tax increment account. In other words, property tax increment revenues related to real property that in any given tax year benefits from an abatement agreement that precedes the creation of the Port Authority TRZ have to be excluded from the amounts deposited into the tax increment account. Upon the expiration of the pre-existing agreement or abatement, if the TRZ remains in place, such annual property tax increments would become payable into the tax increment account until termination of the TRZ. Examples of such agreements applicable to port and navigation districts include tax abatements that may be granted by a port authority in coordination and agreement with city and/or county reinvestment zones, as well as enterprise zones created under Chapter 2303 of the state's Government Code.^{16,17}

Provision of 60-Day Notice

There is a 60-day notice period that needs to take place before the TRZ is designated. The legislation specifies that the port commission hold a public hearing on the creation of the zone,

¹⁶ Under the State's Tax Code (Chapter 312), designation of an area as an enterprise zone under Chapter 2303 of Government Code constitutes the designation of an area as a reinvestment zone. Navigation districts may choose to provide temporary property tax abatements to real property located within the district and inside an enterprise zone. *Tax Code*: <http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.312.htm>. *Government Code*: <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2303.htm>.

¹⁷ For an example of a navigation district tax abatement policy that includes incentives in coordination with enterprise zones, see the Sabine-Neches Navigation District Uniform Tax Abatement Policy (March 2014): <http://www.navigationdistrict.org/wp-content/uploads/2014/08/2014AbatementPolicy.pdf>.

not later than the 30th day before the date when the TRZ is expected to be designated. In addition, notice of the public hearing must be given at least seven days prior to the date of the hearing, and the intent to create the zone must be published in a newspaper having general circulation in the county where the zone is located.

Refine TRZ Increment Capture Analysis

During this 60-day period, the preliminary increment capture analysis conducted in the initiation stage should be refined to ensure that the revenue will be sufficient to meet the expected TRZ-related financial commitments (e.g., debt service) entered into by the navigation district. This refining process includes generating the highest possible cadastral (parcel) data and refining assumptions related to pace of development and property values. The refined increment capture analysis should estimate the potential tax increment revenue potential within the proposed TRZ boundaries. In general terms, the logic of such an estimation exercise would follow the steps below:

1. **Establish base year and base year appraised value.** The port authority must designate the base year for the purpose of establishing a tax increment base and estimate the base year appraised value of the TRZ tax increment base.
 - The base year is the year the TRZ is established.
 - The base year appraised value, or tax increment base, is the total appraised value of all real property taxable in the TRZ (as per the local county appraisal district's certified roll for the base year).

2. **Establish a proposed TRZ duration or analysis period.** There is no legal requirement for TRZ duration. Municipal and county TRZs typically use periods of 30 to 35 years after the base year.

3. **Estimate captured annual appraised value increments.** For each year in the analysis period after the base year, estimate the appraised value increment (captured appraised value):

$$\textit{Total appraised value in TRZ} - \textit{Tax increment base} = \textit{Captured Appraised Value.}$$

4. **Determine total annual tax increments.** This is the amount of ad valorem taxes levied and collected by the navigation district for each year within the TRZ. It is critical to use the appropriate tax rates, that is, use only the navigation district portion of the property tax rate for each year in the analysis period after the base year:

$$\textit{Captured Appraised Value} \times \textit{Nav. District Tax Rate} = \textit{Annual Tax Increment.}$$

- 5. Determine portion of tax increment to be set aside for TRZ purposes.** Based on the port authority’s plans to abate all or a portion of the property tax within the TRZ, estimate how much of the annual tax increment will be set aside:

$$\text{Annual Tax Increment} \times \% \text{ of tax abated} = \text{Gross Annual TRZ Revenue.}$$

- 6. Recognize pre-existing property tax revenue commitments or incentives.** Reduce the gross annual TRZ revenue that would be foregone to pre-existing active property tax incentives within the TRZ boundary:

$$\begin{aligned} & \text{Gross Annual TRZ Revenue} - \text{Pre-Existing Commitments} \\ & = \text{Net Annual TRZ Revenue.} \end{aligned}$$

STAGE 3. PUBLIC HEARING AND ADOPTION

After setting up initiation and zone formation, a public hearing notice should take place before the TRZ is designated. The public hearing should be held no later than the 30th day of the proposal day on the creation and benefits of the zone. A notice must be published in a newspaper no later than seventh day preceding the hearing day, as described in Section 222.1075 (e).

Once the TRZ is designated, the port authority establishes or designates the TRZ by order or resolution. The navigation district’s order or resolution designating the Port Authority TRZ is required to satisfy the following conditions for adoption:

- Describe the boundaries of the TRZ with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the TRZ.
- Provide that the TRZ takes effect immediately upon adoption of the resolution or order and that the base year shall be the year of passage of the order or resolution or some year in the future.
- Assign a name to the TRZ for identification purposes, with the first TRZ created by a port authority named “Transportation Reinvestment Zone Number One, Port of _____,” and subsequent TRZs named and numbered accordingly.
- Establish a TRZ ad valorem tax increment account.
- Provide the expected outcomes of the project, as defined in Section 222.1075 (f).

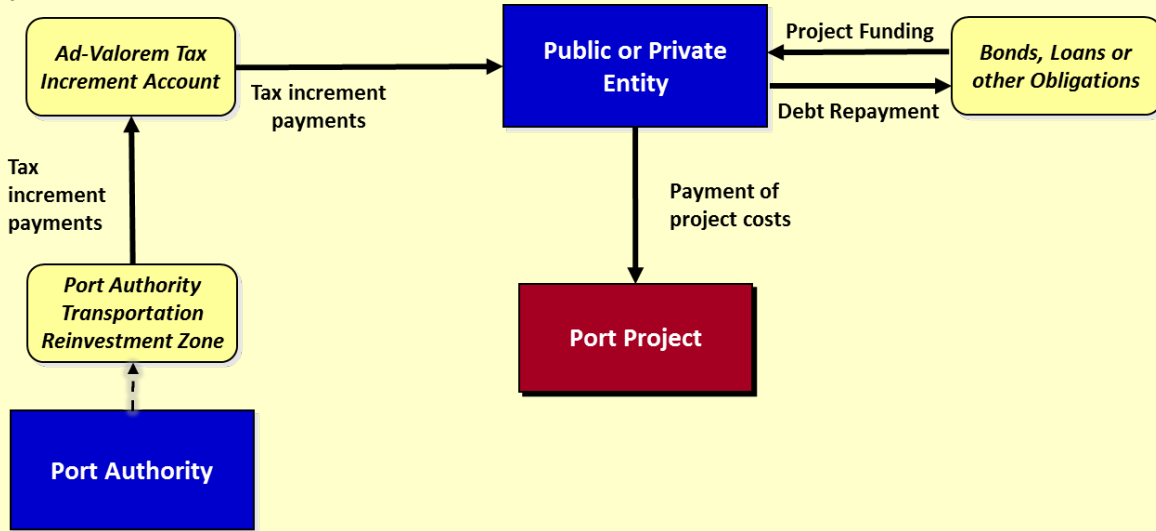
STAGE 4. TRZ OPERATION

Every subsequent year after the Port Authority TRZ base year, the annual TRZ tax increment will be transferred into the navigation district’s TRZ tax increment account, as described in Section 222.1075 (h)-(1) and illustrated in Box 3. The annual tax increment may be used for repaying any loan or other debt incurred to finance a port project in the zone, as defined in Section 222.1075 (h)-(2).

Box 3: Operations, Cash Flows, and Financing in Port Authority TRZ

Upon the designation of the TRZ, annual tax increment payments from property within the zone are deposited into an ad valorem tax increment account. The port authority may then contract with a public or private entity to develop, redevelop, or improve a port project in the TRZ and may pledge and assign to that entity all or a specified amount of the tax increment revenue the port authority receives for the payment of the costs of that port project.

The law prevents the port authority from rescinding this pledge once the entity that received it has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the port project. Once these obligations have been paid or discharged, the port authority may rescind the pledge. The bill prescribes that any amount received from installment payments of the assessments not pledged in connection with the port project may be used for other purposes associated with the port project or in the zone.



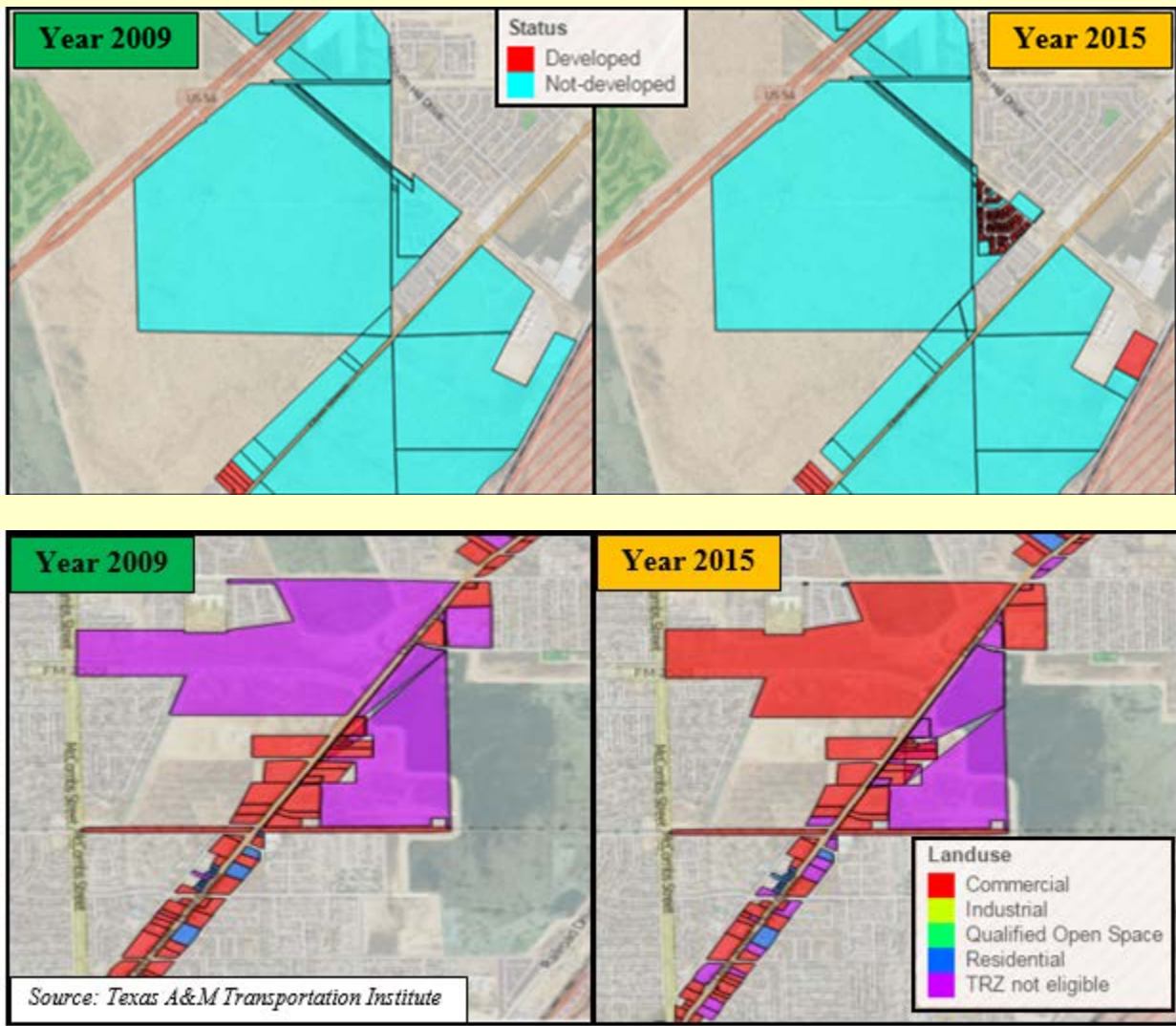
Once TRZs are established, monitoring and evaluation are critical steps. Although not required by the law, port authorities will find it in their interest to establish monitoring and evaluation of TRZ revenues to optimize revenue and payment streams. This information may be used for multiple purposes. For example, when revenue from new development may be lower than expected, the established monitoring and evaluation processes enable a port administration to develop insights in order to activate a contingency plan. This activation will be helpful in bringing the revenues to the expected levels. Box 4 illustrates the type of TRZ information that could be generated in the monitoring process.

As an alternative to the contingency plans, changes in the limits of the project for which a Port TRZ was designated can be allowed at any time, but with certain limitations (2). Property may not be removed from a designated zone if any part of the assessment has been assigned or pledged directly by the port authority (or another entity) to secure bonds or other obligations in connection with the project (Section 222.1075 (k)). On the other hand, property may not be added to a zone unless the port authority complies with the requirements to designate the area as

a TRZ (including conducting public hearings and issuing an order or resolution designating it, as required under sections 222.1075 [e] and [f]).

Box 4: TRZ Monitoring and Evaluation

Information developed in the monitoring process helps assess how far projections were from actual realizations. Trends in taxable appraised values, land use, and development status of the real properties within a TRZ offer valuable insight into the dynamics of transportation infrastructure and land development. The figures show development and land use changes that took place on parcels located within the City of El Paso TRZ No. 3 between the base year (2009) and 2015. A number of properties adjacent to the roadway changed from vacant to developed and/or were up-zoned from open space to residential and commercial uses.



STAGE 5. TERMINATION

According to SB 971, a Port Authority TRZ terminates on December 31 of the year in which the Port Authority completes any contractual requirement that included the pledge of TRZ revenue. Also, a Port Authority TRZ terminates on December 31 of the 10th year after the year the zone was designated, if before that date the Port Authority has not used the zone for the purpose for which it was designated.

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