

**Subject:** TIRZ Policy - Word Document

[Attach to the TIRZ agenda item for Mon](#)

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**From:** Frank Turner  
**Sent:** Wednesday, November 16, 2011 9:46 PM  
**To:** Cheryl Williams; bbiyeu@co.collin.tx.us; Sally Bane  
**Cc:** Frank Turner  
**Subject:** RE: TIRZ Policy - Word Document

Here are a few comments. There are two forms of TIFs, those that are petition generated and those that a government generates. The methodology and policies you have outlined seem to be more appropriate to a petition generated TIF. A petition generated TIF is typically created to fund a specific improvement(S) generally required as a part of a larger reasonably well defined project - a shopping mall, hotel conference center, etc. The property owner/developer is the petitioner and is requesting the TIF to overcome a gap in his financial plan. The questions you are asking are reasonable, but understand the answers you receive will still be guesses and optimistic ones at that.

Governmental initiated TIFs may or may not have the level of detailed information you are requesting. Often this type of TIF may have no more than a general concept plan and a project budget that is nothing more than categories of spending. Only as the project advances are specific opportunities identified. The TIF board and the governing body need the flexibility to respond to those opportunities and shift funding as may be required. It is virtually impossible at the front end to forecast revenues streams, or calculate cost/benefit. It is also unreasonable to suggest a financial benefit will accrue to the county during the term of its participation. The real gain will likely occur when the TIF ends and the full tax base is restored to participating jurisdictions.

Since school district participation is only rarely an option, I'm not sure its worth the brain damage to create TIF's. I recommend talking to some consultants that have prepared a number of TIFs. Larry Cline and Mark Stein would be good resources.

## **POLICY FOR COUNTY PARTICIPATION IN TAX INCREMENT REINVESTMENT ZONES (TIRZ) CREATED IN COLLIN COUNTY**

**PURPOSE:**

This policy shall be used to inform a prospective Applicant of the criteria that the Commissioners Court shall require in order for the Commissioners Court to evaluate Collin County's participation in a development or re-development of an area using tax increment financing. Chapter 311 of the Texas Tax Code, as well as any amendment, repeal, or substitution thereto ("The Tax Increment Financing Act"), shall govern in instances where this policy is silent or in instances where a provision of this policy is subordinate to the Tax Increment Financing Act through the Supremacy Clause of the Texas Constitution or any provision of the Constitution of the United States of America.

**DEFINITIONS:**

All words not specifically defined in Chapter 311 of the Texas Tax Code or in these Guidelines shall be given their plain and ordinary meaning. Any definition or description of a word or phrase within Chapter 311 of the Texas Tax Code shall apply.

1. **"Applicant"** means an individual representing him or herself in an individual capacity or an individual representing a legally recognized business entity under state or federal law who seeks to develop or re-develop an area through a TIRZ.
2. **"Cap"** means a maximum amount beyond which the County will not contribute.

3. **“Zone Created by Petition”** means a reinvestment zone created in accordance with Tex. Tax Code Ann. § 311.005(a)(5).
4. **“Project Plan”** means the project plan for the development or redevelopment of a reinvestment zone approved under § 311.011, including all amendments of the plan approved by Commissioners Court.
5. **“Project Specific Participation”** means participation in which the County selects certain elements of a Project Plan to which it will contribute portions of its increment contribution.
6. **“Reinvestment Zone Financing Plan”** means the financing plan for a reinvestment zone as described in § 311.011.

**PARTICIPATION REQUIREMENTS:**

1. **County Audits.** The County will have the right to audit the books and records of every Zone (and Redevelopment Authority) in which it participates. Such audits will take place any time convenient to the County.
2. **Eligible Zone.** In order for a reinvestment zone to be eligible for County participation, it must:
  - a. The Zone and projects must meet the eligibility requirements contained in Chapter 311 of the Texas Tax Code and these guidelines;
  - b. **Cost/Benefit Analysis must show a net financial benefit will accrue to the County during the terms of its participation. Not Likely**
3. **Eligible Project.** In order to be eligible for County participation, a project must have clear public purpose.
4. **Terms of Participation.**
  - a. The County’s participation percentage may not exceed the City’s participation percentage when all City tax revenues (property & sales taxes excluding Community Development Corporation and Economic Development Corporation rebates) are calculated within the TIRZ. As an example, if the City projects sales and property tax revenues of \$100 million for the life of the proposed TIRZ and agrees to refund \$40 million to the TIRZ, the County’s participation may not be more than 40%.
  - b. **All County participation must be “Project Specific. Too ridged funds must be pooled as a common fund to maximized opportunities, especially in the early years when revenues are lean.”**
  - c. County participation must be capped at the total amount of its contribution to the specific projects.
  - d. The term of County participation will not extend beyond its payment of the Capped amount or the zone’s receipt of the total amount from all jurisdictions, as set out in its project plan, whichever occurs first.
  - e. The County must have the ability to designate those projects in which it will participate, and for which it will administer the construction. In these instances, the TIRZ will pay to the County, in advance, all funds necessary to cover the cost of completion of the project.
  - f. **No more than 10% of any increment contributed by the County may be utilized by the TIRZ for the payment of administrative, legal, consulting or other professional expenses, except engineering and architectural fees directly related to the specific projects in which the County will participate. No portion of the increment contributed to the TIRZ by the County may be paid to the City for administrative fees. No governmental entity conducting a TIF is likely to recoup its staff costs. It’s only reasonable to share the cost among all the participating entities.**
  - g. There shall be no penalty or interest due from the County for delayed increment payments.
  - h. County participation may not exceed 50%.

**APPLICATION & APPROVAL PROCESS** **MUCH EASIER TO PRODUCE IF IT IS A PETITION TIF FOR A SPECIFIC PROJECT. IT IS STILL A BEST GUESS. KEEP IN MIND IT COST TIME AND MONEY TO PRODUCE THIS AND IN TRUTH IT MAY HAVE VERY LIMITED VALUE.**

1. Collin County will consider participating in a TIRZ project on a case-by-case basis when the request is made in writing to the County Administrator (Collin County Commissioners Court, 2300 Bloomdale Rd. Suite 4192, McKinney, TX 75071) and when the request is accompanied by all of the information outlined below which will be used to evaluate the TIRZ request:
  - a. An explanation of why the TIRZ is needed;
  - b. The estimated life of the TIRZ and a description of the proposed private sector development, its investment level and its implementation schedule;
  - c. The submission of either a detailed financial forecast of what growth will occur in the proposed TIRZ if the TIRZ is not created or does not become operational;
  - d. The assessed valuations of the proposed TIRZ for each of the past five years;
  - e. A detailed description of what Public Improvements will be undertaken, how they will be funded, and how these improvements relate to the area’s growth;
  - f. A description of the level and duration of the Reinvestment Zone Financing Plan that is being requested for each taxing entity;
  - g. A detailed description of anticipated annual TIF Project revenues, costs, increments, and debt service requirements;

- h. An explanation of and basis for the TIF Project's financial and economic growth assumptions;
  - i. A detailed description of the TIF Project's impact on the local economy and the County's property tax base and , if applicable, a description of the number/types of new permanent jobs to be created and the projected payroll/or the number/types of housing units to be created and the projected sales/rental prices of each type of housing or business;
  - j. The results of present value analysis which show in what year the additional tax revenue benefits to the County will equal or exceed the incremental revenues that the County will forego;
  - k. A copy of any existing marketing and feasibility study;
  - l. A description of the Applicant's background, its record at undertaking similar projects, the background of its major principals, its relocation/expansion history over the past fifteen years, its financial condition over the past five years, and its source of financing for the TIF Projects;
  - m. An explanation, if applicable, of how the TIF Projects will revitalize economically distressed areas and/or provide employment for the chronically unemployed;
  - n. A discussion of how the TIF Projects avoid, address, and /or alleviates displacement and environmental concerns;
  - o. The name, address, and telephone number of the contact person;
  - p. All projected revenue information provided to the City Council prior to their adoption of the TIRZ;
  - q. Any hard deadlines proposed and/or adopted by the City Council must be included in the presentation to Commissioners Court and in the County agreement; and
  - r. Any other information that may be requested that reasonably relates to the development or re-development of an area intended to be used for a TIF Project.
2. If TIRZ is in an incorporated area, a TIRZ agreement with the City must be approved prior to adoption by the County. A copy of the city ordinance and all documentation must be submitted to the County Administrator 45 days prior to the first public hearing.
  3. Prior to approving an order of participation in a TIRZ, the Commissioners Court will hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against the approval of the County's participation as required in the Texas Tax Code section 311.003.
  4. In order to approve participation in a TIRZ, the Commissioners Court must find that the terms of the proposed participation will meet these Guidelines and that:
    - a. there will be no substantial adverse effect on the provision of the jurisdiction's service or tax base; and
    - b. the participation will not substantially adversely affect the County's ability to carry out its long range development plans.
  5. The County has the right to terminate or reconsider the County's participation of the TIRZ in the event the requirements of Tax Code 311.013(d) have not been met.

*(d) If the reinvestment zone is created on or after August 29, 1983, a taxing unit is not required to pay a tax increment into the tax increment fund of the zone after three years from the date the zone is created unless the following conditions exist or have been met within the three-year period:*

- (1) bonds have been issued for the zone under Section 311.015;*
- (2) the municipality or county that created the zone has acquired property in the zone pursuant to the project plan; or*
- (3) construction of improvements pursuant to the project plan has begun in the zone.*