



December 1, 2011

Bill Bilyeu, County Administrator
Collin County Administrative Services
Collin County Administration Building
2300 Bloomdale Road, Suite 4192
McKinney, Texas 75071

RE: Proposed County TIRZ Policy

Dear Mr. Bilyeu:

The City of Allen administration and economic development staff have reviewed the proposed County TIRZ Policy and Chapter 311 of the Texas Tax Code.

As you know, the County is participating in the City's TIRZ #1 or TIF #1 at US 75 and Bethany Drive. The City entered into a development agreement with Coventry II DDR/Trademark Montgomery Farms L.P. to develop the Watters Creek mixed use development. Trademark has been developing the properties pursuant to the Project and Financing Plan that was approved by the TIF Board of Directors and the City Council. The County's participation was reflected in the plan to be primarily focused on the priority projects that consisted of ramp reversals, deceleration lanes, signalization, road improvements, and bridge construction. We have been very pleased with the development at Watters Creek (TIF #1) and believe that the County participation has played an important role in the success of the development.

Since the proposed County TIRZ Policy would be relevant to a future TIRZ created by a City or the County, there are some parts of the policy that may need clarification or changed as follows:

1. The definition of Project Plan in the policy refers to the County approving amendments to the plan, however, it is our understanding that this would apply only if the County created the TIRZ. Please refer to Section 311.011(a) of the Texas Tax Code that indicates the following: *"Sec. 311.011. PROJECT AND FINANCING PLANS. (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that created the zone. The plans must be as consistent as possible with the preliminary plans developed for the zone before the creation of the board."*

Perhaps the County definition of "Project Plan" in their policy could be restated to read "...reinvestment zone created and approved by the County under Section 311.011, including all amendments of the plan approved by the Commissioners Court for a TIRZ created by the County."

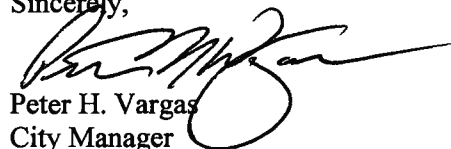
If a TIF is created by the City, then the County's participation is delineated in the Participation Agreement between the City and the County. The TIF Board and the City Council approve the Project Plan if the TIF was created by the City.

2. In the "Application and Approval Process" portion of the proposed policy, there is reference to housing units. The City of Allen TIF #1 is a mixed use development that includes retail, office, and apartments. The housing component of this project has added to its success. We believe that a countywide policy should not exclude housing units because this may result in a viable TIRZ project becoming ineligible. Additionally, affordable housing is mentioned in Section 311.010 and could be part of a project that eliminates blight, while providing affordable housing for families or students.
3. The last sentence in the policy indicates that the County has the discretion to renegotiate or cancel the TIRZ at year 5 if the value in the TIF has not increased 50%. This does not seem to meet the requirements of Section 311.013(d) of the Texas Tax Code. We recommend that the County examine the provision that allows it to cancel participation in the TIRZ project if certain benchmarks are not met. A provision for cancellation would make it difficult to issue TIF bonds for a project. The project would also have difficulty obtaining commercial or other financing if the County is allowed to cancel participation.
4. Under PARTICIPATION REQUIREMENTS, Section 3(b), the policy should address the fact that private enterprise will benefit from the TIRZ. Usually the benefit is in the form of reimbursement to the developer for eligible project costs pursuant to the Developer Agreement and Project Plan. Under PARTICIPATION REQUIREMENTS, Section 3(g), appears to limit the ability of the County to fund water, sewer, drainage, parking, etc.—infrastructure that may be an integral part of a viable project in the unincorporated portion of the County.
5. The requested information in various sections of the policy could be summarized in a standard Financial Analysis or Project Impact Report. The County could simplify the process by requiring a standard Financial Analysis or Preliminary Project and Financing Plan that includes information requested in the draft policy under PARTICIPATION REQUIREMENTS, 2(b), and APPLICATION & APPROVAL PROCESS, Section 1. This would include clarification as to whether the County is only interested in the direct impact (sales and property taxes) or whether they would like indirect impacts as well (multiplier effect).
6. It was unclear if a Market Feasibility Study is required under the APPLICATION & APPROVAL PROCESS, (k). There may not be an existing study for the proposed project or site. We recommend that the developer provide a study as part of the application process.

Should you have any questions concerning any of the above items or the City's TIF, please contact Kevin Hammeke, Chief Financial Officer for the City at 214/509-4626.

Please keep me informed as the proposed County TIRZ Policy progresses.

Sincerely,


Peter H. Vargas
City Manager

PHV:KH:cs

cc: Kevin Hammeke