

City of Fort Worth

Policy, Guidelines and Procedures for Tax Increment Reinvestment Zones

March 2023

1. GENERAL PROVISIONS.

a. Policy Intent. The intent of this Policy, Guidelines, and Procedures (“Policy”) is to provide direction to City of Fort Worth (“City”) staff and interested parties regarding the development, establishment, and use of Tax Increment Reinvestment Zones (“TIF District(s)”) within the City.

b. Authority.

i. Local Authority. The City adopted the initial guidelines by Resolution No. 3317-02-2006 on February 28, 2006, which have been revised by Resolution Nos. 3824-12-2009 on December 8, 2009 and by Resolution No. _____ on _____.

ii. Statutory Authority. Under authority of Chapter 311 of the Texas Tax Code, municipalities are permitted to establish TIF Districts. The City will comply with all requirements of Chapter 311 of the Texas Tax Code.

c. Purpose. The City views the establishment of TIF Districts as a tool for economic development through the strategic investment of future tax revenues in public improvements that directly support the revitalization and growth of areas of strategic value to the City, in accordance with the City’s comprehensive plan. In cooperation with other taxing entities, non-profits, and the private sector, the City uses TIF Districts to concentrate public resources for maximum impact, entice catalyst projects to an area, and to accelerate the improvement of market conditions to support development that would not otherwise occur in the area or within a desired timespan. The City’s use of TIF revenue supports efforts to increase the tax base, attract private investment, address public infrastructure challenges, and provide a strong foundation that the market can build on to generate quality development and support a vibrant economy. The reinvestment of new tax revenues in public improvements through TIF Districts and the resulting attraction of new private investment allow the TIF Districts to become more valuable contributors to the City’s tax base.

2. TIF DISTRICT ESTABLISHMENT

a. Criteria to Establish a TIF District:

i. Statutory. In creating a TIF District, City staff must ensure that each TIF District meets all of the applicable criteria set forth in Section 311 of Texas Tax Code Section, as amended, and any other applicable law.

ii. City. In addition to the statutory criteria, City staff must also ensure that each TIF District meets the following criteria:

1. “But for” the dedicated funds from a TIF District, development or redevelopment to revitalize the TIF District would not occur;

2. Use of a TIF District is an appropriate incentive tool to recruit or relocate a catalyst project worthy of public investment as determined by the City;

3. The area proposed for designation as a TIF District is projected to increase in real property taxable value within the first five (5) years following establishment;

4. TIF District is expected to support development or revitalization within the TIF District boundaries across multiple properties of separate ownership; and

5. The TIF District is expected to support and encourage development that will have a positive net fiscal impact on the City, as a whole.

b. Economic and Risk Analysis of a Proposed TIF District. City staff will undertake an economic analysis and risk assessment of each proposed TIF District before arriving at a recommendation to the City Council as to whether the TIF District should be created. The analysis, assessment, and recommendation of all requested TIF Districts will be based on the ability to address the following questions, including but not limited to:

i. What is the public purpose for the proposed TIF District? Preferred purposes are as follows:

1. Removing barriers to development, such as the need for creation, reconstruction, or re-sizing of street, water, sewer, drainage, or utility infrastructure; or clean-up of environmental issues;

2. Providing for a catalytic center point for the revitalization of a multi-block area or commercial corridor, such as enhanced civic spaces capable of anchoring activity in the district, prompting adjacent development, etc.;

3. Supporting infill development;

4. Protecting existing community assets, such as historic buildings, while supporting compatible new development; or

5. Providing a future funding stream that will support the issuance of bonds by a partner entity or provide for a loan.

ii. What are the needed public improvements within the proposed TIF District? Will creation of the TIF District cause development to occur earlier than it would otherwise?

iii. How will the TIF District contribute to revitalization of the zone and the surrounding area?

- iv. How will the City's general fund be impacted as a result of TIF District designation?
- v. What is the potential financial success of the TIF District in generating tax dollars above that which would be generated without it?
- vi. What is the appropriate level of participation by the City and other taxing entities?
- vii. What are the risks or opportunity costs associated with creation of the TIF District?
- viii. Will use of the TIF District recruit a catalyst private project to the zone?
- ix. When will the area likely develop without being designated as a TIF District?
- x. Will TIF funding likely recruit private investment to the area?
- xi. Will creation of the TIF District supplant existing economic development tools that are more appropriate to the development conditions within the proposed zone?
- xii. What alternative economic development tools are available in lieu of the TIF District? Is the expected growth likely to be enough to accomplish the goals of the TIF District?
- xiii. Will the creation of a TIF District substantially impact efforts to reduce slum or blighted conditions as described under Section 311.005 of the Texas Tax Code?

3. **TIF DISTRICT ADMINISTRATION**

a. The City's Economic Development Department, or a successor department, is responsible for the administration of each TIF District unless otherwise approved by the Fort Worth City Council ("City Council") in the Preliminary Project and Financing Plans.

b. Through the creation of a TIF District, City Council delegates authority to all TIF Boards for approval of any and all TIF expenditures and receipts. Approval by a TIF Board either of i) a resolution adopting the annual budget for the TIF District or ii) a resolution authorizing the TIF to enter into an agreement that obligates the future expenditure of TIF funds will serve as sufficient TIF Board authorization for the release of TIF funds for the payment of expenses, including those expenses that might be payable following termination of the TIF.

c. The City Council will appoint the Chair and Vice-Chair of each TIF Board on an annual basis.

d. Non-City TIF participants (County, Hospital District, etc.) may elect to designate a proxy for a TIF Board member that has been appointed by that participant. The proxy will have all of the powers and responsibilities of a duly appointed TIF Board member, including voting authority. TIF Board member proxies should be identified by the participant in writing prior to any TIF Board meeting at which the proxy is to serve on behalf of the appointed TIF Board member.

e. Administrative extension of project completion deadlines will be permitted for a maximum extension period of 6 months beyond the then-applicable completion deadline. Any additional extensions will require approval by the TIF Board.

f. TIF Board meetings must be conducted in accordance with the Texas Open Meetings Act (Ch. 551 State Government Code) and other applicable law.

4. **TIF DISTRICT TERM**

a. Initial Term. The initial term of any newly created TIF District may not exceed 21 years (20 years of tax increment collection), unless otherwise approved by City Council.

b. Termination Date. As prescribed under Chapter 311 of the Texas Tax Code, each TIF District shall terminate on the earlier of:

i. The termination date designated in the ordinance or order, as applicable, creating the zone or an earlier, or later termination date designated by an ordinance or order adopted subsequent to the ordinance or order creating the TIF District; or

ii. The date on which all project costs, tax increment bonds and interest on those bonds, and other obligations have been paid in full.

c. Term Extension. Extension of the term of any TIF District will be subject to City Council approval, with consideration primarily reserved for TIF Districts created to help finance a “Major Infrastructure Project”, as designated by Resolution of the City Council and only if such extension is required to fully finance the “Major Infrastructure Project.” In all other cases, proposals for a TIF District term extension must include a reduction in the City’s participation rate for the extended portion of the term.

d. Use of Remaining Funds and New Increment at Termination.

i. Upon termination of any TIF District, all funds payable to the remaining taxing entities participating in the TIF will be distributed by the City back to the respective taxing entities. Following termination of any TIF District, it is anticipated that, subject to approval of the City Council by way of adoption of the annual City Budget, a portion of the equivalent City of Fort Worth property tax rate as derived from the City’s contribution to the TIF District in the final year of participation may be dedicated to the Economic Development Initiatives Fund.

5. **PARTICIPATING TAXING ENTITIES**

a. City Participation.

i. City participation in any TIF District will be limited to ad valorem real property taxes and preference will be given to participation at a rate less than 80 percent of the tax increment.

ii. The City may elect to contribute less than 80 percent of incremental real property taxes to the TIF District. In no event will the City contribute any incremental sales taxes to the TIF District. Any City Council-approved tax abatement or similar withholding from participation in a TIF District that arises either from City Council approval of support for a specific project or property or, alternatively, from the authorized award of other benefits relating to a property's ad valorem real property taxes (such as property tax abatements or appraised value freezes for historic renovations) will be consented to by the City Council without further requirement of authorization.

b. Participation by Other Taxing Entities. Once a TIF District has been established in accordance with Chapter 311 and these guidelines, incremental real property taxes resulting from new construction, public improvements, and redevelopment efforts, will accrue to the various taxing entities. Participating entities may deposit all, a predetermined portion, or none of the incremental taxes in a designated TIF fund for the purpose of financing the planning, design, construction or acquisition of public improvements to the TIF District. Under Section 311.01 of the Texas Tax Code, other local taxing entities retain the right to determine the amount of tax increment that each will retain, or each may decide to retain all of the tax increment. The City will enter into written agreements with all participating taxing entities to specify:

- i. The conditions for payment of the tax increment into a TIF District;
- ii. The portion of tax increment to be contributed by each entity to the TIF District; and
- iii. The term of the agreement.

c. For purposes of calculating participation by other local taxing entities either annually or across the duration of the term of the TIF District, such participation and any associated obligations will be determined based on the appraised taxable value of the TIF District as assessed by the applicable appraisal district.

d. Tax Exemptions Issued by Participating Taxing Entities. All taxing entities that participate in the TIF District shall retain the right to grant tax exemptions as permitted by applicable law to properties located in the zone for purposes including but not limited to 1) historic preservation and restoration and 2) homestead exemptions. Except as otherwise provided for under Section 4.1., this shall not include any form of tax abatement or grant of tax funds collected by either of the participating taxing entities without prior approval by the TIF Board pursuant to Section 311.013(g) of the Texas Tax Code.

6. TIF DISTRICT APPLICATION PROCESS

a. The City of Fort Worth Economic Development Department shall receive and evaluate all TIF District requests and applications. The City will not be obligated in any respect to the establishment of a TIF District upon the receipt of an application and

such establishment may be refused for any purpose arising out of the evaluation process and criteria set forth within this Policy. In the event that the proposed TIF District originates from the recommendation of City Staff, the City of Fort Worth Economic Development Department will be responsible for the evaluation and processing of the proposed TIF District establishment and will be exempt from all other requirements presented in this Section 5. of the Policy.

b. The estimated timeframe to complete the application process for TIF District designation is at least six (6) months. Therefore, applications for the creation of a TIF District must be submitted to the City by June 30 in order for the TIF District to be established in the same calendar year. Applications submitted to the City after June 30 will not be considered for designation until the following calendar year.

c. All applications for creation of a proposed TIF District and applicable fee(s) should be delivered to:

City of Fort Worth
Economic Development Department
TIF Administrator
1150 South Freeway
Fort Worth, Texas 76104
817-871-6021
TIFs@fortworthtexas.gov

d. Applicants desiring to designate a TIF District must fully complete an “Application for Designation of Tax Increment Reinvestment Zone,” provide all information as outlined below in one original paper copy and one complete electronic copy and submit the applicable application fee.

e. Before reviewing an application for the creation of a TIF District, the City will require that the applicants provide the following as part of their application:

i. A summary that includes a general description of the proposed TIF District, including proposed boundaries, an overview of the proposed projects, and proposed levels of participation by each taxing entity. This summary should not be more than one page in length;

ii. A legal description (metes and bounds) and a map of the real property proposed for TIF District designation;

iii. An economic feasibility study as prescribed in Section 311.011 of the Texas Tax Code;

iv. A minimum of four (4) years of tax appraised value information from the appropriate tax appraisal district for all properties in the proposed TIF District;

v. A proposed Project and Financing Plan as described in Sections 311.003 and 311.011 of the Texas Tax Code, with detailed descriptions of the projects and their costs, including detailed pro formas, if available;

- vi. Complete tax increment projections for the entire term of the TIF;
- and
- vii. An outreach plan outlining the efforts to solicit and obtain input of nearby neighborhood residents and businesses within a quarter mile radius of the proposed TIF district boundary.

f. Pre-Application Review Process. An applicant may request a meeting with appropriate City Staff prior to submitting an application in order to address TIF requirements and development processes. Each applicant must bring a draft of the completed application and supporting documentation to the meeting. The meeting can be scheduled through the Economic Development Department.

g. Application Fee. A non-refundable application fee of \$2,000 must accompany all applications for the establishment of a TIF District. The application fee should be in the form of a check or a money order and made payable to “The City of Fort Worth”. The application fee is to support administrative costs of initial review for completeness, internal processes, and presentations.

h. Preliminary Review. City Staff will conduct a preliminary review of the application within ten (10) working days to ensure compliance with these guidelines. If City Staff determines that an application does not meet the criteria hereunder, the applicant will be so notified, the application fee will not be refunded, and no further action on the application will occur. The applicant will have fourteen (14) working days to supply any information that is lacking without having to resubmit a new application.

i. Application Review. If City Staff determines that an application meets these Guidelines, a full financial and programmatic review of the proposed project will occur. This review may be conducted by City Staff, an outside agency, or consultant and may result in a City Staff recommendation that TIF District designation is not appropriate.

j. Public Information Act. Upon submission of an application, all project information provided to or developed by the City may become “public information,” and therefore may be subject to release under provisions of the Texas Public Information Act.

7. THE PROJECT CRITERIA

a. Use of TIF Proceeds. TIF funds may be used only to pay for those public works and public improvements authorized by Chapter 311 of the Texas Tax Code. TIF District proceeds cannot be used to support exclusively private purposes. TIF funds awarded to a Project will not have interest applied to the disbursement of those funds. TIF funds may, in support of a qualified project and upon TIF Board approval, be delivered to the recipient in the form of a short-term, low interest loan provided that (i) at no point may the lent amount exceed fifty percent of the fund balance of the TIF District and (ii) that the term of the loan not exceed five years.

b. Criteria for TIF Project Requests. In order for City Staff to recommend funding of a particular project by the TIF District once the TIF District has been established, the party desiring TIF financing must provide the following:

- i. Information satisfactorily demonstrating the financial wherewithal to meet project costs and complete the project (i.e. financial statement, complete sources and uses budget, or Letter of Credit from an appropriate financial institution);
- ii. A complete and detailed market feasibility study;
- iii. A complete and detailed cost benefit analysis; the direct and indirect benefits of a development proposal shall be determined and quantified by City Staff (e.g. employment benefits, tax base benefits, housing benefits, and transportation benefits);
- iv. Demonstrated clear financial gap (e.g. the profitability and feasibility of the project both with and without public assistance, including a detailed delineation of the developer equity contribution into the project and the overall proposed financial structure of the project);
- v. Proposed security, collateralization, or credit enhancement; and
- vi. Demonstrated commitment to the quality of development, the project area, and project completion.

8. **DEMONSTRATED EQUITY COMMITMENT TOWARD THE PROJECT.**

a. **M/WBE Commitment:** In support of the aspirational goals set by the City's Business Diversity Enterprise Ordinance (20020-12-2011, as amended by Ordinance 21606-01-2015), as well as the City's General Tax Abatement Policy and consistent with the recommendations of the 2018 Race and Culture Task Force, projects that receive TIF funding will require a commitment for the utilization of Fort Worth area Business Equity Firms ("BEFs") as defined in the General Tax Abatement Policy on (i) at least 15% of the value of those improvements eligible for reimbursement by the TIF District and (ii) at least 10% of overall project costs except as otherwise set by Director of the Department of Diversity and Inclusion. TIF Project Applicant shall work with the Office of Business Diversity to analyze the potential to achieve the required commitment. The Department of Diversity and Inclusion shall have the sole authority to waive or reduce the level of required commitment based on the availability of Fort Worth area certified M/WBEs.

b. If upon completion of the TIF funded portion of the improvements it is determined that the required M/WBE commitment was not achieved for a particular category of improvement as outlined in the agreement, the amount of TIF funding for that category of improvement will be reduced by the dollar amount representative of the shortfall in achievement of the commitment. For example, if in a particular category within the TIF funded portion of the project the developer had committed to spending \$50,000 on Fort Worth certified M/WBEs and only \$45,000 was spent, TIF funding will be reduced by \$5,000.

9. **Use of TIF Chapter 380 Agreements.**

a. As authorized by their respective Boards and included in their respective Project and Financing Plan, each TIF District may enter into economic development program grants pursuant to Chapter 380 of the Texas Local Government Code (“Chapter 380 Agreements”) for projects located within the boundaries of the TIF District as authorized by and in accordance with Section 311.010(h) of the Texas Tax Code.

b. Conditions under which a TIF may authorize the use of TIF Chapter 380 Agreements will be authorized by the TIF Board and the City Council upon approval or amendment of the TIF’s Project and Financing Plan in accordance with Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code. For cases in which a Project and Financing Plan does not specifically address or condition the use of TIF Chapter 380 Agreements, the use of such agreements will be permitted subject to approval by the respective TIF Board by resolution on a case-by-case basis.

10. **Affordable Housing Requirements.** As authorized by and in accordance with Section 311.010(a) and (b) of the Texas Tax Code, the City Council hereby delegates the authority to set an Affordable Housing Policy by resolution of the respective TIF District Board for those Districts with Project and Financing Plans that allow TIF funding in support of affordable housing.

Any questions regarding this Policy should be directed to the City of Fort Worth Economic Development Department, 1150 South Freeway, Fort Worth, Texas 76104, or by phone, 817-392-6027.