HARRIS COUNTY, TEXAS

COMMISSIONERS COURT:
ED EMMETT
COUNTY JUDGE
EL FRANCO LEE
COMMISSIONER, PRECINCT 1
JACK MORMAN
COMMISSIONER, PRECINCT 2
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GUIDELINES FOR COUNTY PARTICIPATION IN MUNICIPAL TAX INCREMENT REINVESTMENT ZONES CREATED IN HARRIS COUNTY

Whereas, the development and redevelopment of unproductive, underdeveloped or blighted areas within the County are the highest civic priority;

Whereas, under Chapter 311 of the Texas Tax Code, the Tax Increment Financing Act, and TEX. CONST. Art. VIII, § 1-g, tax increment financing may be utilized to achieve these goals;

Whereas, Harris County may, from time to time, determine that it should participate in such Tax Increment Financing as provided for in Chapter 311; and

Whereas, Commissioners Court wishes to establish guidelines governing such participation;

Now, therefore, be it resolved that Harris County does hereby adopt these Guidelines governing its participation in such Tax Increment Financing within Harris County.

1. Definitions

(a) **"Blight"** means the presence of:

1. substantial number of substandard, slum, deteriorated, or deteriorating structures;
2. the predominance of defective or inadequate sidewalk or street layout;
3. faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
4. unsanitary or unsafe conditions;
5. the deterioration of site or other improvements;
6. tax or special assessment delinquency exceeding the fair value of the land;
7. defective or unusual conditions of title; or
8. conditions that endanger life or property by fire or other cause.

(b) **"Cap"** means a maximum amount beyond which the County will not contribute.

(c) **"Development Agreement"** is defined as a contract between the County and a developer which commits the developer to complete a project or projects with a guaranteed value added to the County tax rolls within a specified time period.

(d) **"Development of Facilities or Infrastructure"** which would normally be obligations of a County Precinct or a Municipality are not eligible for Tax Increment Reinvestment Zone ("TIRZ" or "Zone") funding unless a commercial development would not occur but for such improvements and the TIRZ increment generated by that commercial development being the sole source of such TIRZ funding.

(e) **"Development Specific"** means that County contributions to developers are limited to the tax revenue generated within the footprint of each developer's project.

(f) **"Infrastructure"** is defined as sewer and water, roadways, sidewalks, bridges, and detention.

(g) **"Public Facilities"** are defined as those facilities and or Infrastructure owned by, operated by and funded by Harris County. They are facilities that are normally funded with Public Improvement Bonds and provide County-Wide services.

(h) **"Project Plan"** means the project plan for the development or redevelopment of a reinvestment zone approved under §311, including all amendments of the plan approved by Commissioners Court.

(i) **"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.

(j) **"Reinvestment Zone Financing Plan"** means the financing plan for a reinvestment zone as described in §311.

(k) **"Set-Aside Funds"** means a portion of not less than 1/3 of the tax increment received by a Zone created by petition, which portion is to be used to provide affordable housing during the term of the Zone.

(l) **"Undeveloped" or "Underdeveloped" area** means an area that is predominantly open and, because of obsolete platting, deterioration of structures or site improvements, inadequate infrastructure, or other factors, substantially impairs or arrests sound growth.

(m) **"Zone Created by Petition"** means a reinvestment zone created in accordance with Tex. Tax Code Ann. §311.

2. Participation Requirements

(a) **County Audits.** The County will have the right to audit the books and records of every Zone and Redevelopment Authority ("RDA") in which it participates. Such audits will take place at any time convenient to the County.

(b) **Eligible Zone.** For a reinvestment zone to be eligible for County participation, it shall:

1. Meet the definition of a "Blighted" and/or "Underdeveloped" area as set out in Section 1, herein.
2. Cost/Benefit analysis must show a net financial benefit will accrue to the County during the term of its participation.

(c) **Eligible Project.** In order to be eligible for County participation, a project:

1. must have a clear public purpose;
2. must be clearly identified with cost estimates for its components;
3. must facilitate development of undeveloped or underdeveloped areas or enhance the quality of life for current residents of the Zone;
4. may not have as its *sole purpose*, the relief of a municipality or a County Precinct of its obligation to maintain and/or grow its infrastructure;
5. Private Development must show that the proposed development would not occur and/or that funding would be inadequate without County participation;
6. can only be undertaken for infrastructure projects which are part of or directly affect a commercial development covered by the Project Plan or County Public Facilities.

(d) Terms of Participation.

1. The County may only participate in Zones created in accordance with §311 of the Property Tax Code.
2. The annual County increment participation in a TIRZ shall be a maximum of 85% from the County and at the discretion of Commissioners Court, from those other jurisdictions for which the County may commit. Up to 50% of the County's annual commitments may be utilized as incentives to developers in accordance with section 1(m) herein. A 65% participation may be allowed within the footprints of those specific projects that are projected to result in a tax roll increase in excess of $2 billion or new employment of 1,000 or more. See item 5(f) for the utilization of the additional 20%.
3. County participation shall be "Project Specific" except for County created or County controlled TIRZs.
4. County participation must be capped for each approved project within the TIRZ except for County created or County controlled TIRZs.
5. The term of County participation will not extend beyond its payment of the total of all Capped amounts or the Zone's receipt of the total amounts necessary for all existing projects from all jurisdictions including those County projects that may be added to the Financing and Project Plan from time to time.

6. Should bonds be issued for private developments, none of the bond costs of issue shall be paid for out of County increment.
7. If the County is participating in a petition-created Zone, then 1/3 of each year's increment payment will be returned to the County's Community Services Department ("CSD") within 30 days of its receipt by the City for use by the County in its affordable housing programs within Harris County, unless affordable housing bonds are issued, in which case the County is to receive 1/3 of the bond proceeds.
8. Funding for County Public Facilities shall be derived from the uncommitted increment generated from each TIRZ created or controlled by the County.
9. Each Development Agreement shall limit the amount allocated from the County's increment and utilized by the developer for administrative, legal, or other professional expenses to no more than 10% of such increment except for engineering and architectural fees directly related to the specific projects. No portion of the County increment may be paid to the City for administrative fees.

3. Approval

(a) Prior to approving an order of participation in a TIRZ, the Commissioners Court may hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against County participation.

(b) In order to approve participation in a municipal TIRZ, the Commissioners Court must find that the terms of the proposed participation shall conform with these Guidelines and that:
   1. There will be no substantial adverse effect on the provision of the jurisdiction's service or tax base; and
   2. Such participation will not substantially adversely affect the County's ability to carry out its long range development plans.

4. Interlocal Agreement

An Interlocal Agreement by and among Harris County, the municipality that created the Zone, the Board of Directors of the Zone and if applicable, the RDA, shall be approved by Commissioners Court simultaneously with each Order of Participation. These agreements shall contain the following provisions:

(a) All of the terms set out in Section 2(d).

(b) On any existing Zone created by petitions, a return to the County of the unexpended portion of the set-aside funds attributable to the increment paid by the County since the inception of the Zone.

(c) The County shall have the right to audit the books and records of every Zone in which it participates and each RDA which may administer a portion of the

County's increment. Such audits shall take place at any time convenient to the County.

(d) There shall be no penalty or interest due from the County for delayed increment payments.

(e) The TIRZ and the RDA Boards shall be prohibited from relinquishing control of any funds paid by Harris County to any entity not a party to the Interlocal Agreement except as increment is paid under development agreements.

(f) The County shall be provided with copies of all audits, studies, reports and analyses of the activities or financial condition of the TIRZ that are prepared by or at the direction of any party to the Interlocal Agreement.

(g) In petition-created Zones, the TIRZ shall provide an annual report of its actions with regard to, and the involvement of, disadvantaged businesses as required by Section 311 of the Property Tax Code.

(h) The County shall not make any increment payment to or on behalf of a TIRZ with which it does not have an approved Interlocal Agreement.

(i) Five percent of Harris County's contributions to a TIRZ shall be refunded by the RDA to the County's CSD for use in projects and programs serving the homeless.

5. Administration

(a) The Interlocal Agreement shall stipulate that employees and/or designated representatives of the County shall have access to the books and records of all parties to the agreement and to all projects funded by the TIRZ during the term of the County's participation, for the purpose of determining if the terms and conditions of the agreement are being met. All inspections shall be made only after giving twenty-four (24) hours prior notice and shall be conducted in such a manner as to not unreasonably interfere with the operations of the subject of such inspections.

(b) Administration of all County involvement in municipal and County TIRZs shall be the responsibility of the CSD. This includes the evaluation of all proposed Zones and the administration of existing Zones.

(c) CSD shall monitor all TIRZs in which the County participates. Such review includes compliance with project plans, Interlocal agreements, and applicable laws.

(d) Annual County increment payments will be managed by CSD, according to a process agreed upon by CSD, the Harris County Tax Assessor Collector, and the Harris County Auditor's Office.

(e) CSD shall annually prepare and submit a TIRZ compliance report to the Commissioners Court.

(f) For TIRZs in which the County participation will begin after January 1, 2011, portions of the County's annual increment contributions will be allocated by the TIRZ's RDA as follows: 5% percent shall be paid to the County's CSD for use in administering the County's TIRZ program, individual TIRZ activities, the TIRZ Affordable Housing program and projects, and the TIRZ Homeless programs and projects; and 5% to CSD for the County's Homeless Programs and Projects as set out in item 4(i) above. In those TIRZs created or controlled by the County, up to 10% of the County increment will be paid to the County's RDA to cover its operating costs.

6. Sunset

These Guidelines are effective March 1, 2015, and will remain in force through February 28, 2017, at which time all County TIRZ participations will be reviewed by the County to determine whether the goals have been achieved. Based on that review, the Guidelines will be modified or renewed.

Recommended for Re-Adoption by Commissioners Court February 10, 2015