

# AMENDED AND RESTATED TAX INCREMENT REINVESTMENT ZONE PARTICIPATION POLICY FOR HIDALGO COUNTY

AS AMENDED NOVEMBER 18, 2014

## I. General Purpose and Objectives

Hidalgo County is committed to the promotion of high quality development in all parts of the County and to ongoing improvement in the quality of life for its citizens. The County has determined that certain types of investment result in (i) the development or redevelopment of an area, (ii) creation of new jobs, (iii) new income and (iv) positive economic growth, all of which can be beneficial to the County as a whole. The County will, on a case-by-case basis, give consideration to participating in Tax Increment Reinvestment Zones to stimulate economic development in the County. It is the policy of the County that said consideration will be provided in accordance with the criteria outlined in this document. The County is not obligated to participate in a Tax Increment Reinvestment Zone ("TIRZ") and nothing herein will imply or suggest that the County is under any obligation to participate in a TIRZ. Applications for the County's participation in a Tax Increment Reinvestment Zone will be considered on a case-by-case basis, and the decision to approve or deny the County's participation to any particular applicant will be at the discretion of the Commissioners Court of the County. Adoption of this policy does not (1) limit the discretion of the Commissioners Court to decide whether to participate in a Tax Increment Reinvestment Zone, (2) limit the discretion of the Commissioners Court to delegate to its employees the authority to determine whether the Commissioners Court should consider participation in a Tax Increment Reinvestment Zone, or (3) create any property, contract or other legal right in any person to have the County consider or authorize the County's participation in a Tax Increment Reinvestment Zone.

## II. Statutory Authority

Chapter 311 of the Texas Tax Code, the Tax Increment Financing Act (the "Act"), grants counties and cities the authority to create and participate in Tax Increment Reinvestment Zones.

To be designated as a Tax Increment Reinvestment Zone, an area must substantially arrest or impair the sound growth of the municipality or county creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the Hidalgo County public health, safety, morals, or welfare in its present condition and use as stated in Chapter 311 of the Texas Tax Code or otherwise meet the requirements of Section 311.005 of the Act.

Prior to creation of a TIRZ, and for the County's consideration and participation in a Tax Increment Reinvestment Zone, all creating entities must fully comply with the requirements listed in Chapter 311 of the Texas Tax Code. The County will not consider participating in a Tax Increment Reinvestment Zone that has not complied with all the statutory requirements.

### **III. Definitions**

1. "Act" means Chapter 311 of the Texas Tax Code, the Tax Increment Financing Act.
2. "Base Year" means the year in which a Tax Increment Reinvestment Zone is created by ordinance or order.
3. "Applicable M&O Tax Rate for any given year means the lesser of (i) the Base Year M&O Tax Rate and (ii) the M&O Tax Rate for the given year.
4. "County" means Hidalgo County.
5. "County M&O Tax Rate" means that portion of the ad valorem tax rate used by the County for maintenance and operation. At the time this amended and restated policy was adopted, the County M&O Tax Rate was 0.5225 per \$100 dollars of valuation, which is subject to change by the County in accordance with applicable law.
6. "Creating entity" means the entity that has or will adopt an ordinance or order for the creation of a Tax Increment Reinvestment Zone.
7. "Special Circumstances" means the criteria set forth in section VI.3.a below have been met.
8. "Tax Increment Fund" means the tax increment fund created by the creating entity for the deposit of Tax Increment Payments.
9. "Tax Increment Payment" means the total amount of ad valorem taxes levied and collected each year by participating entities that the County has agreed to pay to the Tax Increment Fund.

10. "Tax Increment Reinvestment Zone", "TIRZ" or "zone" is an area designated by a government entity in accordance with and as authorized by Chapter 311 of the Texas Tax Code.
11. "TIRZ Project Plan" means a project plan as defined by Section 311.002(2) of the Texas Tax Code and as used in the Act.
12. "TIRZ Financing Plan" means a reinvestment zone financing plan as defined by Section 311.002(3) of the Texas Tax Code and as used in the Act.
13. "Transportation Zone" means Transportation Reinvestment Zone Number Two, Hidalgo County.

#### **IV. Requirements**

An applicant requesting the County's participation in a TIRZ must provide:

1. A proposed TIRZ Project Plan.
2. A proposed TIRZ Financing Plan.
3. A statement of the regional impact of the project for community/economic development.
4. A legal description and a map of the proposed TIRZ, including a map showing the location of the proposed TIRZ within an existing Enterprise Zone, if applicable, and the overlap, if any between the proposed TIRZ and the Transportation Zone. If the proposed TIRZ has an unusual configuration, a written explanation of the configuration, unless such information is included in other materials provided pursuant to this section.
5. Copy of the Public Hearing Notice for Creation of the TIRZ, if applicable.
6. Copy of all ordinances pertaining to the TIRZ, if applicable.
7. A statement specifying how the TIRZ meets the criteria set forth in Section 311.005 for creation of a TIRZ, unless such information is included in other materials provided pursuant to this section.

8. If applicable, a statement supporting the existence of Special Circumstances, and supporting documentation if not included in other materials provided pursuant to this section.
9. Such additional information as may be requested by the County for purposes of evaluating the proposed TIRZ and the impact on the County.

Information must be provided in paper and electronic form to:

Hidalgo County Judge's Office  
Economic Development Division  
302 W. University Dr.  
Edinburg, TX 78539

#### **V. Eligibility:**

All TIRZ applications shall be reviewed by a TIRZ Review Committee composed of the following:

1. A representative from the office of the Precinct Commissioner in which the proposed project is located;
2. A representative from the Hidalgo County Judge's Office-Economic Development Division, and
3. A representative from the Hidalgo County Department of Budget and Management.

A recommendation by the TIRZ Review Committee will be made to the Hidalgo County Commissioners' Court based on whether the proposed project meets the criteria set forth herein. In order for the TIRZ Review Committee to make a favorable recommendation, the TIRZ Review Committee must conclude that the TIRZ application at a minimum demonstrated each of the following:

- a. Creation of a TIRZ is necessary for quality development in the proposed area;
- b. The proposed TIRZ area can be quickly developed if proper infrastructure is constructed;

- c. A TIRZ is the appropriate incentive tool to recruit or relocate worthy projects for community development;
- d. The proposed TIRZ is likely to have an increase in real property taxable value within the first three years following the creation of the TIRZ; and

The TIRZ Review Committee must consider the following:

- a. Public purpose of the proposed TIRZ;
- b. Probability of development or redevelopment solely through private investment in the reasonably foreseeable future without County participation in a TIRZ;
- c. Public improvements outlined and regional impact of public improvements;
- d. Attraction of new development;
- e. Impact to the County General Fund;
- f. Risks associated with the County's participation in the TIRZ; and
- g. Alternative economic development tools that can be used to promote community/economic development.

## **VI. Hidalgo County Participation:**

1. The County's participation in any TIRZ will be limited to ad valorem real property taxes.
2. General Participation Not to Exceed 50% of the Applicable M&O Tax Rate on the Tax Increment. Except as specified in section VI.3 below, the County's participation in a TIRZ shall not exceed fifty percent (50%) of the revenue generated from the Applicable M&O Tax Rate as assessed and collected on the tax increment for the respective tax year. If the County M&O Tax Rate is greater than the Base Year County M&O Tax Rate during any year during the term of a zone in which the County participates, the County shall retain all taxes collected in excess of the 50% Base Year County M&O Tax Rate as assessed and collected on the tax increment for the respective tax year. If the County M&O Tax Rate is lower than the Base Year County M&O Tax Rate during any year during the

term of a zone in which the County participates, the County contribution shall not exceed 50% of that year's lower County M&O Tax Rate.

3. Special Circumstances Allowing Participating Not to Exceed 100% of Applicable M&O Tax Rate. The TIRZ Review Committee may recommend the County participate at a rate in excess of 50% of the Applicable M&O Tax Rate in accordance with the provisions of this section.
  - a. For purposes of this section, special circumstances exist when a project meets all of the criteria set forth in either (i) or (ii) below:
    - i. the project includes both (A) development of sports and/or entertainment facilities and (B) development or redevelopment of public works, facilities or buildings; or
    - ii. the project includes all of the following:
      - (A) the zone is greater than 500 acres,
      - (B) the zone is situated entirely within the extra territorial jurisdiction of the municipality creating the zone;
      - (C) the entire zone must be annexed by the municipality within 12 months of the municipality's creation of the zone; and
      - (D) the municipality will be responsible for services (i.e. police, fire, road maintenance) within the zone that, absent the annexation and creation of the zone, would be the County's obligation.
  - b. When the County finds that Special Circumstances criteria above are met, the County may in its discretion opt to participate at a greater amount than set forth in section VI.2, but shall not exceed one hundred percent (100%) of the Applicable M&O Tax Rate as assessed and collected on the tax increment for the respective tax year. If the County M&O Tax Rate is greater than the Base Year County M&O Tax Rate during any year during the term of a zone in which the County participates, the County shall retain all taxes collected in excess of the 100% Base Year County M&O Tax Rate as assessed and collected on the tax increment for the respective tax year. If the County M&O Tax Rate is lower than the Base Year County M&O Tax Rate during any year during the term of a zone in which the County participates, the County contribution shall not exceed 100% of that year's lower County M&O Tax Rate.

4. In addition to the other limitations set forth herein, with respect to any property during any given period, the County shall not commit an aggregate of more than one hundred percent (100%) of the Applicable M&O Tax Rate to a TIRZ and the Transportation Zone. Accordingly, (i) with respect to property that is within the overlap between the Transportation Zone and a TIRZ, notwithstanding the existence of special circumstances set forth in section VI.3 above, the County's maximum participation in a TIRZ prior to the expiration of the Transportation Zone is fifty percent (50%) of the revenue generated from the Applicable M&O Tax Rate as assessed and collected on the tax increment for the respective tax year and (ii) in the case of Special Circumstances, the County may participate in excess of such amount (not to exceed 100% of the Applicable M&O Tax Rate) outside of the overlap between the Transportation Zone and the TIRZ.
5. The County's participation in a TIRZ shall not be for a period greater than 20 or, in the event Special Circumstances apply, 30 years.
6. The County's participation shall be limited to reimbursement of public infrastructure costs.
7. The aggregate amount of the County's participation in a TIRZ shall not exceed either:
  - (i) the creating municipality's total contribution to a zone; unless (A) Special Circumstances apply and (B) the municipality is contributing a greater percentage of its tax rate than the County is contributing; and
  - (ii) the maximum total contribution agreed to by the County in an Interlocal Agreement with the entity creating a TIRZ and the developer (if applicable).
8. In the event the County decides to participate in a Tax Increment Reinvestment Zone, an Interlocal Agreement between the entity creating a TIRZ, the developer (if applicable), and the County must be negotiated, approved and executed before any tax increment payments are made. The Interlocal Agreement must outline payment procedures. The duration of an agreement shall be for a period of time determined appropriate by the Commissioners' Court of the County, which shall not exceed the period set forth in section VI.5 above.

9. The County's contribution shall not be used for (i) economic development incentives, (ii) grant matching funds, (iii) any use not allowed hereunder or (iv) any items not allowed under applicable law.
10. Except for contributing its respective Tax Increment Payment to the Tax Increment Fund, the County shall not have any obligation or responsibility for any costs or expenses associated with the development of the Tax Increment Reinvestment Zone or the implementation of the Project Plan.
11. Questions regarding the Hidalgo County Tax Increment Reinvestment Zone Participation Policy should be directed to:

Hidalgo County Judge's Office  
Economic Development Division  
302 W. University Dr.  
Edinburg, TX 78539  
(956) 318-2600