April 22, 2003

County Judge Eckels and
Commissioners Lee, Garcia,
Radack and Eversole

AGENDA LETTER

Please consider the following item on the Commissioners Court Agenda for April 29, 2003:

Approval of the readoption of the Guidelines for County Participation in Municipal Tax Increment Reinvestment Zones Created in Harris County.

Sincerely,

David Turkel
Director

Attachments

Vote of the Court:

Judge Eckels  Yes  No  Abstain
Comm. Lee
Comm. Garcia
Comm. Radack
Comm. Eversole

Presented to Commissioners' Court
APR 29 2003
APPROVE
Recorded Vol. Page
READOPTION OF HARRIS COUNTY GUIDELINES
FOR PARTICIPATION IN TAX INCREMENT REINVESTMENT ZONES

EXECUTIVE SUMMARY

On April 3, 2001, Commissioners Court approved the adoption of “Guidelines for County Participation in Municipal Tax Increment Reinvestment Zones Created in Harris County” (“TIRZ Participation Guidelines”). As Adopted, the guidelines include a two-year sunset provision.

Subsequent to enacting these TIRZ Guidelines, Harris County Commissioners Court approved its participation in three additional Tax Increment Reinvestment Zones. During this time, the County also renegotiated its Interlocal agreements on the 8 TIRZS in which it was already participating. As a result, the County’s potential contributions to the 11 Zones, over their 23-year average life span were reduced by over $500,000,000. By adhering to the provisions of these Guidelines, Harris County’s total contributions last year totaled only $4.8 million, while the increased tax roll values of the properties within the TIRZs resulted in the County’s receiving an additional $15.1 million in tax revenues. Additionally, Harris County has received almost $2 million in affordable housing set-aside funds during the past two years. These funds are utilized in the County’s various affordable housing programs.

The Office of Housing & Economic Development has evaluated the County’s TIRZ participations, and has determined that the goals as stated in the Guidelines have been achieved. Accordingly, it is recommended that the TIRZ Guidelines be renewed for another two-year period with no changes.

Office of Housing & Economic Development
April 22, 2003
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; and

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; and

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) "Zone Created by Petition" means a reinvestment zone created in accordance with Tex. Tax Code Ann. §311.005(a)(5).

(d) "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.

(e) "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.

(f) "Reinvestment Zone Financing Plan" means the financing plan for a reinvestment zone as described in §311.011.

(g) "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.

(h) "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.

2. Participation Requirements

(a) 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 at any time convenient to the County.

(b) Eligible Zone. In order for a reinvestment zone to be eligible for County participation, it must:
   1. Meet the definition of a "Blighted" and/or "Underdeveloped" area as set out in Section 1 herein.
   2. Must display "Jurisdictional Equivalency" as set out in (d) below.
3. 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. may not serve to primarily enhance the value of private enterprise;
3. must be clearly identified with cost estimates for its components;
4. must facilitate development of undeveloped or underdeveloped areas or enhance the quality of life for current residents of a "Blighted" Zone;
5. may not have as its primary goal, the relief of a municipality of its obligation to maintain and/or grow its infrastructure;
6. must show that funding would be inadequate without County participation;
7. can only be undertaken for road or street improvements on thoroughfares that are on the County's road log; or those which the County has expressed its intent to place on the County road log; and
8. should not include improvements of a type that would not ordinarily be provided in the unincorporated portions of the County.

(d) Jurisdictional Equivalency. In every TIRZ in which the County participates, at least 10% of the dollar amount of all projects listed in the Zone's project plan should consist of unfunded Capital Improvement Projects of County taxing entities.

(e) Terms of Participation.
1. The County may only participate in Zones created in accordance with §311 of the State Property Tax Code.
2. An Interlocal Agreement must be approved simultaneously with every order of participation.
3. The County will participate only to the extent of the basic County tax rate excluding all other taxing units for which the County sets the tax rates.
4. The maximum participation rate will be 75% of the County’s base rate.
5. All County participation must be "Project Specific".
6. County participation must be capped at the total amount of its contribution to the specified projects.
7. 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.
8. The increment received by the TIRZ from the County must be placed in a restricted account to be drawn against for use only on
projects in which the County has agreed to participate, or as set out in #9 below.

9. Should bonds be issued by the Zone, the County’s pro-rata portion of debt service and other bond costs must first be deducted from each annual increment received from the County by the TIRZ, and the balance shall be placed in a restricted account as set out in #8.

10. If the County is participating in a Zone Created by Petition, then 1/3 of each year’s increment payment will be returned to the County 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 provisions in #9 and #11 shall apply.

11. Should bonds be issued by the Zone, the County’s pro-rata portion of the bond proceeds must be placed in a restricted account as set out in #8 above. Should bonds be issued by a Zone Created by Petition, then the County’s pro-rata share of set-aside portion of the bond proceeds will be paid to the County and the remaining 2/3 will be restricted as set out in #8 above.

12. 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.

13. 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, excepting 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.

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 the approval of the County’s participation.

(b) In order to approve participation in a municipal TIRZ, the Commissioners Court must find that the terms of the proposed participation will meet 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) the 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 Redevelopment Authority, must 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(e) above.

(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 will have the right to audit the books and records of every Zone in which it participates and each Redevelopment Authority which may administer a portion of the County’s increment. Such audits will 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 Board will be prohibited from relinquishing control of any funds paid by Harris County to any entity which is not a party to the Interlocal Agreement.

(f) The County will 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 must provide an annual report of its actions with regard to, and the involvement of, disadvantaged businesses as required by Section 311.0101 of the Property Tax Code.

(h) In accordance with Section 311.013(f) of the Property Tax Code, the County will make no increment payment to any petition-created TIRZ with which it does not have an approved Interlocal Agreement.
5. Administration

(a) The Interlocal Agreement shall stipulate that employees and/or designated representatives of the County will 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 will be made only after giving twenty-four (24) hours prior notice and will only 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 TIRZs will be the responsibility of the Department of Management Services. This will include the evaluation of all proposed Zones and the administration of existing zones.

(c) The Department of Management Services ("the Department") shall monitor all TIRZs in which the County participates. Such review will include compliance with project plans, Interlocal agreements, and applicable laws.

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

(e) The Department of Management Services will annually prepare and submit a TIRZ compliance report to the Commissioners Court.

6. Sunset

These Guidelines are effective March 1, 2003 and will remain in force until February 28, 2005, 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.

Adopted April 29, 2003