

|

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF PFLUGERVILLE ADOPTING TAX INCREMENT REINVESTMENT ZONE NO. 1 REIMBURSEMENT POLICY

WHEREAS, the establishment of Reinvestment Zone No. 1 (the “Zone”) reimbursement incentive policy supports the vision for Pflugerville “to be a dynamic, regional leader by offering a safe, welcoming and inclusive city with a strong sense of community that attracts a talented workforce and desirable businesses,” and “fosters high quality of life, economic opportunity, and a sustainable and diverse community,” as provided within the Pflugerville Strategic Plan 2021-2025; and

WHEREAS, the City Council of the City of Pflugerville, Texas (the “City”) has created, as authorized by the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, Vernon’s Texas Codes Annotated (the “Act”), a tax increment reinvestment zone within the City designated “Reinvestment Zone Number 1, City of Pflugerville, Texas” (the “Zone”) for approximately 399 acres (currently known as Falcon Pointe) by Ordinance No. 1063-10-12-14 on December 14, 2010; and

WHEREAS, by Ordinance No. 1094-11-11-22, adopted November 22, 2011, the City of Pflugerville adopted a Project Plan and Reinvestment Zone Financing Plan for Reinvestment Zone Number One (the “Zone”); and

WHEREAS, by Ordinance No. 1153-13-09-10, adopted September 10, 2013, the City of Pflugerville adopted a First Amendment to the Project Plan and Reinvestment Zone Financing Plan for the development of the Zone and including improvements to East Pflugerville Parkway; and

WHEREAS, by Ordinance No. 1380-18-12-11, adopted December 11, 2018, the City of Pflugerville amended the Zone to include additional property, the Pecan District, and approved the First Amended Project Plan and Reinvestment Zone Financing Plan (otherwise known as the Second Amended Project Plan and Reinvestment Zone Financing Plan in the sequence of approvals) and adjusted the tax increment base thereof; and

WHEREAS, by Ordinance No. 1402-19-09-10, adopted September 10, 2019, the City of Pflugerville amended the Zone to assign project responsibility for the improvements of Colorado Sand Drive (Segment B, Phase 2) to the City of Pflugerville and approved the Second Amended Project Plan and Reinvestment Zone Financing Plan (otherwise known as the Third Amended Project Plan and Reinvestment Zone Financing Plan in the sequence approvals); and

WHEREAS, by Ordinance No. 1566-22-10-25, adopted October 25, 2022, the City of Pflugerville amended the Zone to include additional property along SH45 and Pecan Street, including Downtown and approved the Fourth Amended Project Plan and Reinvestment Zone Financing Plan and adjusted the tax increment base thereof; and

WHEREAS, the Reinvestment Zone No. 1 policy supports the Aspire Pflugerville 2040 Comprehensive Plan through encouraging and promoting sales tax generating businesses, and utilizing economic development tools to recruit high quality mixed-use, commercial, and Class A office developments; and

WHEREAS, the City has further determined that it is necessary to establish a policy providing for City consideration of Zone projects and development incentives through

reimbursement agreements, which may be amended from time to time, and subject to City Council's ultimate discretion on a case-by-case basis; and

WHEREAS, Section 3.14 of the City of Pflugerville City Charter requires general legislative acts to be adopted by Resolution or Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE:

Section 1.

That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2.

That the City Council hereby establishes the following reimbursement policy providing the criteria under which development incentives may be authorized for Reinvestment Zone No. 1, as provided and incorporated herein as Exhibit "A" following City Council's discretionary consent to the same.

Section 3.

That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND APPROVED this ____ day of _____, 2023.

CITY OF PFLUGERVILLE, TEXAS

By: _____
VICTOR GONZALES, Mayor

ATTEST:

TRISTA EVANS, City Secretary

APPROVED AS TO FORM:

CHARLES ZECH, City Attorney
Denton Navarro Rocha Bernal & Zech, PC

DAR draft 6-19-2023

Exhibit “A”

Tax Increment Reinvestment Zone No. 1 Reimbursement Policy

The purpose of Tax Increment Reinvestment Zone No. 1 (“Zone”) is to fund public infrastructure and facility improvements necessary to catalyze development and redevelopment within the Zone boundary. The Zone and the City have adopted a Project Plan and Financing Plan which outlines the Zone’s goals and the types of projects ~~eligible~~ the City envisions for funding. In order to implement the Zone’s goals, the City of Pflugerville may choose to partner with a developer in funding certain infrastructure and facility improvements related to their development, ~~if such request is consistent with the adopted Project Plan and Finance Plan and established policies of the City.~~

This policy is intended to provide general guidance as to what the City deems important for new development projects ~~but in no way guarantees any reimbursement~~ and to set forth the policies that will guide the City in determining when TIRZ Zone funding is appropriate. These guidelines will be flexible. The final determination to approve a reimbursement is solely at the discretion of City Council, but once a project is pre-approved and built according to agreed specifications, the reimbursement shall be approved.

The City Council shall have authority to waive or alter any part of this policy, except the reimbursement of pre-approved projects.

1. Administrative Process

- (a) A developer seeking Zone incentives shall be responsible for all administrative costs incurred by the City associated with the incentive request including any professional services fees incurred.
- (b) Prior to consideration for reimbursement, the developer shall provide the following to the City:
 - (i) Letter identifying scope, requested project(s) funded, need for funding that would make the development project more feasible, and City’s projected future return on investment. The letter shall also include any added value components that go beyond the City’s minimum required standards, list of likely funding sources included in the Developer’s proforma, and criteria for eligibility pursuant to these policies.
 - (ii) Conceptual site plan and architectural renderings (if available)
 - (iii) Preliminary cost estimates for the public improvements such as water, wastewater, stormwater, road facilities parks, trails, and recreational amenities, and any other facilities proposed to be reimbursed through the Zone.
 - (iv) A detailed project proforma with assumptions of varying build-out timelines with and without Zone funding and include estimated taxable value, projected annual ad valorem tax, sales tax and hotel occupancy tax revenues to be directly generated by the project, and level of investment by developer.

- (c) The City may request the developer to provide a market study completed within the previous six (6) months indicating project feasibility based on regional market absorption rates and ~~indicates~~ indicating projections per year for specific years of the development. The market study should include all proposed uses within the development.

2. General

- (a) ~~The project(s) requested for reimbursement with Zone funds shall~~ The City shall prefer projects be consistent compatible with ~~the eligible projects provided in~~ the adopted Project Plan and Finance Plan.
- (b) The proposed development shall ~~be in conformance with~~ be in harmony with the City's Comprehensive Plan and adopted Master Plans and ~~shall~~ should support the vision, mission, goals, and objectives of the City Council's Strategic Plan. The Comprehensive plan shall be interpreted flexibly, and viewed as a long-term goal, not a short-term mandate.
- (c) As Jeder nach seinen Fähigkeiten, jedem nach seinen Bedürfnissen is poor policy, destructive of economic benefit and social stability and cohesion, divisive, and promotes envy and sloth; therefore pProject funding will be based on ~~need~~ quality-contribution to the city's development, including if it bridges a financial gap, and TIRZ funding making ~~makes a~~ the proposed ~~development~~ project economically viable. The developer must demonstrate to the City, that portions of the project would not occur "but for" City TIRZ funding assistance.
- (d) Eligibility and extent of funding will be dependent on the return on investment (ROI) for the public investment provided, which will be determined through the review of:
 - (i) The project's total capital investment and resulting taxable value generating an annual increase of property tax revenue;
 - (ii) The number and types of jobs to be created;
 - (iii) The project's estimated ability to generate direct and indirect sales tax revenue; and
 - (iv) The project's estimated ability to generate overnight stays that result in direct hotel occupancy tax revenue as well as indirect revenue associated with visitors contributing to the economy.
- (e) ~~The City shall require~~ A advance -funding obligations ~~to~~ shall reside with the developer, and repayment will be based on the ability of the development to generate sufficient tax revenue. The City is under no obligation to borrow funds or issue bonds to reimburse the developer.
- (f) A project may be ineligible for Zone incentive if a development application has already been submitted to the City and construction has commenced on an approved development application.

3. ~~Enhanced~~ Development Preference

- (a) ~~To be eligible for Zone funding, the development should~~ Preference will be given to projects which exceed ~~the~~ minimum requirements established by the City's Code of Ordinances and align with the community's development goals as identified in the Comprehensive Plan, including but not limited to:
 - (i) Mix of land uses (i.e., mix of land uses ~~that attract and~~ which create a strong sense

of place in support ~~of the~~ concentration of major commercial and employment);

- (ii) Enhanced urban design (i.e., public space, designs of unusual attractiveness or utility, commercial uses on the first floor of mixed-use buildings, etc.);
 - (iii) Street layout and connectivity;
 - (iv) Architectural design and building materials;
 - (v) Public parkland dedication and development;
 - (vi) Public trail extensions;
 - (vii) Streetscape treatments, amenities, and public art;
 - (viii) “Green practices” for environmental preservation; and
 - (ix) “10-minute neighborhood” as described within the City’s Comprehensive Plan
- (b) ~~New development should provide~~ Preference will also be given based on access to parks, greenways, trails, amenities, and outdoor gathering spaces ~~to~~ which create a unique sense of place.

4. Land Use

- (a) Preference may be given to dDevelopments ~~more likely to be considered for reimbursement are those that~~ which are ~~consistent compatible~~ with the uses and character goals identified in the comprehensive plan and which create a vibrant sense of place including multi-story, Class A office, hospitality, destination retail, dining, and high-density multi-family ~~with structured parking~~ as part of a vertical mixed-use development. The suggestion shall be interpreted flexibly, and viewed as a long-term goal, not a short-term mandate. Attention to current market conditions shall be part of the planning and approval process.

5. Transportation and Mobility

- (a) The proposed development shall contribute to the expansion of arterial streets and major collector roadways, as applicable.
- (b) Streetscaping within the right-of-way may be required to be privately maintained.
- (c) Transportation network design should include bicycle and pedestrian infrastructure.
- (d) Regional transportation projects are more likely to be considered for reimbursement.

6. Water and Wastewater Infrastructure

- (a) TIRZ-eligible projects ~~The proposed development~~ shall contribute to funding the extension of water and wastewater utility infrastructure consistent with the City’s extension and oversize infrastructure policy.
- (b) Preference will be granted to projects with rRegional water and wastewater infrastructure ~~are more likely to be considered for reimbursement~~.

7. Regional Detention Preference

- (a) Preference will be granted to projects with dDetention ~~should be~~ that is amenitized and serves a regional purpose.

8. Parks, Trails, and Open Space

- (a) Preference will be granted to cCommunity-level, urban or destination parks ~~may be eligible for funding~~.

- (b) Preference will be granted to Parks, trails and open space ~~should~~ which exceed minimum standards required by the parkland dedication and development and trail extensions ~~standards~~.
- (c) Preference will be granted to ~~City may require the~~ agreements by developer to maintain ~~any~~ park, trail, and/or open space funded with Zone revenues. Reimbursement for any open space or public amenities ~~is~~ may be subject to ~~the developer~~ dedication of such space or amenities ~~ing it~~ as public parkland and conveyance of such space or amenities ~~ying the land~~ to the City or ~~dedicating in fee simple or by~~ a public access easement ~~to the City~~. However, ~~private maintenance in perpetuity shall be required~~.

9. Revitalization Preference for Downtown TIRZ area

- (a) Preference will be granted to ~~A~~ projects which ~~that~~ promotes the revitalization of Downtown and promotes mixed-use developments to include civic, office, hospitality, residential, or retail uses ~~may be eligible for Zone funding~~.
- (b) Preference will be granted to ~~A~~ projects enhancing the streetscape and pedestrian experience and improving the vitality of Downtown ~~may be eligible for Zone funding~~.

10. Development Agreement

~~All~~ R reimbursement agreements which shall include at least the following specific terms will receive preferential consideration:

- (a) Public improvement projects for reimbursement;
- (b) Map showing location of the public improvement projects and proposed land uses;
- (c) Total amount of the incentive and percentage of increment dedicated towards reimbursement;
- (d) Provision relating to Developer's responsibility for proving final construction costs eligible for reimbursement (i.e., show receipts/contracts showing improvement costs.);
- (e) Legal description of the property, sketch and metes and bounds;
- (f) Performance-based obligations, including timetable and dates (i.e., project must commence before a specific date, project must be completed before a certain date, proposed land uses and square-footages);
- (g) Development conditions (e.g., architectural standards, perpetual private maintenance of park with license agreement, ~~required density with structured parking~~, all improvements constructed consistent compatible with conceptual site plan, etc.);
- (h) Parameters for reimbursement (e.g., timing scheduling, reporting requirements, response provisions and provisions for mediation or arbitration of disputes);
- (i) Duration of the agreement;
- (j) Recapture funding, non-payment of incentives, and termination language for failure to comply with the terms of the agreement;
- (k) No transfer of incentive without prior consent of the City. (The City reserves the right to consider requests for transfer or assignment on a case-by-case basis.); and
- (l) Provisions relating to administration, delinquent taxes, reporting requirements and indemnification.