

**POLICIES AND PROCEDURES FOR  
TAX INCREMENT INCENTIVE PROGRAM  
FOR CIVIC PLAZA DEVELOPMENT AREA**

**Section 1. General Purpose and Overview**

Montgomery County, Tennessee (the "County"), the City of Clarksville, Tennessee (the "City") and The Industrial Development Board of the County of Montgomery (the "Board") are committed to improving the economy in the County and the City. In furtherance of this objective, the County intends to construct, with the support of the City, a public plaza (the "Plaza") in the downtown area of the City. The purpose of the Plaza is to create a gathering place for the residents and visitors of the County and the City to promote economic activity in downtown Clarksville. The County expects the property in the immediate vicinity of the Plaza to be developed or redeveloped more quickly as a result of the construction of the Plaza because of the increased visitation downtown and the addition of a civic amenity in the area.

In order to encourage private development of properties in the immediate vicinity of the Plaza, the County and the City, with the assistance of the Board, desires to establish a program to provide incentives through the application of incremental property tax revenues to assist with the payment of costs relating to the development or redevelopment of such properties. The purpose of these Policies and Procedures is to provide an orderly process for property owners to apply to use such incentives and to establish a process for administering such incentives.

The Board is a public nonprofit corporation established by the County pursuant to the Tennessee Industrial Development Corporation Act (the "IDB Act"), Tenn. Code Ann. §§7-53-101 et seq. The Board's statutory purposes include promoting industry, commerce and trade in Tennessee and in particular, the County. In furtherance of these purposes, the IDB Act authorizes the Board pursuant to Section 7-53-312 of the IDB Act to issue tax increment debt to finance costs of eligible projects or to use tax increment revenues to pay costs of eligible projects.

The Uniformity in Tax Increment Financing Act of 2012 (the "Tax Increment Act"), codified at Tenn. Code Ann. §§9-23-101 et seq., also contains statutory provisions relating to the use of tax increment incentives by the Board. Section 9-23-107 of the Tax Increment Act specifically authorizes the County, the City and the Board to agree upon and approve policies and procedures for allocating and calculating tax increment revenues and implementing the IDB Act and Tax Increment Act. These Policies and Procedures, upon their approval by the County, the City and the Board, shall be deemed to be adopted pursuant to Section 9-23-107 of the Tax Increment Act.

These Policies and Procedures are in addition to any other rules and procedures applicable to the Board, the City or the County, including the debt management policies of the Board. From time to time, these Policies and Procedures may be amended by the Board, the City and the County.

Notwithstanding the adoption of these Policies and Procedures, the approval of any tax increment incentive is within the discretion of the Board acting within the parameters of these Policies and Procedures. In no event shall these Policies and Procedures be construed to create any contractual right or other entitlement in a Person or limit the Board's discretion to decline to approve any tax increment incentive.

## **Section 2. Description of Civic Plaza Economic Impact Plan**

In order to implement tax increment incentives under the IDB Act, the Board must submit, and the County and the City, if applicable, must approve, an economic impact plan pursuant to Section 7-53-312 of the IDB Act. In this case, the Board has submitted, and the County and the City have approved, an Economic Impact Plan for the Civic Plaza Development Area (the "Plan"). As required by the IDB Act, the Plan must identify the boundaries of the area subject to the Plan and identify the project, within the meaning of the IDB Act, located in such area. In this case, the Plaza was identified as the qualifying project within the area subject to the Plan (the "Plan Area"), and the Plan Area includes those properties that the Board has determined, and the County and the City have approved, that will directly benefit due to the undertaking of the construction of the Plaza.

Once the Plan was approved, incremental property tax revenues allocated to the Board pursuant to the Plan and the IDB Act may be applied, as authorized by Section 7-53-312(h) of the Code, to pay expenses of the Board in furtherance of promoting economic development in the County and the City, to pay costs of projects (within the meaning of the IDB Act) or to pay debt service on bonds or other obligations of the Board that were issued to pay costs of projects. As provided in such Section, incremental tax revenues can be applied to pay costs of any projects within the meaning of the IDB Act and not just the project identified in the Plan as being located in the Plan Area.

Pursuant to the Plan, incremental property tax revenues realized from the Plan Area and allocated to the Board may be applied to promote the development of properties in the Plan Area. The Plan gives considerable flexibility to the Board to implement this goal. As permitted by the Tax Increment Act, the Board may designate any parcel or group of parcels in the Plan Area for purposes of calculating and allocating tax increment revenues. Therefore, the Board can designate that the parcel or parcels utilized for a specific Project in the Plan Area be subject to a separate calculation of incremental tax revenues in order to support that Project and furthermore to designate the tax year in which such allocations will commence. Moreover, the Plan authorizes the Board to calculate incremental tax revenues on the basis of each parcel instead of on an aggregate basis of all parcels within the Plan Area. Therefore, the calculation of incremental tax revenues of any parcel or group of parcels in the Plan Area can be calculated independently from other parcels within the Plan Area.

In order to assist a specific Project, the Board is authorized pursuant to the Plan to apply specified incremental tax revenues received by the Board to either pay debt service on bonds or other obligations of the Board secured by such incremental tax revenues or to directly pay costs of a Project. For purposes of these Policies and Procedures, the application of incremental tax revenues to pay debt service or the application of increment tax revenues to pay Project costs are both referred to herein as "Tax Increment Incentives."

Property owners and prospective property owners within the Plan Area are encouraged to apply to be considered for a Tax Increment Incentive to assist with the development or redevelopment of their property if such incentive is deemed necessary by the property owner to facilitate such development or redevelopment.

It is anticipated by the Board that such development or redevelopment will involve specific projects that are eligible projects within the meaning of the IDB Act, which projects are those reasonably expected to promote commercial, retail and residential development within the Plan Area, as described in Part II of the Economic Impact Plan. The approval or disapproval of any Tax Increment Incentive in

connection with the development or redevelopment of an eligible project will be within the sole and absolute decision of the Board.

The next section of these Policies and Procedures provides some parameters and terms under which the Board may utilize Tax Increment Incentives. The section thereafter provides the process for applying for a Tax Increment Incentive for properties within the Plan Area.

### **Section 3. Policies relating to Tax Increment Incentives**

The following policies shall apply with respect to Tax Increment Incentives within the Plan Area.

3.1. Maximum Allocation Period. No allocation of tax increment revenues shall be made with respect to any parcel of property for a period of more than twenty (20) years. If the Board determines that a lesser allocation period is sufficient to make a Project feasible, as provided herein, the Board may require a shorter allocation period. The maturity of any tax increment financing shall not exceed the maximum maturity permitted by the IDB Act for debt obligations of the Board.

3.2. Eligible Costs. Under the IDB Act, tax increment revenues may be applied by the Board to pay debt service on debt obligations issued to finance Project costs or to directly pay Project costs. The costs of a qualifying Project include the cost of any land, real property and personal property that are deemed necessary by the Board to be incurred in connection with a qualifying Project. An Applicant may request that incremental tax revenues be applied to pay debt service on financing for or to directly pay any Project cost that is eligible under the IDB Act.

However, Applicants should note that, other than for land, improvements, or equipment utilized for public infrastructure, as defined in the Tax Increment Act, tax increment revenues may not be used to pay for or to pay debt service relating to debt incurred by the Board to finance privately-owned land, improvements, or equipment, or for other purposes authorized by Tenn. Code Ann. § 7-53-101, *et seq.*, but not specified in Tenn. Code Ann. § 9-23-108, unless both the Comptroller of the State of Tennessee and the Commissioner of Economic and Community Development have made a written determination that the use of tax increment revenues for such purposes is in the best interest of the State of Tennessee. The County, the City and the Board intend to request, upon adoption of the Plan, that certain types of costs within the Plan Area that are expected to be incurred relating to privately-owned property be approved by the Comptroller and the Commissioner, but applicants for Tax Increment Incentives should note that the application of tax increment revenues to pay or finance certain Project costs may require approval of the Comptroller and the Commissioner even if a Tax Increment Incentive for a Project is approved by the Board.

Applicants should obtain their own legal and accounting advice relating to the tax consequences of receiving any Tax Increment Incentive, and the County, the City and the Board will make no representations relating thereto.

3.3. Maximum Percentage of Project Cost and Minimum Project Size. The amount of a Tax Increment Incentive for a specific Project (either through the direct payment of costs or based upon the principal amount of any tax increment financing) shall not exceed the lesser of (i) \$3,000,000 or (ii) 15% of the Total Projected Project Cost of any Applicant. The Applicant must also reasonably anticipate a Total Projected Project Cost of at least \$1,000,000 with respect to a proposed Project in order to apply for a Tax Increment Incentive.

3.4. Necessity of Tax Increment Incentive. The approval, size and term of allocation with respect to any Tax Increment Incentive shall be conditioned upon the Applicant demonstrating the

necessity of the availability of the Tax Increment Incentive in order to make a Project economically feasible such that the owner of the Project can receive a reasonable return on investment. An Applicant shall permit a designated representative or designated representatives of the Board to meet with the Applicant's designated representatives in order to determine the necessity of the requested Tax Increment Incentive and will permit such designated representative or representatives of the Board to review such budgets and projections as are reasonably necessary to make such determination. The Board will designate a committee, which may include persons experienced with real estate finance that are not members of the Board and representatives of the Department of Accounts and Budget of the County and the Department of Finance of the City, to make recommendations to the Board regarding the size and term of any Tax Increment Incentive, and such committee may designate one or more representatives of such committee to meet with the Applicant's designated representatives as described above in order to undertake the necessary action to make a recommendation to the Board. Any meetings of more than one member of such committee shall be an open public meeting to the extent required by applicable law.

3.5. Designated Parcels. In its Application, the Applicant shall identify the specific parcel or parcels within the Plan Area from which tax increment revenues shall be allocated in order to provide the Tax Increment Incentive for the Applicant's Project. If any of such parcels are subdivided or combined after an Application is submitted or while a Tax Increment Incentive is ongoing, the Applicant shall give notice of such circumstance to the Board, the County and the City. No allocation of tax increment revenues shall occur as to any parcel within the Plan Area until such parcels are designated by an Applicant pursuant to this Section and the Applicant and the Board have entered into a Development Agreement, as described below, identifying the first year of such allocation.

3.6. Calculation of Increment. The incremental tax revenues to be allocated to the Board for any Tax Increment Incentive shall be calculated individually for each tax parcel relating to a Project. Therefore, if the taxes have been paid with respect to a tax parcel by their due date, the relevant incremental tax revenues will be allocated to the Board from such tax parcel even if the taxes with respect to other tax parcels in the Project are delinquent and not paid by the due date.

3.7. Payment Dates. The incremental tax revenues to be allocated to the Board for any Tax Increment Incentive shall be paid by the County and the City no later than sixty (60) days from the last day of each February, which is the last day that such tax revenues are not overdue. Delinquent taxes to be allocated to the Board shall be paid by the County and the City no later than sixty (60) days after each date such delinquent taxes are collected, together with interest thereon to the extent required by the Tax Increment Act.

3.8. Deductions from Tax Increment; Plaza Fund. Prior to any allocation to the Board of incremental tax revenues, the County and the City shall deduct therefrom any taxes levied to pay debt service of the County and the City, respectively, on their respective debt obligations as required by the IDB Act and the Tax Increment Act. The County, the City and the Board agree, in order to promote economic development in downtown Clarksville, that ten percent (10%) of all incremental tax revenues allocated to the Board for any purpose pursuant to the Plan shall be deposited in a separate account of the Board and applied by the Board to pay for the County or reimburse the County for direct costs incurred to maintain and make improvements at the Plaza, provided, however, that the City at any time may direct by notice to the Board that any such amounts derived from incremental City property tax revenues shall be used to maintain and/or improve public projects of the City located in the Plan Area.

3.9. Non-Recourse Obligations. The liability of the Board for any obligations under any debt obligation relating to a Tax Increment Incentive or any other contractual obligation shall be limited solely to its interest in incremental tax revenues allocated to the Board in connection with such Tax Increment Incentive, and no other assets of the Board shall be subject to levy, garnishment or otherwise to satisfy

any obligation of the Board as to a Tax Increment Incentive. The County and the City shall not have any obligations or liabilities with respect to any Tax Increment Incentive other than to allocate incremental tax revenues to the Board as required by the Plan, the IDB Act and the Tax Increment Act.

3.10. Payment of Incremental Tax Revenues. Other than incremental tax revenues allocated to the Board to provide support to program and maintain the Plaza as described above, incremental tax revenues to be applied to any Tax Increment Incentive shall be allocated by the County and the City into a separate account of the IDB created with respect to each Project for such purpose. Such payment may be made by wire transfer or by check, at the County's or the City's election.

3.11. Calculation of Allocated Increment. Not later than April 15<sup>th</sup> of each year, the Director of Accounts and Budgets for the County and the Director of Finance for the City shall calculate the tax increment revenues to be allocated to the Board under the Plan. The Director of Accounts and Budgets shall give notice of such calculation as to the County to the County Trustee, each approved Applicant that so requests such information, the City and the Board. The Finance Director of the City shall give notice of such calculation as to the City to the City Recorder, each approved Applicant that so requests such information, the County and the Board.

#### **Section 4. Procedures for requesting Tax Increment Incentives**

4.1. Application. An Applicant may request the Board to approve a Tax Increment Incentive to support a particular Project. To initiate such a request, the Applicant should submit to the Board a completed Application together with all exhibits, schedules and documents required by the Application. No action will be taken with respect to an Application until the Board's designated representative determines that the Application is complete. **Acceptance of the Application does not imply, evidence or confirm the County's, the City's or the Board's support for, or recommendation of, the request for Tax Increment Incentive.**

4.2. Initial Resolution by the Board. After review of the Application by the Board, including review by the committee described in Section 3.4 above, the Board will consider such Application, taking into account the recommendation of the committee. After such consideration, the Board will vote on whether a Tax Increment Incentive shall be approved for the Applicant's Project, and if such approval is given, it shall define the maximum term and amount of the Tax Increment Incentive.

4.3. Financing Documents. If the Board approves a Tax Increment Incentive for an Applicant, the Applicant and the Board will use reasonable efforts to consummate the Tax Increment Incentive in a timely manner. In connection with any Tax Increment Incentive, the Applicant and the Board will enter into a Development Agreement. The Development Agreement will provide for the payment or financing of costs of the Applicant's Project by the Board and provide for such other covenants as the Board deems necessary to protect the interests of the Board, the City and the County. All documents shall be subject to the review and approval of the Board's counsel and to the approval of their execution by the Board. Unless prepared by bond counsel or special counsel to the Board, at the Board's option, the proposed Development Agreement will be prepared by the Applicant and submitted to the Board for review and comment.

Any Tax Increment Incentive shall close within one (1) year after the initial resolution described above is adopted by the Board. If the closing does not occur within such period, unless extended by the Board, the Applicant will be deemed to have withdrawn its Application, and all approvals by the Board will lapse and be of no further force or effect.

## 5. Fees and Expenses of Board

5.1. Application Fee. Each Applicant will submit with its Application an Application Fee to the Board in an amount equal to \$1,500.

5.2. Expenses and Indemnity Relating to Tax Increment Incentives. The Applicant shall pay all expenses, including attorney's fees, incurred by the Board, except for the Board's fees for local counsel, in connection with any proposed or approved Tax Increment Incentive, whether or not such incentive is finalized. The Board's fees for local counsel shall be paid from the application and closing fees described herein. All other expenses shall include the cost, if any, of the fees and expenses of bond counsel, and the cost of special counsel to the Board to offer an opinion as to the legality of any tax increment incentive if required, or to prepare the Development Agreement and any other documentation relating to the Tax Increment Incentive by and between the parties. At the request of the Applicant, the Board will obtain and provide to the Applicant an estimate of any fees and expenses, including fees of the Board's bond counsel or special counsel, prior to commencing the documentation of any Tax Increment Incentive. The Board may require that any expenses be paid in advance of any Board action with respect to a Tax Increment Incentive. Any Applicant, by submitting an Application, agrees to indemnify the Board, the City and the County for any liabilities, claims and expenses incurred by the Board, the City or the County in connection with considering, approving or implementing a Tax Increment Incentive as provided herein.

5.3. Closing Fee. Upon the closing of a Tax Increment Incentive, as evidenced by the execution of a Development Agreement, the Applicant shall pay the Board a closing fee of (a) \$1,500 if the projected project cost is less than \$3,000,000, (b) \$3,000 if the projected project cost is equal to or greater than \$3,000,000 but less than \$5,000,000 and (c) \$5,000 if the projected project cost is equal to or greater than \$5,000,000.

5.4. Amendments. The Applicant will pay all expenses, including attorney's fees, incurred by the Board in connection with any amendments to any documents entered into in connection with a Tax Increment Incentive. The Board may require that these expenses be paid in advance of any Board action.

## 6. Definitions

In addition to all terms defined elsewhere herein, for purposes of these Policies and Procedures, including the Application, the following terms shall have the following meanings:

**"Applicant"** means the Person submitting the Application for a Tax Increment Incentive. The Applicant shall be the Person that is expected to be an initial owner of a Project that is within a Plan Area.

**"Application"** means the Application for a Tax Increment Incentive submitted hereunder in the form attached hereto as Exhibit A.

**"Development Agreement"** means the Development Agreement or comparable agreement between the Board and the Applicant or similar agreement or contract providing for, among other things, the expenditure of the proceeds of any tax increment financing or the reimbursement of eligible Project costs.

**"Person"** means any individual, sole proprietorship, corporation, limited liability company, association, partnership (general, limited, or limited liability partnership), organization, business, trust, individual and governmental entity.

**"Project"** means a project within the meaning of Section 7-53-101(13) of the IDB Act.

**"Project Site"** means the parcel or parcels of real property on which the Project will be located.

**"Total Projected Project Cost"** means all costs that are expected to be incurred in connection with the development of a Project and that would be capitalized in accordance with generally acceptable accounting principles other than interest, property taxes and insurance during the construction of the project.

**EXHIBIT A TO TAX INCREMENT INCENTIVE PROGRAM**

**TAX INCREMENT INCENTIVE APPLICATION FORM**

**TAX INCREMENT INCENTIVE APPLICATION**

**Please return the completed application and supporting documentation to:**

The Industrial Development Board of the County of Montgomery, Tennessee

Clarksville, Tennessee 37040

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***I. Applicant Information***

1. Name of Applicant: \_\_\_\_\_

2. Business Name and Address: \_\_\_\_\_

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State of Organization (if an entity): \_\_\_\_\_

3. Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

4. Website of Applicant (if any): \_\_\_\_\_

5. Type of Business Entity:     Sole Proprietorship             Limited Partnership  
    For-Profit Corporation         General Partnership  
    Limited Liability Company    Nonprofit Corporation

6. Development Team

Please list the business name, contact person, address, phone number and email address for the following members of the Applicant's development team for the Project (if not known, please so indicate):

Contractor: \_\_\_\_\_

\_\_\_\_\_

Architect/Engineers: \_\_\_\_\_

\_\_\_\_\_

Attorney: \_\_\_\_\_

\_\_\_\_\_

**II. Project Information**

7. Does the Applicant currently own or lease the Project Site? (Check one)

Own       Lease       Neither

8. Evidence of Site Control:

A. If the Applicant owns the Project Site, attach a copy of the Applicant's deed.

B. If the Applicant has a contract or option to purchase the Project Site, attach a copy of the agreement or option contract (confidential information such as price may be redacted).

C. If the Applicant currently leases or will lease the Project Site, attach a copy of the lease or lease option contract (confidential financial information may be redacted).

9. Project Narrative (Provide a brief description of the qualifying Project):

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10. If the Project is to be leased to tenants, identify tenants or, if tenants are not known, describe types of tenants to which the Project will be marketed:

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**III. Tax Increment Incentive**

11. If the requested incentive is tax increment financing, indicate the maximum principal amount of tax increment financing requested. \$\_\_\_\_\_. If the requested incentive is payment of costs with tax increment revenues, indicate the maximum amount of costs to be paid from tax increment revenues. \$\_\_\_\_\_.

12. Indicate maximum allocation period of tax increment revenues requested: \_\_\_\_\_ years. Identify the initial tax year as to which such allocation will occur:\_\_\_\_\_.

13. Has any other government assistance (federal tax credits, grants or other economic benefits) been requested by the Applicant to assist with the Project? (Check one):  Yes  No

If yes, describe the type, source, and amount of assistance requested:

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14. Provide a list of all properties comprising the Project Site by parcel identification number, along with the current tax assessment and taxes paid or payable for the prior tax year for each parcel (attach additional sheets if necessary).

Parcel Identification Number	Assessed Value	Taxes
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

15. Attach a detailed budget for the Project showing anticipated sources of funds to pay Project costs and anticipated uses of those funds.

16. Attach a list by category of each cost to be paid or financed with the requested Tax Increment Incentive.

#### ***IV. Supplemental Information***

Please attach to this Application the following:

- Brief business history of the Applicant
- Resumes of all principals of Applicant
- Timetable for the Project
- Site Plan of Project Site (if available)
- Rendering of Project (if available)
- Survey of Project Site (if available)
- Map of the Plan Area showing parcels included
- If tax increment financing is requested, letter of intent of financial institution or accredited investor to purchase the tax increment financing

#### ***V. Representations of Applicant***

By executing this Application, Applicant hereby represents, certifies and agrees as follows:

(a) The Project would not result in a reasonable rate of return on investment to the Applicant without the requested Tax Increment Incentive, and the Applicant would not undertake the Project as described in this Application unless the Tax Increment Incentive is available.

(b) The undersigned Applicant hereby agrees that the Applicant shall meet with a designated representative of the County, the City and/or the Board, upon request, to answer any questions that may arise in connection with the County's, the City's and/or the Board's review of this Application and that Applicant shall provide to the County, the City and/or the Board, upon request, any supplemental information requested in connection with the County's, the City's and/or Board's review of the Application, including, without limitation, such financial information as the County, the City and/or Board may request in order to determine that the Project would not be undertaken without the Tax Increment Incentive requested.

(c) The Applicant shall pay all expenses required by Section 5 of the Policies and Procedures of the Board relating to the Tax Increment Incentive and shall otherwise comply with such Policies and Procedures.

(d) The Applicant shall indemnify and hold harmless the Board, its employees, officers, directors, attorneys and consultants against all losses, costs, damages, expenses (including reasonable attorney's fees), and liabilities of any nature directly or indirectly resulting from, arising out of or relating to the acceptance, consideration, approval or disapproval of this Application for Tax Increment Incentives.

***VI. Signature***

The undersigned Applicant affirms that the information provided in this Application is true and complete. The Applicant hereby confirms that the Applicant has read and understood the requirements in the Policies and Procedures relative to Tax Increment Incentives for the Civic Plaza Development Area.

Applicant: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_, 20\_\_\_\_\_

Title (if Applicant is an entity): \_\_\_\_\_