

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Planning and Economic Development Department
AGENDA DATE: October 18, 2011
CONTACT PERSON/PHONE: Mathew McElroy, (915) 541-4193, McElroyMX@elpasotexas.gov
DISTRICT(S) AFFECTED: District 3

SUBJECT:

Discussion and action to direct the City Manager to initiate the process of creating a Tax Increment Reinvestment Zone (TIRZ) for property owned by the City of El Paso and the Medical Center of the Americas Foundation or its affiliates, in the noncontiguous area within the boundaries south of Interstate 10, north and west of Paisano Drive, and east of Boone Street, as shown in the Exhibit provided, and any other public or private property owners in the Medical Center of the Americas Master Plan Area who request to be included.

BACKGROUND / DISCUSSION:

This item would begin the process of creating a non-contiguous Tax Increment Reinvestment Zone (TIRZ) for property owned specifically by the City of El Paso, the Medical Center of the Americas Foundation, and any other property owner within the MCA master plan area who opts to participate. The TIRZ provides a great deal of flexibility in the City's ability to aid in redevelopment of the area and to partner with redevelopment groups. Since the creation of the TIRZ requires that a number of procedural items be completed, this item allows for the allocation of staff resources appropriately.

PRIOR COUNCIL ACTION:

On June 21, 2011, City Council adopted Ordinance No. 017589 changing the zoning for all properties located within the area under consideration to SmartCode Zone (SCZ).

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Deputy Director – Planning & Economic Development

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

Tax Increment Reinvestment Zone

(TIRZ)

City Council Meeting

10/18/2011

Discussion and action to direct the City Manager to initiate the process of creating a Tax Increment Reinvestment Zone (TIRZ) for property owned by the City of El Paso and the Medical Center of the Americas Foundation or its affiliates, in the noncontiguous area within the boundaries of I-10 Gateway East, Paisano, Alameda, and Boone Avenues, as shown in the Exhibit provided, and any other public or private property owners in the Medical Center of the Americas Master Plan Area who request to be included.

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TAX INCREMENT REINVESTMENT ZONE (TIRZ)

Advantages of a TIRZ:

1. **Implementation of a TIRZ project plan is a state-sanctioned public purpose.** City can acquire real property and sell or exchange it on the terms and conditions and in the manner it considers advisable, to implement project plans. The sale or exchange of TIRZ land can be done without public auction. It can be for less than fair market value, if to implement the project plan and alleviate a condition found in the creation of the TIRZ –leasing could also be for less than fair market value. The TIRZ statute expressly states that: The implementation of a project plan to alleviate a condition described in the criteria for the zone (1) & (2) below, and to promote development or redevelopment of a reinvestment zone in accordance with the TIRZ statute serves a public purpose.
2. **Flexibility in the amount and type of Increment contributed to the Fund.** The Tax Increment Fund can include (1-100%) of the tax increment produced above the base year and could be different percentages over the life of the TIRZ; City sales tax increment attributable to the zone can be included (0-100%) – this can be designated at the creation or later in the life of the TIRZ. Other taxing entities do not have to participate or can have limited participation after creation.
3. **Variety of allowable uses of Increment for long-range redevelopment plans.** The Increment can be used to fund: real property acquisition, project costs for public infrastructure (sidewalks, streets, improvements on right-of-way, sewer, drainage, roads, lighting, parks, parking facilities), transit facilities, remediation of public or private buildings, building facades, demolition, clearing and grading of land, costs of buildings. Developer-initiated public infrastructure projects are exempt from competitive bidding (cost-savings to the project). Increment can also be used as a dedicated funding source for Chapter 380 agreements for job creation and growth, developing or expanding transportation, business and commercial activity in the zone. Increment can be used to fund supplemental city services (e.g., additional sanitation, beautification, landscaping)
4. **Smaller board size when there is no other taxing entity participation.** The Board membership is at least 5 but no more than 15. Other taxing entities may appoint a member IF the taxing entity is paying tax increment into the fund. The legislature revised the law –non-participating taxing entities no longer get a board member slot.
5. **City Council appoints the board chairman each year.** Each year City Council appoints one member of the board to serve as chairman for a one year term that begins on January 1 of the following year.
6. **Flexibility in Participation by other taxing entities – on a project-by-project basis.** Other taxing entity participation can be on a project-by-project basis at any time during the life of the TIRZ, with conditions on payment, phased amounts, or later base year than the original base year of the zone.
7. **No automatic cap on the term.** The termination date is designated by ordinance, and can be extended (after notice and hearing) or set on the date on which all project costs, bonds, obligations have been paid in full.

Criteria to create a Zone:

- City can designate a contiguous or **noncontiguous geographic area** in the City to be a TIRZ to promote development or redevelopment of the area when the City Council finds that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future
- Applicable criteria to this Area’s conditions: (1) substantially arrest or **impair the sound growth of the City**, retard the provision of housing accommodations, or constitute an **economic or social liability** and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of one of the following: .. (B) the **predominance of defective or inadequate sidewalk or street layout**; (C) **faulty lot layout** in relation to size, adequacy, accessibility, or usefulness...; or (2) be predominately open or undeveloped and, because of **obsolete platting**, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the City.
- No more than 30% of the property in the proposed zone can be used for residential purposes
- The total appraised value of the taxable real property in the proposed zone *and* in existing reinvestment zones cannot exceed 25% of the total appraised value of taxable real property in the City.

**CREATION OF TAX INCREMENT REINVESTMENT ZONE (TIRZ)
Process for Initiation by COEP**

STEP ONE	City Council directs initiation of process to establish a TIRZ and City staff work begins <ul style="list-style-type: none"> ▪ Applicability of statutory requirements to justify zone (establish criterion for creation; verify percentage limitations on property within the zone) ▪ Prepare preliminary project and reinvestment zone financing plans*
STEP TWO	Introduction of an Ordinance of Creating the Establishing the TIRZ, with published notice of the public hearing no less than seven days before adoption of the Ordinance creating the Zone, published in a newspaper having general circulation in the City (e.g., two week introduction)
STEP THREE	Public Hearing on the Creation of the Zone <ul style="list-style-type: none"> ▪ Preliminary reinvestment financing plan presented ▪ Evaluation of the benefits to the City and to the property in the proposed zone
STEP FOUR	City Council Adoption of the Ordinance Creating the Zone (simple majority vote)
STEP FIVE	Appointment of TIRZ board members
STEP SIX	TIRZ board prepares and adopts a final project plan and reinvestment zone financing plan and submits the plans to the City Council.** After board adoption, the City Council must approve the final plans by Ordinance.

*In 2011, the Texas legislature repealed the requirements contained in former sections 311.003(e), (f), and (g), which required sending the preliminary financing plan to other taxing entities; 60-day written notice of intent to create a TIRZ; requirement to meet with other taxing entities to discuss the plans; and presentation to taxing entities requirements.

** In 2011, the Texas legislature repealed the requirement that the final plans adopted by the TIRZ Board and City be ‘as consistent as possible with the preliminary plans developed for the zone before the creation of the board.

TAX INCREMENT REINVESTMENT ZONE (TIRZ) REQUIREMENTS

City Council by ordinance may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the City, in the ETJ of the City or in both, to be a reinvestment zone to promote development or redevelopment of the area if the City Council determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. §311.003(a)

I. CRITERIA FOR A REINVESTMENT ZONE, §311.005: To be designated as a reinvestment zone, an area must:

1. Substantially arrest or impair the sound growth of the City designating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of one or more of the following:
 - (a) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - (b) the predominance of defective or inadequate sidewalk or street layout;
 - (c) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
 - (d) unsanitary or unsafe conditions
 - (e) the deterioration of site or other improvements
 - (f) tax or special assessment delinquency exceeding the fair value of the land;
 - (g) defective or unusual conditions of title;
 - (h) conditions that endanger life or property by fire or other cause; or
 - (i) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the City has a population of 100,000 or more;
2. Be predominately open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the City;
3. Be in a federally assisted new community located in the City or in an area immediately adjacent to a federally assisted new community; or
4. Be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the City by property owners constituting at least 50% of the appraised value of the property in the area according to the most recent certified appraisal roll for the County.

II. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE, §311.006:

- No more than 30% of the property in the proposed zone, excluding property that is publicly owned, may be used for residential purposes (i.e., properties occupied by a house having fewer than five living units).
- For Cities with a population of 100,00 or more: The total appraised value of the taxable real property in the proposed zone and in existing reinvestment zones may not exceed 25% of the total appraised value of taxable real property in the City and in industrial districts created by the City. The appraised value is determined according to the most recent appraisal roll.

III. CONTENTS OF REINVESTMENT ZONE ORDINANCE, §311.004: The Ordinance designating an area as a reinvestment zone must:

- Describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;
- Create a board of directors for the zone and specify the number of directors of the board (*there are no mandatory board slots for non-participating taxing entities);
- Provide that the zone take effect immediately upon passage of the ordinance;
- Provide a date for termination of the zone;
- Assign a name to the zone for identification (“Reinvestment Zone No. __, City of El Paso, Texas”), in same form numbered consequentially in order of their creation;
- Establish a Tax Increment Fund for the zone; and
- Contain findings that:
 - Improvements to the zone will significantly enhance the value of all the taxable real property in the zone will be of general benefit to the City; and
 - The area meets the requirements of Section 311.005 (Criteria for Reinvestment Zone)

The City Council may determine, in the Ordinance creating the zone or a subsequently adopted ordinance, to deposit into the Tax Increment Fund a portion or an amount of municipal sales and use taxes attributable to the zone above the sales tax base year (the increment). The deposited sales tax increment may only be used to satisfy claims of bond/note holders, to pay project costs of the zone, or project development agreements under Section 311.010 (b). §311.0123

IV. CONTENT PROJECT AND FINANCING PLANS, §311.011: The TIRZ board shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the City Council.

The project plan must include:

1. A description and map showing existing uses and conditions of real property in the zone and proposed uses of that property;
2. Proposed changes of zoning ordinances, the master plan of the City, building codes, other municipal ordinances, if applicable;
3. A list of estimate non-project costs; and
4. A statement of a method of relocating persons to be displace, if any, as a result of implementing the plan.

The reinvestment zone financing plan must include:

1. A detailed list describing the estimated project costs of the zone, including administrative expenses;
2. A statement listing the proposed kind, number, and location of all public works or public improvements to be financed by the zone;
3. A finding that the plan is economically feasible and an economic feasibility study;
4. The estimated amount of bonded indebtedness to be incurred;
5. The estimate time when related costs or monetary obligations are to be incurred;
6. A description of the methods of financial all estimate project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone;
7. The current total appraised value of taxable real property in the zone;
8. The estimated captured appraised value of the zone during each year of its existence; and
9. The duration of the zone.



TAX INCREMENT REINVESTMENT ZONE (TIRZ)



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Advantages

- Implementation of a TIRZ project plan is a state-sanctioned public purpose.
- Flexibility in the amount and type of Increment contributed to the Fund.
- Variety of allowable uses of Increment for long-range redevelopment plans.
- Flexibility in Participation by other taxing entities – on a project-by-project basis.



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TAX INCREMENT REINVESTMENT ZONE (TIRZ)

Requirements

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Requirements (cont'd)

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3. A list of estimate non-project costs; and
4. A statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.



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Requirements (cont'd)

CONTENT PROJECT AND FINANCING PLANS, §311.011: The TIRZ board shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the City Council.

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4. The estimated amount of bonded indebtedness to be incurred;
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6. A description of the methods of financial all estimate project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone;
7. The current total appraised value of taxable real property in the zone;
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