

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

DEPARTMENT: Economic Development

AGENDA DATE: November 17, 2009 (Regular)

CONTACT PERSON NAME AND PHONE NUMBER: Kathy Dodson, (915)541-4670

DISTRICT(S) AFFECTED: 8

SUBJECT:

Discussion and Action on a Resolution that subject to passage of the Ordinance amending the Final Project Plan and Final Reinvestment Zone Financing Plan related hereto, the City Manager be authorized to execute the First Amendment to Development Agreement by and between the City of El Paso and The El Paso Project, LLC ("Developer"), to provide additional tax increment finance funds in the amount of \$22,000.00, as reimbursement for additional eligible project costs incurred in Developer's construction of public infrastructure improvements related to its First Avenue Lofts Development Project (Mixed-Use Residential) at 300 S. Florence, El Paso, Texas, to be paid out of the City's tax increment revenue fund for Tax Increment Reinvestment Zone Number 5, City of El Paso, Texas, subject to the terms and conditions provided in the Agreement. The total reimbursement amount under the Agreement is \$50,000.00 (District 8) [Economic Development, Kathy Dodson, (915) 541-4670]

BACKGROUND / DISCUSSION:

The Final Project Plan and Final Reinvestment Zone Financing Plan for Tax Increment Reinvestment Zone No. 5 was adopted by City Council Ordinance No. 017081 on March 10, 2009. Projects that meet the statutory criteria to be included in the final plans can be added to the document from time to time; separate agreements can be entered into for project completion. The Development Agreement for Project No. 2 was approved by Council on April 7, 2009. This first amendment will increase the funding by \$22,000 to bring the total to \$50,000. The development agreement describes the specific public improvements eligible for TIRZ funds. The developer will pay for the improvements and will be reimbursed via this development agreement.

The project description for the Reinvestment Zone's Final Project Plan and Final Reinvestment Zone Financing Plan is:
Project No. 2: First Avenue Lofts Project (Mixed Use Residential).

Original Amount: \$28,000

Amended Amount: \$50,000 (increased by \$22,000)

Description of the Project:

Located at 300 S. Florence El Paso, Texas, the First Avenue Lofts Project consists of the adaptive reuse of an old warehouse building into a mixed-use development project with retail at the ground floor and eight dwelling units described as upscale lofts in the upper floors. The project developer is The El Paso Project, LLC. The conversion of the warehouse will necessitate public improvements in the sidewalk area; there are currently no sidewalks along one side of the building. The improvements include installation of the sidewalk, street lighting and related amenities in the public right of way. The age and the change of use of the building require retrofitting of the public utility connections.

Public improvement costs that will be eligible for reimbursement through the use of tax increment finance funds of the Zone are: installation, extension and/or renovation of sidewalks and abutting improvements to the adjacent street, and the construction of other public improvements including streetscape improvements and amenities such as street lighting.

The additional tax increment finance funds for the project in the amount of \$22,000 are allocated to fund public utility connection costs associated with installation of water, sewer and fire lines to the building.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Development Agreement for this project approved by Council on April 7, 2009.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

Item will be funded from existing TIRZ Fund Account No. 502215 / 07412 / 72153041 / 72300 (TIRZ No. 5 Fund). Project No. 2 funding to be amended to add \$22,000 to previously funded \$28,000 to bring the total for this project to \$50,000

BOARD / COMMISSION ACTION:

Tax Increment Reinvestment Zone No. 5 Board unanimous approval recommendation on October 24, 2009

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

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That subject to passage of the Ordinance amending the Final Project Plan and Final Reinvestment Zone Financing Plan related hereto, the City Manager be authorized to execute the First Amendment to Development Agreement by and between the City of El Paso and The El Paso Project, LLC ("Developer"), to provide additional tax increment finance funds in the amount of \$22,000.00, as reimbursement for additional eligible project costs incurred in Developer's construction of public infrastructure improvements related to its First Avenue Lofts Development Project (Mixed-Use Residential) at 300 S. Florence, El Paso, Texas, to be paid out of the City's tax increment revenue fund for Tax Increment Reinvestment Zone Number 5, City of El Paso, Texas, subject to the terms and conditions provided in the Agreement. The total reimbursement amount under the Agreement is \$50,000.00

APPROVED this _____ day of _____ 2009.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:



Kathryn B. Dodson, Ph.D., Director
Economic Development Department

**FIRST AMENDMENT TO TIRZ NO. FIVE (DOWNTOWN)
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF EL PASO
AND THE EL PASO PROJECT, LLC**

This First Amendment is made this _____ day of _____, 2009, by and between the **CITY OF EL PASO, TEXAS** (the "City") and **THE EL PASO PROJECT, LLC** ("Developer").

WHEREAS, on April 7, 2009 the City and Developer entered into a Development Agreement (the "Agreement") to enable the development, construction, installation and financing of certain public improvements in connection with the Developer's redevelopment of certain real property within the boundaries of the Tax Increment Reinvestment Zone Number Five, City of El Paso, Texas (the "Zone"); and

WHEREAS, the City and Developer desire to amend the Agreement to provide for reimbursement of additional eligible Project Costs in the amount of \$22,000 relating to the costs of constructing the Public Infrastructure Improvements as part of Project No. 2 First Avenue Lofts Development, which will further the implementation and achievement of the purposes of the Project Plan and Financing Plan for the Zone.

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

1. On Page 4, Section 3. **OBLIGATIONS OF DEVELOPER**, the first sentence of subsection (a) is hereby amended to require additional Public Infrastructure Improvements, to read as follows:

"In connection with the Project, Developer agrees to complete, or cause to be completed, the following Public Infrastructure Improvements: street excavation and installation of replacement sidewalk on First Avenue and Florence Avenue, sidewalk improvements on First Avenue and Florence Avenue to include handicap accessible ramp and entrance stairs, streetscape improvements, and public utility connection costs associated with installation of water, sewer and fire lines to the Project, as more particularly set forth in Exhibit B."

2. On Page 7, Section 4. **COMPENSATION TO DEVELOPER**, subsection (a) is amended to increase the total reimbursement by \$22,000 and is restated in its entirety, as follows:

(a) Upon completion of the Public Infrastructure Improvements, Developer shall submit to City a completed reimbursement form, as detailed in Exhibit D, with accompanying documentation. Upon City Manager or her designee's approval and direction, Developer shall receive up to a maximum payment of Fifty Thousand and No/Dollars (\$50,000.00) as reimbursement for eligible Project Costs of the Public Infrastructure Improvements as identified in Exhibit

B, as total reimbursement for designing and constructing the Public Infrastructure Improvements required under the Project Plan, Financing Plan, and this Agreement. The estimated costs reflected in Exhibit B may be decreased or increased within each line item, provided that the total costs do not exceed \$50,000.00. City shall not unreasonably withhold approval on requests from Developer on matters under this Agreement.

3. Exhibit "B" is amended to add the following items to the Public Infrastructure Improvements specified therein:

Public utility connection costs associated with installation of water, sewer and fire lines to the Project, at an estimated cost of \$22,000.00.

4. Except as amended herein, the April 7, 2009 Agreement between the City and Developer shall remain in full force and effect.

IN WITNESS WHEREOF, the City and Developer have executed this First Amendment to the Agreement as of the date first written above.

CITY OF EL PASO:

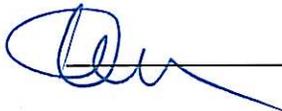
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:



Kathryn Dodson, Director
Economic Development Department

APPROVED AS TO CONTENT:



R. Alan Shubert, P.E.
City Engineer

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

DEVELOPER: THE EL PASO PROJECT, LLC



By: T.J. Karam, Manager

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2009 by **Joyce Wilson**, as City Manager of the **City of El Paso**, on behalf of said municipal corporation.

Notary Public, State of Texas

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 20th day of October, 2009 by **T.J. Karam**, as Manager of **The El Paso Project, LLC**, on behalf of said entity.

Jacqueline S. Leyva
Notary Public, State of Texas

