

AN ORDINANCE 100187

DESIGNATING THE HEATHERS COVE DEVELOPMENT PROJECT AREA LOCATED IN CITY COUNCIL DISTRICT 4, BORDERING THE VALLEY HIGH SUBDIVISION NORTH, LOOP 410 TO THE WEST, MEDINA BASE ROAD TO THE SOUTH, AND INDIAN CREEK PARK TO THE EAST, AS A TAX INCREMENT REINVESTMENT ZONE; DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE; PROVIDING FOR AN EFFECTIVE DATE AND A TERMINATION DATE FOR THE ZONE; NAMING THE ZONE "REINVESTMENT ZONE NUMBER TWENTY-ONE, CITY OF SAN ANTONIO, TEXAS"; ESTABLISHING A TAX INCREMENT FUND; AND CONTAINING OTHER PROVISIONS RELATED THERETO.

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WHEREAS, the City Council (the "Council") of the City of San Antonio, Texas (the "City") desires to support revitalization activities for the Heathers Cove Development Project, to be funded in whole or in part through the creation of a Tax Increment Financing Reinvestment Zone (the "Zone"), as hereinafter more specifically defined and named, and with boundaries as hereinafter provided, pursuant to the provisions of the Tax Increment Financing Act (the "Act"), Texas Tax Code, Chapter 311; and

WHEREAS, the City received a petition for Zone designation by owners representing over 50% of the appraised value of the land in the proposed Zone, and the City agrees to create the Zone by petition; and

WHEREAS, the Heathers Cove Development Project, located in the Secondary Target Area for TIF, is eligible for the City's participation at up to 90%, and is in substantial compliance with the City's Master Plan and the Guidelines by encouraging community revitalization, infrastructure improvements and market-rate housing within certain areas of the City; and

WHEREAS, the Heathers Cove Development Project is also subject to the Universal Design Policy of the City, located in Chapter 6, Section 6-301 of the City Code, as amended October 24, 2002 by Ordinance No. 96621, which requires specific design features in single-family homes, duplexes and triplexes constructed with financial assistance from the City or in a TIRZ, to create barrier-free construction; and

WHEREAS, if homes constructed in the Heathers Cove Development Project are found not to be constructed in compliance with the Universal Design Policy of the City, those tax accounts shall be removed from the list of accounts generating revenue for the TIRZ fund, which will be reflected in the Final Financing Plan; and

WHEREAS, the proposed public improvements for the area include site work, storm water pollution prevention, streets, drainage, sewer, water, street lights/traffic signals, street signs, utilities, lift station, geotechnical phase one environmental study, the reconstruction of Medina Base Road in anticipation of increased traffic resulting from the TIRZ development, and other public improvements which may be provided for in the Development Agreement which is to be considered by Council at a later date; and

WHEREAS, pursuant to the Act, the City may designate a contiguous geographical area within the City as a Zone if the area satisfies the requirements of certain sections of the Act; and

WHEREAS, on September 23, 2004, the Council adopted Resolution No. 2004-34-32, expressing its intent to create the proposed Zone, and authorizing the City to (i) deliver notice of said intention to the governing bodies of each taxing unit that levies real property taxes in the proposed Zone, including in the notice a description of the Zone, the tentative plans for development of the Zone, and the estimated impact of the Zone on property values and tax revenues; (ii) set a date for a public hearing and publish notice thereof; (iii) make presentations to each of said taxing units; (iv) request each of said taxing units to appoint a representative to meet with City officials, and to call meetings regarding the Zone; and

WHEREAS, the Council also granted waivers of the 2004 Guidelines requirements of Section VI (C), Use Patterns and Special Districts, because the Master Development Plan approved in June 2003 does not meet any of the specified Use Patterns or Special Districts; and Section VI (E), Limitations of TIF Program, as the applicant submitted more than one TIF application this year; and

WHEREAS, pursuant to Section 311.003(e) of the Act, and the direction of the Council, on October 6, 2004, the City sent said written notice to the governing body of each taxing unit that levies real property taxes in the proposed Zone of the City's intent to consider establishing a Tax Increment Reinvestment Zone, providing 60-days notice prior to the public hearing, as required by the Act; and

WHEREAS, pursuant to §311.003(b) of the Act, the City staff has (i) prepared a Preliminary Reinvestment Zone Financing Plan (the "Preliminary Plan") for the proposed Zone, and (ii) distributed a copy of the Preliminary Plan to the governing body of each taxing unit that levies taxes on real property in the proposed Zone; and

WHEREAS, pursuant to §311.003(f) of the Act, the City has made formal presentations to the governing bodies of each county or school district that levies real property taxes in the proposed Zone; and

WHEREAS, notice of the public hearing to be held on December 16, 2004, was duly published in the San Antonio Express-News in its issue dated December 9, 2004, in compliance with §311.003(c) of the Act; and

WHEREAS, a public hearing was held on December 16, 2004, at 6 p.m. in the Council Chambers, City Hall to consider the creation of a Tax Increment Reinvestment Zone for the Project and its respective benefits to the City and to property in the proposed Zone; and

WHEREAS, Council hereby recognizes that there is no guarantee that the value of property in the Zone will increase, that any increases in value are dependent upon many factors which are not within City's control, and that there is no guarantee of any tax increment, as that term is defined in the Act; and

WHEREAS, designation of a Zone does not obligate the City to participate or contribute incremental ad valorem taxes from the Zone, nor does it financially obligate the City or other taxing entities; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. DESIGNATING THE AREA AS A REINVESTMENT ZONE. The area located at Indian Creek Park to the east, Medina Base Road to the south, Valley High Subdivision to the north and Loop 410 to the west of the City commonly referred to as the "Heathers Cove Development Project TIF District Site," with the boundaries as more specifically described in Section 2 below, and officially assigned the name as designated in Section 5 below (which reinvestment Zone so described, named and designated is hereinafter referred to as the "Zone"), is hereby designated as a Tax Increment Reinvestment Zone.

SECTION 2. DESCRIPTION OF THE BOUNDARIES OF THE REINVESTMENT ZONE. Attached hereto as Exhibit "A", which is incorporated herein by reference for all purposes as if copied herein verbatim, is a description of the boundaries of the Zone created hereby, which consists of approximately 47 acres of real property in the Council District Four (4) area of the City.

SECTION 3. CREATION AND COMPOSITION OF A BOARD OF DIRECTORS FOR THE ZONE. There is hereby created a Board of Directors (the "Board") for the Zone, with all the rights, powers and duties as provided by the Act to such Boards or by action of the City Council. Pursuant to Section 311.0091(c) of the Texas Tax Code, as amended effective September 1, 2001, the Board shall consist of at least nine (9) members.

SECTION 4. EFFECTIVE DATE AND TERMINATION DATE OF THE ZONE. The Zone shall take effect on December 16, 2004, and continue until its termination date of September 30, 2024 (the "Termination Date"), unless otherwise terminated earlier as a result of payment in full of all project costs, tax increment bonds, if any, including interest on said bonds, or as authorized or permitted by law.

Council further acknowledges and declares that this Zone may be dissolved at any time by City should no other taxing entity participate in Zone; should all other taxing entities withdraw participation; should there be no development agreement reached with applicant or other entities in order to leverage private assets to City's benefit; should any development agreements fail for whatever reason.

SECTION 5. ASSIGNING A NAME TO THE ZONE. The Zone created hereby is assigned the name of "REINVESTMENT ZONE NUMBER TWENTY-ONE, CITY OF SAN ANTONIO, TEXAS."

SECTION 6. TAX INCREMENT BASE. The Tax Increment Base for the Zone is the total appraised value of all real property taxable by the City and located in the Zone, determined as of January 1, 2004, the year in which the Zone was designated as a Tax Increment Reinvestment Zone (the "Tax Increment Base").

SECTION 7. ESTABLISHMENT OF A TAX INCREMENT FUND. There is hereby created and established in the depository bank of the City, a fund to be called the "REINVESTMENT ZONE NUMBER TWENTY-ONE, CITY OF SAN ANTONIO, TEXAS TAX INCREMENT FUND" (herein called the "Tax Increment Fund"). Money in the Tax Increment Fund, from whatever source, may be disbursed from the Tax Increment Fund, invested, and paid as permitted by the Act or by any agreements entered into pursuant to the Act, or as otherwise authorized by law.

SECTION 8. FINDINGS. The City hereby finds and declares that (a) improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the municipality; and (b) the Zone area meets the requirement of §311.005 of the Act, being that the Zone area:

(1) substantially arrests or impairs the sound growth of the City, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

- (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; or
- (H) conditions that endanger life or property by fire or other cause; or

(2) is predominantly open, and because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests the sound growth of the City; and

The City, pursuant to the Act, further finds and declares that:

- (1) the proposed Zone is a contiguous geographical area located wholly within the corporate limits of the City of San Antonio;
- (2) the total appraised value of the taxable real property in the proposed Zone or in existing reinvestment zones, if any, does not exceed fifteen percent (15%) of the total appraised value of taxable real property in the City and in industrial districts created by the City;
- (3) the proposed Zone does not contain more than fifteen percent (15%) of the total appraised value of real property taxable by Bexar County or by the Northside Independent School District or Southwest Independent School District; and
- (4) development or redevelopment within the boundaries of the proposed Zone will not occur solely through private investment in the reasonably foreseeable future.

SECTION 9. DESIGNATION OF A §311.005(a)(5) ZONE. This Zone is designated pursuant to §311.005(a)(5) of the Act.

SECTION 10. INCORPORATION OF RECITALS. The Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Council hereby incorporates such recitals as a part of this Ordinance.

SECTION 11. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and this governing body hereby declares that this Ordinance would have been enacted without such

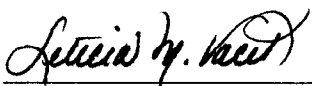
invalid provision.

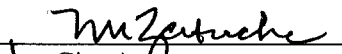
SECTION 12. EFFECTIVE DATE. The Zone shall take effect immediately upon passage of this ordinance, pursuant to §311.004(3) of the Act.

PASSED AND APPROVED this 16th day of December 2004.



M A Y O R
EDWARD D. GARZA

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney

Agenda Voting Results

Name: 7C.

Date: 12/16/04

Time: 11:31:31 PM

Vote Type: Multiple selection

Description: An Ordinance designating the Heathers Cove Development Project area located in City Council District 4, bordering the Valley High Subdivision to the north, Loop 410 to the west, Medina Base Road to the south, and Indian Creek Park to the east, as a Tax Increment Reinvestment Zone ("Zone"); describing the boundaries of the Zone; creating a board of directors for the Zone; providing for an effective date and a termination date for the Zone; naming the Zone "Reinvestment Zone Number Twenty-One, City of San Antonio, Texas"; establishing a Tax Increment Fund; and containing other provisions related thereto. Staff recommends approval.

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1	Not present			
JOEL WILLIAMS	DISTRICT 2		x		
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7	Not present			
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR	Not present			