

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
NEIGHBORHOOD ACTION DEPARTMENT**

TO: Mayor and City Council

FROM: David D. Garza, Neighborhood Action Director

THROUGH: Terry M. Brechtel, City Manager

COPIES: Jelynn LeBlanc Burley, Assistant City Manager; File

SUBJECT: Proposed Revisions to the Tax Increment Financing (TIF) and Reinvestment Zone Guidelines and Criteria

DATE: January 8, 2004

SUMMARY AND RECOMMENDATION

This ordinance amends the City's Tax Increment Financing (TIF) Guidelines as amended and approved by ordinance number 96621 on October 24, 2002 to address proposals outlined in a six-signature memorandum dated May 14, 2003 from Mayor Edward D. Garza. This ordinance also establishes the minimum eligibility criteria for the Incentive Scorecard System for the TIF Program.

Staff recommends approval of this ordinance.

BACKGROUND

In 1998, City Council adopted guidelines and established the TIF program in accordance with recommendations by the Community Revitalization Action Group (CRAG). The TIF guidelines are reviewed every two years to ensure the TIF Program's continued compliance with the City's Master Plans. Tax Increment Financing is an incentive tool governed by the TIF Act (Chapter 311 of the Texas Tax Code), used by local governments in Tax Increment Financing Programs to finance public infrastructure improvements within a defined area, called a Tax Increment Reinvestment Zone (TIRZ). The TIF Act and subsequent Attorney General Opinions specify that areas to be designated as a TIRZ must be economically distressed, unproductive, underdeveloped, **or** blighted, **and** impair the City's growth because of those factors.

On October 24, 2002, by Ordinance No. 96621, the City Council amended the Tax Increment Financing (TIF) Program and adopted updated *Guidelines and Criteria for the use of TIF* (TIF Guidelines). The TIF Guidelines are expressly intended to encourage inner-city revitalization and development in accordance with the goals set forth by the Mayor and City Council in the City's Master Plans.

On May 14, 2003, the Mayor submitted a Request for Council Consideration, directing staff to bring forward revised TIF Guidelines for the City Council consideration and approval, including an addition to the Guidelines that would provide for financing of needed public improvements and the

enhancement of infrastructure to promote sustainable, mixed-income and mixed-use traditional neighborhood development (TNDs) throughout the City of San Antonio, not just those areas previously designated as priority areas.

On October 27, 2003, the staff received a policy memo outlining several additional issues to be evaluated by the City in addition to the original memo.

POLICY ANALYSIS

Staff evaluated the following issues outlined in the six-signature memo dated May 14, 2003:

1. Use TIF for development over Edwards Recharge Zone
2. Require Traditional Neighborhood Development with the use of TIF given different maximum zone terms
3. Prohibit contingency fee schedules for lobbyists & attorneys
4. Evaluate criteria for economic development projects, (50% pre-lease)
5. Evaluate size of proposed projects in relation to site location
6. Evaluate optimum mix of affordable vs. market rate housing for all areas
7. Use TIF in all areas inside and outside the City limits
8. Require Traditional Neighborhood Development in the Southside Initiative and require the "provision for police, fire, library..."
9. TND review by outside planners
10. Coordinate with participating taxing entities
11. Provide efficient and timely processing of applications

Staff conducted 24 internal meetings and 13 public meetings for a total of 37 meetings. There were a total of 327 participants. The following represents highlights of some of the meetings:

- 5/28 – Scrub Team meets to review and evaluate proposed revisions (21 participants)
- 6/04 – Stakeholders meet to review and evaluate proposed revisions (32 participants)
- 6/05 – Taxing entities meet to review and evaluate proposed revisions (16 participants)
- 6/10 – Meeting regarding development over the Edwards Aquifer Recharge Zone with San Antonio Water System, Edwards Aquifer Authority, Texas Commission Environmental Quality, Alamo Area Council of Governments, San Antonio River Authority, and Scrub Team (26 participants)
- 6/10 – Focus group meets to discuss TND standards (12 participants)
- 6/11 – Stakeholders meet to discuss Edwards Aquifer policies (33 participants)
- 6/16 – Stakeholders meet to outline responses from participants (49 participants)
- 8/20 – Meeting with Scrub Team (28 participants)
- 8/22 – Meeting with Stakeholders to review consensus of proposed revisions (40 participants)
- 10/7 – TIF Scorecard Review with Scrub Team (18 participants)
- 10/24 - Briefing to City Manager
- 10/27—Urban Affairs Council Committee Meeting
- 12/11—Briefing to City Manager
- 12/11—Stakeholder Meeting (19 participants)
- 12/15— Urban Affairs Council Committee Meeting

Based on the meetings held, the staff outlined those issues that had consensus and non-consensus:

Stakeholder Consensus	
1. Use of TIF over the Edwards Aquifer	Do not use TIF over Edwards Aquifer
2. Minimum development size and private investment	No minimums
3. Prohibit lobbyists from receiving compensation from TIRZ revenues	Support prohibition
4. Prohibit attorneys from establishing TIRZ revenue-based contingency fee	Fees are subject to City Review
5. Removal of 50% pre-lease requirement	Remove for commercial components of mixed-use TIRZ; maintain for primarily commercial TIRZ
6. Variable lengths of TIRZ based on geographic location, percent of affordable housing	Different parts of the city require different standards and criteria; priority inside Loop 410
7. Variation in affordable / market rate percentages	Different parts of the city require different standards and criteria; priority inside Loop 410

Stakeholder Non-Consensus	
8. Use of TIF outside Loop 1604 and Vol. Annexation	No Consensus
9. Use of TIF to encourage TND	No Consensus
10. TND Review by outside planners	No Consensus

Staff also proposed to establish a RFP Competitive Process and the Stakeholders responded favorably. There would be two proposal periods during a given 12-month period.

Staff further evaluated the following issues outlined in the Policy Memo received at the Urban Affairs Council Committee Meeting on October 27, 2003:

- Prohibit the use of TIF over the Edwards Aquifer Recharge Zone except for preservation of open space
- Revise the Priority/Target Areas
- Ensure that TIF applications address City plans and objectives
- Establish affordable & market rate housing ratios
- Evaluate TIF applications based on Urban design criteria
- Ensure that TIF projects are in compliance with City code & ordinances
- Remove the 50% pre-lease requirements
- Encourage Environmental remediation with Brownfields and other initiatives
- Reduce the Development review and permitting process
- Limits the number of TIRZ per year for certain areas
- Establish a High-priority Target Areas Infrastructure Fund with the remaining non-TIRZ funds
- Establish a policy for the abuse or misuse of TIRZ

Based on both the attached memoranda received May 13, 2003, the Policy Memo dated October 27, 2003 and the input process detailed above, the staff recommendations are as follows:

- Applications for development of land located over the Edwards Aquifer Recharge Zone are not eligible for the use of TIF (currently in guidelines)
- Proposed projects will be evaluated using a TIF Scorecard to determine financial feasibility and public benefit instead of development size, minimum private investment, and percentage of affordable housing
 - Proposals must communicate and demonstrate how project achieves objectives in the city's Master Plan, CRAG report, and/or SSI Plan Proposed competitive process will score projects higher for meeting multiple public objectives Guidelines will exclude lobbying activities as an eligible project cost
- No contract entered into by the Applicant/Developer for the provision of professional services shall be based on a contingency fee arrangement using TIF Proceeds; all contracts for professional services shall be evaluated for reimbursement eligibility by City Staff
- The 50% pre-leasing requirement will be amended to require developers to meet pre-leasing deadlines based on the project construction schedule as specified in the Development Agreement
- Independent Housing Market Study will be required of the applicant to establish market price ranges for each proposed development
 - 1, 3, and 5 - mile study areas around project site
- Projects are scored higher for high diversity of housing prices
- TIF projects outside of 1604 are located in Priority Area 4 and will be scored accordingly
- All TIF applications must utilize one of the nine UDC Urban Use Patterns or Special Districts outlined here, unless applicant is a non-profit organization:
 - Infill Development Zone (in CRAG only)
 - Traditional Neighborhood Development Use Pattern
 - Transit Oriented Development Use Pattern
 - Commercial Center Use Pattern
 - Office or Institutional Campus Use Pattern
 - Conservation Subdivision Use Pattern
 - Commercial Retrofit Use Pattern
 - Urban Development Flex District
 - Rural Development Flex District
- Non-profit applicants must design projects to meet current TIF Development Standards as outlined in current TIF Guidelines
- Required to submit an Incentive Scorecard application with the Economic Development Department and receive a minimum score of 75 in order to be eligible for TIF
- Must submit a proposal during the RFP process to be considered for a TIF
- In lieu of the requirements to utilize Use Patterns or Special Districts outlined in the UDC, non-profits (defined as agencies certified as Community Housing Development Organizations) must meet the following existing goals to achieve greater development standards (currently in guidelines):
 - i. Compliance with the City's adopted Universal Design Policy as it relates to the construction of housing units
 - ii. Maximum Front Set-back requirements for uses permitted within the C-2 zoning district located within a TIF. A maximum front setback of 35 feet will be required unless the proposed commercial development fronts on an expressway identified in the City's Major Thoroughfare Plan. Furthermore, buildings shall contain ground level windows
 - iii. Street connectivity ratio shall not be less than 1.6; a topographical variance would be considered if, in order to reach the required street connectivity ratio, the street layout would require a street to exceed a grade of 12 percent.
 - iv. Average block length shall not exceed 600 feet, with no block exceeding 800 feet.

- v. If the residential TIF exceeds 20 acres, then at least 12% of the gross land area must be utilized for retail, service, civic, office, or parks uses. The use must be located within a quarter (1/4) mile of the TIF boundary measured by the most direct public path of travel.
 - 1. If two of the listed uses meet the distancing requirement, then the mixed-use requirement can be waived.
 - 2. If one of the listed uses meets the distancing requirement, then staff will set a percentage, less than 12 percent, for the remaining uses.
- vi. New homes should be compatible with the adjoining residential areas as defined in Section 35-343 (m) of the Unified Development Code
- All Plan reviews including TND will be conducted by COSA staff. Timeframes for development reviews and permitting processes are currently outlined in the UDC.

The following are the proposed priority areas with the terms and participation levels:

Priority Area	Term up to:	Participation Level up to:
1. CRAG, Neighborhood Commercial Revitalization areas, Empowerment Zone & Empowerment Zone developable sites, Southside Initiative (after one year of full purpose annexation)	25 yrs.	100%
2. Inside Loop 410; and outside Loop 410 if south of Hwy. 90	20 yrs.	90%
3. Outside Loop 410 if north of Hwy. 90 and inside Loop 1604	20 yrs.	85%
4. Outside Loop 1604 inside the City limits	15 yrs.	80%

- Fully annexed areas are eligible for TIF one year following annexation
- In Priority Areas 2, 3, and 4, the remaining percentage of the tax increment collected will be allocated to an Infrastructure Fund to be created and used at the discretion of City Council (10%, 15%, & 20% respectively) to support infrastructure improvements throughout the City
- Utilize an RFP competitive process for TIF
 - Two competitive rounds: spring (Feb - Mar) and fall (Sep - Oct)
 - Resolution of Intent to be considered by City Council within 2 months of RFP deadline
 - Pre-proposal meetings will be held during RFP period
 - There will be no maximum number of applications selected per fiscal year. Applicants will be required to receive a minimum score from the TIF scorecard to be considered. TIF Scorecard will be an attachment to the RFP.
 - Pre-requisites: Applicants are required to submit an Incentive Scorecard application to the Economic Development Department and must receive a minimum of 75 to be eligible for TIF
 - City is not obligated to designate any zones and may reopen the process at its discretion
 - Completeness Review
 - The TIF Unit will review all submitted applications for completeness and Statutory Eligibility Criteria
 - Incomplete or ineligible proposals will be deemed non-responsive and returned to the applicant
 - Current Applicants will be given the opportunity to resubmit to allow for the opportunity to comply with the guidelines as approved by the City Council
 - Proposal fee of \$3,000 is non-refundable and non-reimbursable

- Scoring
 - The TIF Unit will score the following sections: Need for Public Assistance, Applicant Capacity, Process and Coordination, and Development Standards
 - All applications scored will be present to City Council for consideration of a Resolution of Intent. Only those applications scoring a 90 or higher will receive a favorable staff recommendation.
- City Council Consideration
 - Projects presented for Resolution of Intent will proceed to full Scrub Team review
 - Applicants will be required to submit a \$31,000 processing fee after passage of Resolution of Intent
 - Designation of the Zone and approval of Preliminary Project & Finance Plans by City Council Development of the Final Project and Finance Plans to be approved by the TIRZ Board and City Council

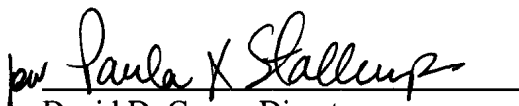
The ordinance will also establish eligibility criteria relating to the Incentive Scorecard System (ISS). As mentioned previously, all TIF applications would be required to have evidence of achieving a minimum 75 score with the ISS. In addition, the ISS Advisor would inform the applicant that projects are required to meet one of the City's nine Use Patterns as outlined in the UDC. Furthermore, if the project does not have an approved Master Development Plan (MDP) utilizing one of the required Use Patterns, a certification from the project's engineer will be required to ensure that the project meets one of the use patterns. If the project does not meet one of the Use Patterns upon final approval of the MDP, the project will be ineligible for a TIF.


FISCAL IMPACT


There is no fiscal impact with the approval of this ordinance. Each project will be presented for approval to the City Council upon completion of the competitive process.

COORDINATION

This item has been coordinated with the City Attorney's Office, Planning Department, Development Services Department, Public Works, and Economic Development Department.


 David D. Garza, Director
 Neighborhood Action


 Jelynn LeBlanc Burley
 Assistant City Manager


 Terry M. Brechtel
 City Manager

CITY OF SAN ANTONIO
OFFICE OF THE MAYOR
MEMORANDUM

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2003 MAY 19 A 11:3

TO: City Council

FROM: Edward D. Garza, Mayor

COPIES TO: Terry Brechtel, City Manager; Jelynn Burley, Assistant City Manager

SUBJECT: Tax Increment Reinvestment Zone Guidelines and Criteria

DATE: May 14, 2003

Through this memo I ask for your assistance in revising the guidelines for the creation of Tax Increment Reinvestment Zones (TIRZ). Currently the guidelines focus on the role that TIRZs can play in promoting inner-city revitalization within Loop 410 and south of Highway 90. However, TIRZs are successfully and appropriately used in other cities, such as Houston, to promote higher-quality, sustainable development that would not otherwise be feasible. The Texas Constitution allows TIRZs to be created over areas that are **unproductive, underdeveloped or blighted**. Section 311.005 outlines certain criteria that may be used by the City in designating a TIRZ, including sites that substantially arrest or impair the sound growth of the municipality; constitute an economic or social liability because of the presence of unsanitary or unsafe conditions, the deterioration of the site or improvements; or that are predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality.

Current guidelines do state that TIRZS are "a tool used to assist in financing needed public improvements and enhancing infrastructure," but they do not make clear that these improvements and enhancements may not always occur in blighted areas. It is important that well-designed, mixed-use traditional neighborhoods (TNDs) be built throughout San Antonio. Among other reasons, these neighborhoods encourage density, help preserve open space, conserve energy, allow the use of mass transit, support mixed-income housing, and result in added value to the city over time.

These goals are established in the City of San Antonio's Master Plan, adopted in 1997. The Master Plan's Vision Statement is that San Antonio will provide "safe, dynamic and sustainable neighborhoods" featuring "balanced and responsible urban design, planning and development." Urban Design Goal 1, Policy 1a, for example, calls for the promotion of "neighborhood centers which (sic) include schools, libraries, stores, transit centers and community service facilities in accessible, pedestrian friendly environments." Policy 1c calls for the creation of alternative development standards, such as a TND ordinance, enabling "the design and construction of neighborhoods and districts that fulfill the objectives for urban vitality, sense of community and the efficient provision of infrastructure." Additional Goals and Policies within the Urban Design section call for coordination of public infrastructure, facilities and transportation planning in order to improve access to these resources, and emphasize the importance of providing integrated parkland and recreational facilities.

The Master Plan is implemented by the Unified Development Code (UDC), adopted in 2001. The UDC defines TNDs as neighborhoods that combine "a variety of housing types with commercial and civic uses in a compact, walkable neighborhood setting. The TNDs feature a highly interconnected street network and setbacks appropriate to create a public realm built on a human scale." Projects that meet the UDC definition or the new urbanist SmartCode (www.municode.com) description shall be eligible for TIRZ.

In order to support development that meets the City's Master Plan, I ask that the TIRZ guidelines be revised to include the following goals:

- Within the CRAG Area: Traditional neighborhood design and at least 50% market rate housing are required (market rate single-family units are defined by the Department of Housing and Community Development as costing more than \$89,000); terms of up to 25 years.
 - South of Highway 90 (with the exception of the South Side Initiative): Traditional neighborhood design and at least 50% market rate housing are required; terms of up to 15 years.
 - Southside Initiative Limited Purpose Annexation Area: Traditional neighborhood design; provision for police, fire, library, parks and school facilities; at least 75% market housing; terms of up to 25 years. These projects shall be reviewed by the applicable Defense Adjustment Management Authority and subsequently submitted to City Council.
 - All other areas, including voluntary annexations: Traditional neighborhood design; provision for police, fire, library, parks and school facilities; City services plan; at least 15-25% affordable housing; terms of up to 15 or 25 years, depending on percentage of affordable housing.
- All projects inside Loop 410 shall be considered "infill projects," with no minimum project size; all projects located outside Loop 410 and north of Highway 90 shall be at least 100 acres, with a TND master plan, a minimum private sector investment of \$50 million.
- The school district(s) in which the project is located must approve the plan. Project plans shall be subject to a TND review from outside planners, paid by project developers and selected from a mutually-agreed list; the results of the review shall be made available to City Council for consideration.
- No TIRZ shall be created over the Edwards Aquifer recharge zone unless the developer agrees to an Environmental Protection Agreement approved by the City with the consultation of the San Antonio Water System and the Edwards Aquifer Authority.
 - For economic development projects that do not have a residential component, factors such as economic impact, private sector investment, payment of a living wage, financial feasibility and ability to generate other revenues for the City shall be considered.
 - References to 50% pre-lease requirements shall be removed.

In addition, I request the following changes to improve administration of the TIRZ program:

- Lobbyists are prohibited from receiving compensation from TIRZ revenues, and no attorney hired for the TIRZ shall receive a contingent fee based on the tax increment generated.

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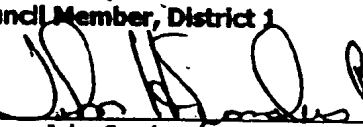
May 12, 2003

- With the exception of projects within the Southside Initiative, there shall be a 30-day review by City staff after a complete application is submitted; if the review is not completed within 30 days, an update on the project will be placed on the next City Council "A" session agenda during the City Manager's Report.
- If more than three projects are presented to City Council within a 12-month timeframe due to staff's inability to meet the 30-day review schedule, an item will be placed on City Council agenda to consider moving management of TIRZ to another entity.

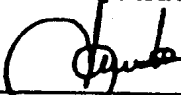
Through this memo I direct staff to bring forward a revised copy of the guidelines for consideration at the next Urban Affairs Committee meeting, scheduled for May 20, 2003, and to bring the item forward to the City Council meeting on May 22, 2003.


EDWARD D. GARZA
Mayor


Bobby Pérez
Council Member, District 1



John Sanders
Council Member, District 2


Antoniette "Toni" Moorhouse
Council Member, District 3


Enrique "Kike" Martin
Council Member, District 4

Nora X. Herrera
Council Member, District 5

Enrique M. Barrera
Council Member, District 6


Julián Castro
Council Member, District 7


Bonnie Conner
Council Member, District 8


Carroll Schubert
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David Carpenter
Council Member, District 10

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