

ORDINANCE NO. 2021-37

AN ORDINANCE AMENDING THE PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN FOR TAX INCREMENT REINVESTMENT ZONE NO. 5, ALSO KNOWN AS THE “DOWNTOWN TIRZ,” APPROVING AN AMENDMENT TO THE TAX INCREMENT PARTICIPATION INTERLOCAL AGREEMENT WITH HAYS COUNTY TO REDUCE THE CITY’S AND THE COUNTY’S CONTRIBUTION RATE OF THE TAX INCREMENT DEPOSITED INTO THE TAX INCREMENT FUND FROM 70 PERCENT TO 25 PERCENT FOR ONE ADDITIONAL YEAR; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY; INCLUDING PROCEDURAL PROVISIONS; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. The City Council (the "Council") of the City of San Marcos, Texas (the "City") adopted Ordinance No. 2011-74, which designated the San Marcos, Texas Reinvestment Zone No. 5 (the "Zone") pursuant to Section 311.005(a) of the Tax Increment Finance Act, Texas Tax Code, Chapter 311, as amended (the "Act").
2. The Board of Directors of the Zone (the “Zone Board”) prepared and adopted a Project Plan and Reinvestment Zone Financing Plan (the “Project and Financing Plan”) for the Zone pursuant to Section 311.011 of the Act.
3. The Council adopted Resolution No. 2011-145R on November 14, 2011, which gave effect to the Project and Financing Plan pursuant to Section 311.011(d) of the Act.
4. The City desires to amend the Project and Financing Plan to amend the contribution rate from the City and the County (as defined herein), all as set forth and further described in the amended Project and Financing Plan (the "Amended Project and Financing Plan") attached as Exhibit A.
5. On March 22, 2021, the Zone Board adopted the Amended Project and Financing Plan and recommended that the City approve the Amended Project and Financing Plan pursuant to the Resolution attached hereto as Exhibit B.
6. The Zone Board made further revisions to the Amended Project and Financing Plan on March 22, 2021, as set forth in the meeting minutes of the Zone Board attached hereto as Exhibit C.
7. Pursuant to the Act, the City must amend the Project and Financing Plan by ordinance.

8. The City entered into an Interlocal Agreement Between Hays County and the City of San Marcos Related to San Marcos, Texas Tax Increment Reinvestment Zone No. 5 on February 7, 2011 (the "Interlocal Agreement") pursuant to Section 311.013 of the Act to permit Hays County, Texas (the "County") to make payments to the City of a portion of the County's tax increment revenues derived from increases in property values resulting from new development in the Zone, which payment would be used by the City to reimburse the developer for a portion of the project costs under the terms and conditions described in the Interlocal Agreement.

9. Pursuant to Section 311.013 of the Act, the City desires to approve and execute an amendment to the Interlocal Agreement (the "Interlocal Agreement Amendment") to amend the contribution rate of the tax increment attributed to the captured appraised value of the County in the Zone deposited into the Tax Increment Fund and incorporate certain revisions of the Amended Project and Financing Plan, attached hereto as Exhibit D.

10. Notice of a public hearing was duly published in the *San Marcos Daily Record* in its issue dated April 25, 2021, in compliance with Section 311.003(c) of the Act.

11. A public hearing was held on May 4, 2021 at 6:00 p.m. in City Hall, City Council Chambers, 630 E. Hopkins, San Marcos, Texas (the "Hearing") to consider the amendment to the Project and Financing Plan at which time the City provided a reasonable opportunity for protest in accordance with Section 311.003(d) of the Act.

12. The Council hereby finds and determines that the adoption of this Ordinance is in the best interests of the citizens of San Marcos, Texas.

13. 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.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The City, after conducting the Hearing and having heard such evidence and testimony, hereby finds, based upon the testimony presented, that the Hearing on the proposed Amended Project and Financing Plan has been properly called, held and conducted and that notice of the Hearing has been published at least seven (7) days before the Hearing in the *San Marcos Daily Record*, a newspaper of general circulation in the City.

SECTION 2. The Project and Financing Plan is hereby amended pursuant to Section 311.011 of the Act to amend the contribution rate from the City and the County, all as set forth and further described in the Amended Project and Financing Plan attached as Exhibit A.

SECTION 3. The Council hereby approves the Amended Project and Financing Plan for the Zone, which shall take effect on such approval pursuant to Section 311.011 of the Act.

SECTION 4. The Interlocal Agreement Amendment is hereby approved and the City Manager or his designee is authorized to execute the Interlocal Agreement Amendment on behalf of the City.

SECTION 5. The officers of the City are authorized to take any and all action necessary to carry out and consummate the transactions described in or contemplated by the documents approved hereby or otherwise to give effect to the actions authorized hereby and the intent hereof.

SECTION 6. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 7. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

SECTION 8. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 9. 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 10. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 11. This Ordinance will take effect immediately after its passage, approval and adoption on second reading.

PASSED, APPROVED AND ADOPTED on first reading on May 4, 2021.

PASSED, APPROVED AND ADOPTED on second reading and adopted on May 18, 2021.

Jane Hughson
Mayor

Attest:

Approved:

Tammy K. Cook
Interim City Clerk

Michael J. Cosentino
City Attorney

EXHIBIT A

[Amended Project and Financing Plan]

EXHIBIT B

[Resolution of the Zone Board Adopting Amended Project and Financing Plan]

EXHIBIT C

[Meeting Minutes of March 22, 2021 Zone Board Meeting]

EXHIBIT D

[Interlocal Agreement Amendment]