

ORDINANCE NO. 2022-XX

AN ORDINANCE AMENDING THE PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN FOR TAX INCREMENT REINVESTMENT ZONE NO. 5, ALSO KNOWN AS THE “DOWNTOWN TIRZ,” TO ALLOCATE FUNDING IN SUPPORT OF AN ANNUAL DOWNTOWN OPERATIONS PLAN AND APPROVED PROJECT PLANS SUBMITTED VIA APPLICATION PROCESS; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SUCH 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 include an allocation of funding to support an annual downtown operations plan and approved project plans submitted via an application process, 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 June 23, 2022, 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 minutes attached hereto as Exhibit B.
- 6.** Pursuant to the Act, the City must amend the Project and Financing Plan by ordinance.
- 7.** Notice of a public hearing to be held on August 16, 2022, was duly published in the *San Marcos Daily Record* in its issue dated August 9, 2022, in compliance with Section 311.003(c) of the Act.
- 8.** A public hearing was held on August 16, 2022 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.

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

10. 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 include an allocation of funding to support an annual downtown operations plan and approved project plans submitted via an application process, 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 August 16, 2022.

PASSED, APPROVED AND ADOPTED on second reading and adopted on September 6, 2022.

Jane Hughson
Mayor

Attest:

Approved:

Elizabeth Trevino
Interim City Clerk

Michael J. Cosentino
City Attorney

EXHIBIT A

[Amended Project and Financing Plan]

**PROJECT PLAN
AND
REINVESTMENT ZONE FINANCING PLAN
FOR CITY OF SAN MARCOS, TEXAS
TAX INCREMENT REINVESTMENT ZONE No. 5**

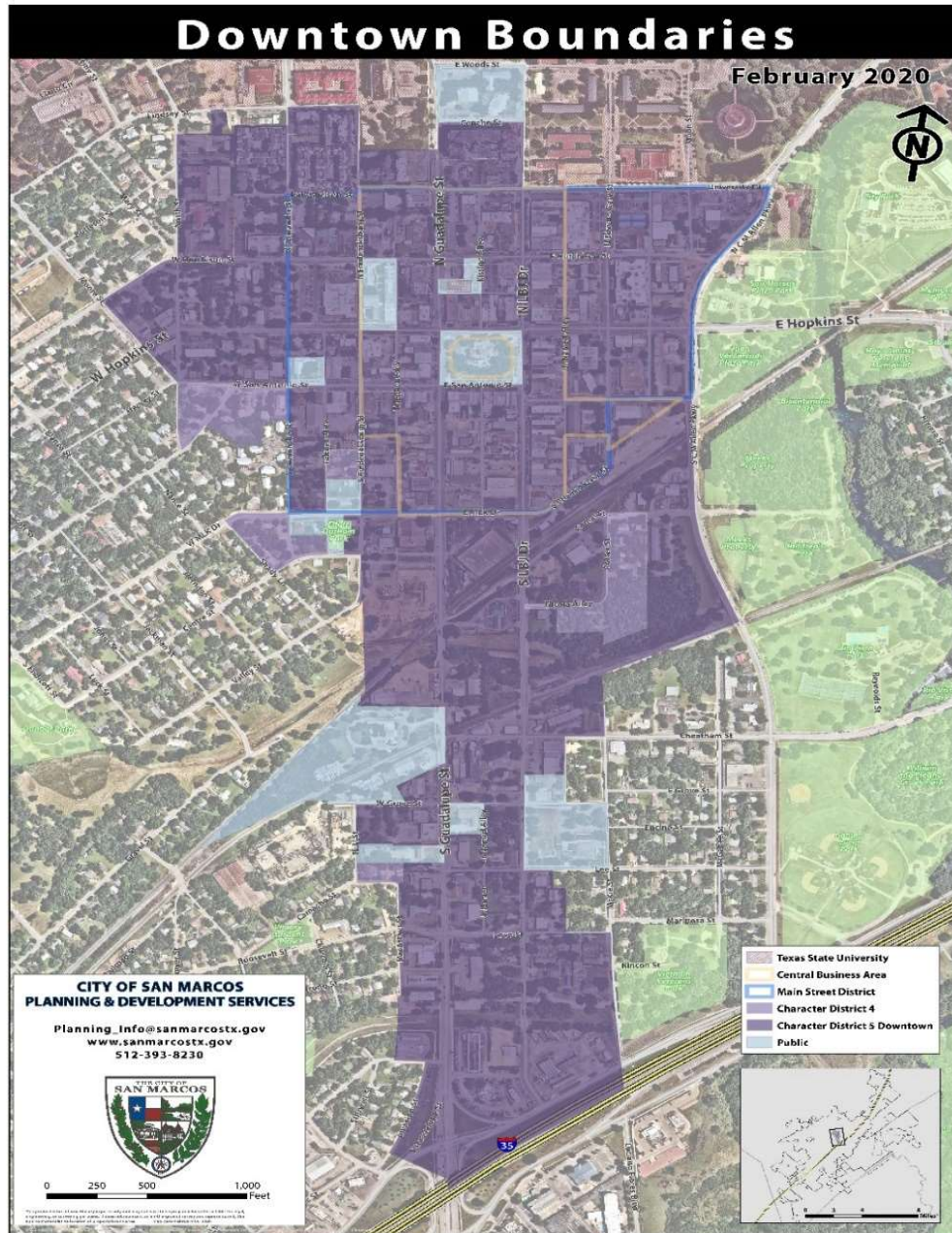


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The TIRZ Concept Generally

A tax increment reinvestment zone (“TIRZ”) is a financing tool created by the State Legislature to assist cities and counties in developing or redeveloping unproductive, underdeveloped or blighted areas.

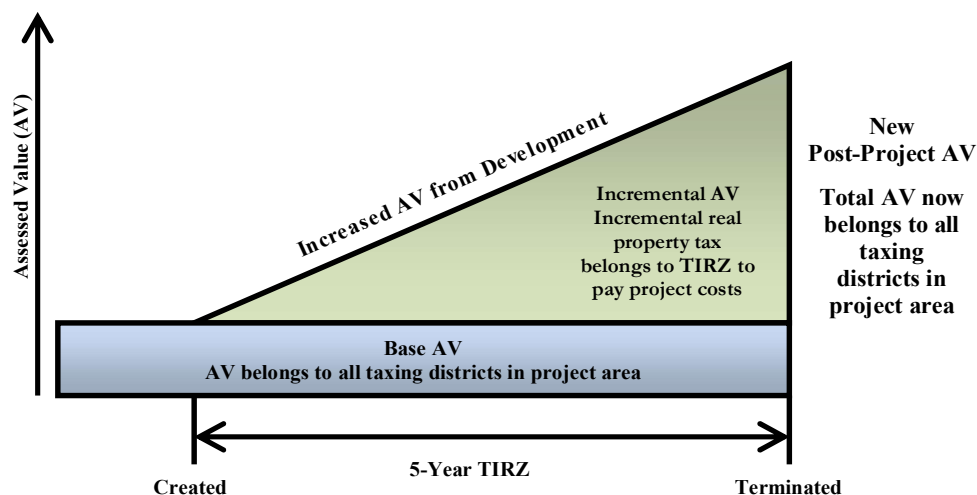
Cities may create a TIRZ where conditions exist that substantially impair an area’s sound growth and where development or enhancements financed by the TIRZ significantly enhance the value of all the taxable real property in a TIRZ and of general benefit to the city or county.

Prior to creation, the statute requires preparation of a preliminary project plan and reinvestment zone financing plan outlining specific projects to address the existing conditions and the method and means to finance those projects.

Upon creation, the total appraised value of real property located in a TIRZ is established for the year in which it was created. This is known as the base value. As new development occurs in a TIRZ, the value of real property increases.

This additional value above the base value is known as the tax increment. Such tax increment is typically set aside to finance improvements within a TIRZ including public infrastructure. Once all projects are complete or after a defined period of time, a TIRZ is dissolved.

During the life of a TIRZ, a city and other participating taxing jurisdictions collect tax revenue on the base value of a TIRZ as well as sales and use tax revenue generated by new development (unless a city or county agrees that sales tax and use revenue are also part of the increment). When a TIRZ is dissolved, a city and other participating taxing jurisdictions collect tax revenue on the tax increment value created by new development as well.



Executive Summary

The proposed City of San Marcos, Texas (the "City") Tax Increment Reinvestment Zone No. 5 ("Zone No. 5") consists of approximately 244 acres in the downtown core. The City has addressed one challenge, zoning standards that are inconsistent and contrary to creating a downtown environment, with the adoption of the San Marcos SmartCode (the "SmartCode") in 2011, putting in place a zoning that is predictable and focused on preserving downtown character while enabling pedestrian-oriented mixed-use development. In 2018, the City updated the Development Code and relabeled the downtown core as Character District 5 Downtown (CD-5D). Some of the other downtown challenges remain: a shortage of Class A office space, parking and pedestrian mobility, lack of sufficient lighting and downtown amenities and aesthetic features, and the condition of the streetscape and sidewalks in parts of downtown.

One of the financial tools identified in the plan to help address these challenges is the creation of a tax increment reinvestment zone. Under this proposed plan, the City and Hays County (the "County") would participate equally in a tax increment reinvestment zone projected to generate approximately \$15,831,450 over the current life of Zone No. 5. It is currently proposed that Zone No. 5 increment revenues will be allocated for parking, including acquisition of land, multi-modal transportation/mobility, sidewalks, safety considerations, improved lighting, beautification and streetscaping, annual downtown operations plan and overall enhancement of downtown that draws individuals downtown as allowed by Section 311.010(h) of the Texas Tax Code.

In order to be eligible for Zone No. 5 tax increment revenues, projects must (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone. No. 5. In addition, funds will be allocated annually for a downtown operations plan.

The true value of this approach is that it powerfully leverages tax increment revenues for economic development beyond streetscape or maintenance improvements on a given block. The potential increase in tax base can help in supporting possible future job creation through business relocation to the downtown area along with growth of existing businesses which create jobs. This approach also will encourage the engagement of higher education and other potential research partners through the focus on technology and research, ultimately ensuring that the site will be developed to its highest and best use.

Location

As proposed, Zone No. 5 extends from Texas State University to the North, to IH-35 to the South, CM Allen and McKie on the East and several blocks to the West.

All of the land within proposed Zone No. 5 is part of the Charter District-5 Downtown (CD-5D) and currently includes a number of different types of uses including commercial, retail, restaurants, residential and offices within the boundaries.

As provided in the April 1, 2010 economic analysis prepared for the City by Urban Advisors for the current Downtown Master Plan, the City's goal is to encourage a mix of new uses to accommodate additional housing, office space, retail, transportation, safety and parking facilities. Designation of Zone No. 5 assists the City in implementing the Downtown Master Plan and projects brought forth through future master plans.

Project Overview and Project Costs

1. Infrastructure supporting cohesive redevelopment

Zone No. 5 tax increment revenues shall be made available to facilitate investment in infrastructure or other improvements allowed by law that facilitate the following potential projects. This Project and Finance Plan will be amended as may be required by law to accommodate additional uses of the tax increment revenues within Zone No. 5:

- a. Projects that support multi-modal transportation and mobility including sidewalks and downtown shuttle services.
- b. Overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features.
- c. Acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs.

ITEM	Proposed Activity	ESTIMATED ZONE NO. 5 PROJECT COSTS
1	Multi-modal transportation/mobility including sidewalks and shuttle services	\$1,350,000
2	Overall enhancement of downtown including lighting, safety, and other aesthetic features	\$829,612
3	Acquisition of property for parking and other public priorities and related operations and maintenance costs	\$2,000,000
	TOTAL ESTIMATED PROJECT COSTS:	\$4,179,612

Table 1 summarizes the currently anticipated Project Costs to be financed within Zone No. 5.

2. Annual Allocation Breakdown

Table 2 – Proposed Annual Costs

ITEM	Proposed Activity	ESTIMATED ZONE NO. 5 PROJECT COSTS
1	2 Full-time staff to support downtown operations plan	\$77,760
2	Regular cutback of vegetation	\$100,000
3	Sidewalk Cleaning contract	\$30,000
4	<u>Supplies and equipment</u>	\$ 5,000
5	<u>Board approved specific projects:</u> A. <u>Sidewalk Joint Repair – FY23</u> B. <u>Tree-trimming – FY23</u>	\$ 48,000 \$ 8,100

Project and Finance Plan

The purpose of Zone No. 5 is to (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone. No. 5. In addition, funds will be allocated annually for implementation and continued support of the downtown operations plan.

Expenditures associated with the design and construction of Zone No. 5 Projects, as well as other specific project-related costs, will be funded by tax increment revenues derived from increases in property values resulting from the new development in Zone No. 5.

The City may amend this Project and Finance Plan as may be necessary in accordance with law to accommodate the other redevelopment goals and projects outlined under "Project Overview and Project Costs."

TEXAS TAX CODE
SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS
CHAPTER 311. TAX INCREMENT FINANCING ACT
Sec. 311.011. PROJECT AND FINANCING PLANS

- (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that designated the zone.
- (b) The project plan must include:
 - (1) a description and map showing existing uses and conditions of real property in the zone and a map showing proposed uses of that property;
 - (2) proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;
 - (3) a list of estimated 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.
- (c) 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 proposed 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 estimated time when related costs or monetary obligations are to be incurred;
 - (6) a description of the methods of financing all estimated 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.

Zone No. 5 consists of approximately 244 acres of commercial, retail, restaurants, residential and office uses within the City's designated Charter District 5 Downtown (CD-5D).

The map on this page illustrates the current condition of the land.



PROPOSED PROJECTS

1. Table showing initial proposed improvements for the TIRZ area.

Improvements proposed for Zone No. 5 are primarily related to: (a) support multi-modal transportation and mobility including sidewalks and downtown shuttle services (b) provide overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features and/or (c) include acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs within Zone No. 5.

Table 3 – PROPOSED PROJECTS

Proposed Projects
Justice Center Streetscape Improvement Project 100 Block E. Martin Luther King Drive, San Marcos, TX
Alley Redevelopment Phase 1
Cheatham Street Flats Alley Paving
Pedestrian Safety and Comfort
Downtown Reconstruction/Capital Area Metropolitan Planning Organization
Downtown Shuttle (One Year Pilot)
Property Acquisition and Maintenance and Operations

2. Annual estimated allocation breakdown to support annual downtown operations plan as well as approved project plans submitted via application process.

Changes to Municipal Ordinances

1. **Proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;**

The City does not expect any changes to zoning ordinances, the master plan, building codes or other ordinances as a result of the designation of Zone No. 5.

Estimated Non-Zone No. 5 Projects

2. **A list of estimated Non-Zone No. 5 Projects**

The City expects to continue developing projects included in its capital improvement plan ("CIP") that benefit areas within Zone No. 5 from CIP funds.

Method of Relocation

3. **A statement of a method of relocating persons to be displaced as a result of implementing the plan.**

Designation of Zone No. 5 is not anticipated to cause relocation of any residents.

Finance Plan

List of Estimated Zone No. 5 Project Costs

- 1. A detailed list describing the estimated Project Costs of Zone No. 5, including administrative expenses**

Tables 1 and 2 itemize the estimated Zone No. 5 Project Costs. There are now administrative expenses estimated to be incurred for this TIRZ.

Statement of Proposed Public Works

- 2. A statement listing the kind, number, and location of all proposed public works or public improvements in Zone No. 5**

The improvements that Zone No. 5 is designed to facilitate will be located throughout Zone No. 5. These improvements will assist with the development and redevelopment of Zone No. 5. The Map of Project Boundaries shown on the cover page hereof illustrates the location of the proposed improvements.

Economic Feasibility Study/Information

- 3. An Economic Feasibility Study/Information**

In connection with the proposed development of the property within Zone No. 5 the City has previously commissioned studies outlining the goals and feasibility of the redevelopment of Zone No. 5 CD-5D as set forth in Schedule A. This Finance Plan is economically feasible since all Project Costs are paid only from tax increment revenues as they become available.

Estimated Bonded Indebtedness

- 4. The estimated bonded indebtedness to be incurred**

The City currently anticipates paying Project Costs or reimbursing a developer for qualified Project Costs solely from tax increment revenues on an annual basis. No bond indebtedness will be incurred for Zone No. 5.

Time when Costs/Obligations Incurred

- 5. The time when costs or monetary obligations are to be incurred**

When payment of costs or reimbursements of costs are to be made is a function of the availability of Zone No. 5 tax increment revenues. Schedule B is a projection of tax increment revenues which are available and expected to be available in the future to pay or reimburse Zone No. 5 Project Costs.

Financing, Expected Sources of Revenue

6. A description of the methods of financing all estimated 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 that levies taxes on real property in Zone No. 5.

Methods of Financing. The Project Costs will be paid directly for site improvements for certain Zone No. 5 Project Costs. Project Costs will be paid solely from tax increment revenues of Zone No. 5 as they are realized by Zone No. 5.

Sources of Tax Increment Revenue. The tax increment revenue necessary to pay the Zone No. 5 Project Costs is expected to come from increased property values in Zone No. 5. Schedule B displays the projected assessed valuations resulting from increases in value. These new tax increment revenues will be used to pay for Zone No. 5 Project Costs.

This Plan is based on a contribution rate (and current tax rates which are subject to change) shown from the City and County.

Table 3 Participating Jurisdictions		
Taxing Jurisdiction	FY2022 (1)	% Dedicated
City of San Marcos	\$0.6030/\$100	25%
Hays County	\$0.3629/\$100	25%

- (1) 2022 Tax Rate for purposes of illustration only. Tax Rate will be levied from year to year by the City and County, respectively, and will vary.
 (2) The total tax rate does not include the Road and Bridge rate.

Current Appraised Value of Property

7. Current Total Appraised Value of Property in Zone No. 5

The total current appraised value within Zone No. 5 as of November, 2020 is \$348,627,389.

Estimated Captured Value

8. Estimated Captured Value of Zone No. 5 in Each Year of Existence

The estimated captured appraised value of Zone No. 5 during each year of its existence is shown on Schedule B - Projected Assessed Valuation.

Duration of Zone

9. Duration of Zone

The duration of Zone No. 5 is currently through December 31, 2027. Zone No. 5 took effect on the date it was created, being December 14, 2011. The City Council established January 1, 2011 as the base year of Zone No. 5. The term of Zone No. 5 has been extended and is currently scheduled to terminate on December 31, 2027.

Schedule A

Economic Feasibility Study/Information

Schedule B

Projected Assessed Valuations

Budget Year	Tax Year	Total Valuation	Value Increase From Base Year	Annual Increase Percentage	City Tax Rate	City Tax	County Tax Rate	County Tax	Total Revenue Available	Cumulative Revenue Available
FY13	2012 Actual 70%	\$105,083,437	\$ 899,281	0.86%	0.5302	\$ 5,795	0.4252	\$ 4,642	\$ 10,437	\$ 10,437
FY14	2013 Actual 70%	\$116,524,339	\$ 12,356,933	10.9%	0.5302	\$ 43,472	0.4252	\$ 34,962	\$ 78,434	\$ 88,871
FY15	2014 Actual 70%	\$143,130,508	\$ 41,268,182	22.8%	0.5302	\$ 140,785	0.4252	\$ 116,509	\$ 257,294	\$ 346,165
FY16	2015 Actual 70%	\$145,033,604	\$ 42,341,838	1.3%	0.5302	\$ 149,771	0.4162	\$ 119,571	\$ 269,342	\$ 615,507
FY17	2016 Actual 70%	\$151,017,107	\$ 48,375,011	4.1%	0.6139	\$ 173,695	0.4012	\$ 121,378	\$ 295,073	\$ 910,580
FY18	2017 Actual 70%	\$190,650,978	\$ 86,366,376	26.2%	0.6139	\$ 368,718	0.4330	\$ 240,973	\$ 609,691	\$ 1,520,271
FY19	2018 Actual 70%	\$226,246,103	\$ 119,056,967	18.7%	0.6139	\$ 509,532	0.4237	\$ 310,695	\$ 820,227	\$ 2,340,498
FY20	2019 Actual 70%	\$247,526,912	\$ 140,337,776	9.4%	0.6139	\$ 616,057	0.4237	\$ 377,120	\$ 993,177	\$ 3,333,675
FY21	2020 Actual 25%	\$341,673,734	\$ 232,367,318	38.0%	0.5930	\$ 344,464	0.3924	\$ 227,625	\$ 572,088	\$ 3,905,763
FY22	2021 Budget 25%	\$365,178,908	\$ 255,872,492	6.9%	0.6030	\$ 385,728	0.3629	\$ 231,841	\$ 617,569	\$ 4,523,332
FY23	2022 Estimated 70%	\$450,618,561	\$ 341,312,145	23.4%	0.6030	\$ 1,440,679	0.3629	\$ 866,197	\$ 2,306,876	\$ 6,830,208
FY24	2023 Estimated 70%	\$473,149,489	\$ 363,843,073	5.0%	0.6030	\$ 1,535,782	0.3629	\$ 923,432	\$ 2,459,214	\$ 9,289,422
FY25	2024 Estimated 70%	\$496,806,964	\$ 387,500,548	5.0%	0.6030	\$ 1,635,640	0.3629	\$ 983,530	\$ 2,619,169	\$ 11,908,591
FY26	2025 Estimated 70%	\$521,647,312	\$ 412,340,896	5.0%	0.6030	\$ 1,740,491	0.3629	\$ 1,046,631	\$ 2,787,122	\$ 14,695,714
FY27	2026 Estimated 70%	\$547,729,677	\$ 438,423,261	5.0%	0.6030	\$ 1,850,585	0.3629	\$ 1,112,889	\$ 2,963,473	\$ 17,659,187

EXHIBIT B

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

EXHIBIT C

[Meeting Minutes of June 23, 2022 Zone Board Meeting]

