

Final 2-1-05

ORDINANCE NO. 2005- 17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN CITY OF SAN MARCOS AS TAX INCREMENT FINANCING REINVESTMENT ZONE NO TWO, PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR THE ZONE, CONTAINING FINDINGS AND INCLUDING PROCEDURAL PROVISIONS.

RECITALS.

1 **WHEREAS**, pursuant to Chapter 311 of the Texas Tax Code, the City may designate a contiguous geographic area within the City as a tax increment financing reinvestment zone if the area satisfies the requirements of certain sections of Chapter 311 of the Texas Tax Code, and

2. **WHEREAS**, the owner of the majority of the real property in the proposed City of San Marcos Tax Increment Reinvestment Zone Number Two, Carma Blanco Vista Limited (the "Developer") has requested that the City establish a tax increment financing reinvestment zone as a financing vehicle to reimburse costs associated with the construction of a railroad overpass (the "Project") on Yarrington Road at its intersection with the Union Pacific Railroad tracks in and near the city limits of the City, in Hays County, Texas, for the purposes of improving mobility in the region, increasing safety and security for area residents, and completing the first leg of a loop around the City of San Marcos.

3. **WHEREAS**, the City has prepared a preliminary reinvestment zone financing plan, which provides that City of San Marcos ad valorem taxes are to be deposited into a tax increment fund, and that taxes of other taxing units may be utilized in the financing of certain proposed public improvements in the proposed zone, and

4. **WHEREAS**, the City provided written notice of the public hearing on the creation of the proposed zone, complying with the requirements of Chapter 311, Texas Tax Code, to the governing body of all taxing units levying taxes on property in the proposed zone, and

5. **WHEREAS**, a notice of the public hearing on the creation of the proposed zone was published on January 21, 2005, in the San Marcos Daily Record, a newspaper of general circulation in the City; and

6. **WHEREAS**, at the public hearing on February 1, 2005, interested persons were allowed to speak for or against the creation of the proposed zone, its boundaries, or the concept of tax increment financing; and owners of property in the proposed zone were given a reasonable opportunity to protest the inclusion of their property in the proposed zone, and

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- (2) That not more than ten percent of the property in the proposed zone, excluding property that is publicly owned, is currently used for residential purposes,
- (3) That the total appraised value of taxable real property in the proposed zone does not exceed fifteen percent of the total appraised value of taxable real property in the City and in the industrial districts created by the City;
- (4) That the proposed zone does not contain more than fifteen percent of the total appraised value of real property taxable by Hays County or the Hays Consolidated Independent School District; and
- (5) That the development or redevelopment of the property in the proposed zone will not occur solely through private investment in the reasonably foreseeable future.

SECTION 2. Designation of the Zone. The City, acting under the provisions of Chapter 311, Texas Tax Code, including Section 311 005(a), does hereby designate as a reinvestment zone, and create and designate a reinvestment zone over, the area described in Exhibit "A" and depicted in the map attached hereto as Exhibit "B" to promote the redevelopment of the area. The reinvestment zone shall hereafter be named for identification as Tax Increment Reinvestment Zone Number Two, City of San Marcos, Texas (the "Zone") The City Council specifically declares that the Zone is designated pursuant to Section 311 005(a)(1) and (2) of the Texas Tax Code

SECTION 3. Board of Directors. (a) There is hereby created a Board of Directors for the Zone, which shall consist of seven members. Positions One through Five on the Board of Directors shall be reserved for the City Positions Six and Seven shall be reserved for other taxing units levying taxes within the Zone, each of whom may appoint one director Any taxing unit that appoints a director shall be assigned a Board position number in the order the City receives the appointment. Failure of a taxing unit to appoint a director by January 15, 2006, shall be deemed a waiver of the right of that unit to appoint a director, and the City shall thereafter be entitled to appoint persons to the position, which shall be filled as provided below

(b) The Mayor is hereby authorized to nominate and appoint, subject to City Council approval, the directors to Positions One through Five of the Board of Directors, and any director position reserved to another taxing unit under (a) above that is unfilled on January 15, 2006, and any City director position created by the appointment of a director by more than two taxing units levying taxes within the Zone, subject to the consent and approval of the City Council.

(c) The directors appointed to odd-numbered positions shall be appointed for two year terms, beginning on the effective date of this Ordinance, while the directors appointed to even-numbered positions shall be appointed to a one year term, beginning on the effective date of this Ordinance. All subsequent appointments shall be for two-year terms. The member of the Board of Directors appointed to Position One is hereby designated to serve as the chair of the Board of Directors for a one-year term beginning on the effective date of this Ordinance. Thereafter the Mayor shall annually nominate and appoint, subject to City Council approval, a member to serve as chair for a term of one

year beginning on the anniversary of the effective date of this Ordinance. The City Council authorizes the Board of Directors to elect from its members a vice-chairman and such other officers as the Board of Directors sees fit.

(d) The Board of Directors shall make recommendations to the City Council concerning the administration of the Zone. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the Zone as described in Section 311.011, Texas Tax Code, and shall submit such plans to the City Council for its approval. The City hereby delegates to the Board of Directors all powers necessary to prepare and implement the project plan and reinvestment zone financing plan, subject to approval by the City Council, including the power to employ any consultants or enter into any reimbursement agreements payable solely from the Tax Increment Fund established pursuant to Section 6 of this Ordinance, subject to the approval of the City Council, that may be reasonably necessary or convenient to assist the Board of Directors in the preparation of the project plan and reinvestment zone financing plan and in the issuance of tax increment obligations.

SECTION 4. Duration of the Zone. The Zone shall take effect on January 1, 2005, for the deposit of tax increments into a Tax Increment Fund established pursuant to Section 6 of this Ordinance, and termination of the operation of the Zone shall occur on December 31, 2035, or at an earlier time designated by subsequent ordinance, or at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, notes and other obligations of the Zone, and the interest thereon, have been paid in full.

SECTION 5. Tax Increment Base. The Tax Increment Base for the Zone for the City and for any other taxing unit participating in the Zone is the total appraised value of all real property taxable by the City or other taxing unit participating in the Zone and located in the Zone, determined as of January 1, 2005, the year in which the Zone was designated as a reinvestment zone (the "Tax Increment Base")

SECTION 6. Tax Increment Fund. There is hereby created and established a Tax Increment Fund for the Zone entitled "Tax Increment Reinvestment Zone Number Two Tax Increment Fund" which may be divided into subaccounts as authorized by subsequent ordinances. All Tax Increments, as defined below, shall be deposited into the Tax Increment Fund. The Tax Increment Fund and any subaccount shall be maintained at the depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. The annual Tax Increment shall equal the property taxes levied by the City and any other taxing unit participating in the Zone for that year on the captured appraised value, as defined by Chapter 311 of the Texas Tax Code, of real property located in Zone that is taxable by the City or any other taxing unit participating in the Zone, less any amounts that are to be allocated from the Tax Increment pursuant to Chapter 311 of the Texas Tax Code. All revenues from the sale of any tax increment bonds, notes or other obligations hereafter issued for the benefit of the Zone by the City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in the Zone shall be deposited into the Tax Increment Fund. Prior to the termination of the Zone, money shall be disbursed from the Tax Increment Fund, subject to City Council appropriation, only to pay project costs, as defined by the Texas Tax Code, for the Zone, to

satisfy the claims of holders of tax increments bonds or notes issued for the Zone, or to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010(b) of the Texas Tax Code.

SECTION 7. Open Meetings Compliance. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding its meeting, as required by the Open Meetings Law, Texas Government Code, ch. 551, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

SECTION 8. The contents of the notice of the public hearing, which hearing was held before the City Council on February 1, 2005, and the publication of the notice, are hereby ratified and confirmed.

SECTION 9. The Preliminary Project Plan and Reinvestment Zone Financing Plan for the Zone, a copy of which is attached as Exhibit C, are approved.

SECTION 10. Without limiting the authority of the City Council to terminate the Zone for good and sufficient reason, the City Council expressly reserves the right to terminate the Zone for any of the following reasons

- A. Inability of the City to reach an agreement with the Developer by December 31, 2005 for reimbursement of the cost of the Project; or
- B. Failure or inability of Hays County to commit, by agreement with the City, a sufficient portion of the tax increment revenue of Hays County from the Zone to reimbursement of the cost of the Project.

SECTION 11 If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

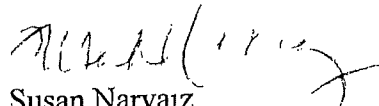
SECTION 12. All ordinances and resolution or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 13. This Ordinance will take effect ten days after the date of its final passage, and the City Clerk will publish notice of its adoption in a newspaper of general circulation in the City

PASSED on first reading on February 1, 2005

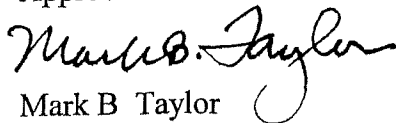
PASSED on second reading on February 15, 2005.

PASSED, APPROVED AND ADOPTED on March 1, 2005



Susan Narvaiz
Mayor

Approved as to Form.



Mark B. Taylor
City Attorney

Attest:



Janis K. Womack
City Clerk

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