

AN ORDINANCE 2007-03-01-0239

APPROVING THE FINAL PROJECT AND FINANCING PLANS FOR TAX INCREMENT REINVESTMENT ZONE ("TIRZ") NUMBER TWENTY-TWO, CITY OF SAN ANTONIO, TEXAS KNOWN AS THE RIDGE STONE TIRZ IN CITY COUNCIL DISTRICT 4, AUTHORIZING THE PAYMENT OF ALL INCREMENTAL AD VALOREM TAXES INTO THE TIRZ TAX INCREMENT FUND AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SAN ANTONIO, THE BOARD OF DIRECTORS FOR THE TIRZ ("BOARD") AND BEXAR COUNTY, AND A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN ANTONIO, BIGFISH ON FIVE, L.P. AND THE BOARD.

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WHEREAS, the City of San Antonio ("City") recognizes the importance of its continued role in economic development; and

WHEREAS, on December 16, 2004, the City Council created Tax Increment Reinvestment Zone Number Twenty-two, City of San Antonio, Texas ("Zone") located in City Council District 4 by Ordinance Number 100188 in accordance with the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, as amended (hereinafter called the "Act") and the City's adopted Guidelines and Criteria for the use of TIF to promote development and redevelopment of the Zone property through the use of tax increment financing, which development would not otherwise occur solely through private investment in the reasonably foreseeable future, established a Board of Directors for the Zone (the "Board"), described the boundaries of the Zone and authorized the creation of a tax increment fund entitled "Reinvestment Zone Number Twenty-two, City of San Antonio, Texas, Tax Increment Fund" (the "Fund"), established at the depository bank of the City; and

WHEREAS, on January 31, 2007, the Board approved and adopted, an amended Final Project Plan ("Project Plan"), an amended Final Financing Plan ("Financing Plan"), a Development Agreement with Bigfish On Five, L.P., ("Developer"), and an Interlocal Agreement with the other participating tax entity in the Zone, providing for their participation in the Zone and contributions to the Fund; and

WHEREAS, the Act requires that the City Council approve the Project Plan and Financing Plan, as well as amendments thereto, after their adoption by the Board; and

WHEREAS, the Act authorizes the reimbursement of "Project Costs" which are the costs of public works or public improvements in the Zone, plus other costs incidental to those reimbursements and obligations that are consistent with the Project Plan; and

WHEREAS, money in the Fund may be disbursed from the Fund, invested, and paid as permitted by the Act or by any agreements entered into in accordance with the Act, or otherwise authorized by law; and

WHEREAS, a taxing unit is not required to pay into the Fund any of its tax increment provided from property located in the Zone designated by petition under the Act, unless the taxing unit enters into an Interlocal Agreement with the City, which includes conditions for payment into the Fund and specifies the portion and the years for which that tax increment is to be paid into the Fund; and

WHEREAS, the City desires to approve the payment of 90% of available City incremental ad valorem taxes generated from new improvements in the Zone into the Fund; and

WHEREAS, payment into the Fund shall consist of the tax increment generated from the 2004 tax year through the 2023 tax year, unless the Zone is terminated earlier as authorized or permitted by law; and

WHEREAS, in accordance with the Act and Ordinance Number 100188 dated December 16, 2004, the Board has authority to enter into agreements as the Board considers necessary or convenient to implement the Project Plan and Financing Plan and to achieve the purposes of developing the Zone Property; and

WHEREAS, the City, the Board and the Developer have agreed to the terms and conditions for their performance and obligations for the development of the Zone property, including a maximum potential reimbursement to the Developer from the Fund for approved infrastructure improvements of \$3,043,645.00, and a maximum potential reimbursement for interest, if any, of \$613,987.00 as set out in Section VII of the Development Agreement, attached as Exhibit 3; and

WHEREAS, the Developer did not comply with the City's 2004 TIF Guidelines in regard to Payment and Performance Bonds and Prevailing Wages, and did not comply with the City Code regarding Universal Design requirements, and the City, the Board and the Developer have reached a compromise agreement to waive the pertinent 2004 Guideline requirements and provide for alternative security documents and a prevailing wage procedure, and to remove the value of a portion of the homes which do not meet Universal Design requirements; and

WHEREAS, the City, the Board, and Bexar County have agreed to the terms and conditions for their participation in the Zone and contributions to the Fund, as set out on the Interlocal Agreement attached as Exhibit 4 (Bexar County Interlocal Agreement); and

WHEREAS, it is now necessary for the City Council to approve the Project Plan and the Financing Plan for the Zone; to authorize the City Manager or her designee to enter into a Development Agreement with the Board and the Developer which provides for the development of the Zone property as specified in the Project Plan and Financing Plan, and to enter into an Interlocal Agreement with Bexar County; 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. This TIRZ, which took effect on the December 16, 2004, will continue until its termination date of September 30, 2024 ("Termination Date"), unless otherwise terminated earlier according to the terms of the development agreement, upon payment in full of all project costs, or as authorized or permitted by law.

SECTION 2. The Final Project Plan and the Final Financing Plan, as approved on January 31, 2007 by the Board of Directors of Tax Increment Reinvestment Zone Number Twenty-two of the City of San Antonio, Texas, known as the Ridge Stone TIRZ, are approved, and copies are attached as Exhibit 1 (Final Project Plan) and Exhibit 2 (Final Financing Plan) and incorporated into this Ordinance for all purposes.

SECTION 3. The City Manager or her designee is authorized to make payment of all available City incremental ad valorem taxes generated from the new improvements into Tax Increment Reinvestment Zone Number Twenty-two, City of San Antonio, Texas, Tax Increment Fund, ("Fund") beginning in the 2004 tax year and continuing through the 2023 tax year.

SECTION 4. The Project Plan and Financing Plan for the Zone are feasible and in compliance with the City's Master Plan and the City's adopted *2004 City of San Antonio, Texas Guidelines and Criteria for the Use of Tax Increment Financing (TIF) and Reinvestment Zones* by encouraging community revitalization, infrastructure improvements and housing within certain areas of the City which would not have occurred without tax increment financing.

SECTION 5. The City Manager, or her designee, are authorized to negotiate and execute the Development Agreement, including the compromise solutions reached regarding payment and performance bonds and prevailing wages with the Board and the Developer, the Interlocal Agreement with the Board and Bexar County substantially in accordance with the provisions set out above and in Exhibit 3 (Development Agreement) and Exhibit 4 (Bexar County Interlocal Agreement), attached and incorporated into this Ordinance for all purposes.

SECTION 6. Approval and execution of the attached Development Agreement does not have an immediate fiscal impact. To the extent that such funds are available, the City is authorized to reimburse the Developer up to a maximum total payment of \$3,043,645.00 for public infrastructure improvements, and a maximum total payment of \$613,987.00 for interest as authorized by and in accordance with the Act.

SECTION 7. Fund 26086014 entitled Special Revenue, TIRZ Ridge Stone is established to record the collection of revenue recorded in internal order 207000000263 and payments using cost center 0703710001 in accordance with the agreement.

SECTION 8. The financial allocation in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the


City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance

SECTION 9. The statements set out in the recitals of this Ordinance are true and correct, and are incorporated as part of this Ordinance.

SECTION 10. If any provision of this Ordinance or the application of any provision of this ordinance to any circumstance is held invalid, the remainder of this Ordinance and the application of the remainder of this Ordinance to other circumstances shall nevertheless be valid, and this Ordinance would have been enacted without such invalid provision.

SECTION 11. This ordinance is effective immediately upon the receipt of eight (8) affirmative votes.


PASSED AND APPROVED this 1st day of March, 2007.


MAYOR
PHIL HARDBERGER

ATTEST:


City Clerk

APPROVED AS TO FORM:


for City Attorney