

ORDINANCE 2022-12-15-0990

**APPROVING AN UPDATE TO THE 2015 TAX INCREMENT FINANCING
PROGRAM POLICY.**

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WHEREAS, Tax Increment Financing is an economic and community development tool authorized by the Tax Increment Financing Act, Texas Tax Code, Chapter 311, used by the City of San Antonio to promote development or redevelopment in areas where development or redevelopment would not occur solely through private investment in the reasonably foreseeable future; and

WHEREAS, in addition to the authority of the Act, in July 1998 the City Council adopted the City of San Antonio, Texas Guidelines and Criteria for Tax Increment Financing (“TIF”) and Tax Increment Reinvestment Zones (“TIRZ”), to serve as policy direction to City staff, potential applicants, and other interested parties regarding the use of Tax Increment Financing, and then amended the TIF Guidelines in 2000, 2002, 2004, 2006, 2008 and 2015; and

WHEREAS, on November 14, 2022 staff provided a briefing on the proposed TIF Program Policy to the Planning and Community Development Committee; and

WHEREAS, the updated TIF Program Policy (“Policy”), dated December 15, 2022, streamlines the program policy and administrative guidelines to simplify the Policy; and

WHEREAS, the updated Policy identifies the need for affordable housing in line with the City of San Antonio’s Strategic Housing Implementation Plan; and

WHEREAS, the updated Policy also focuses on sustainability by emphasizing that new projects comply with Build San Antonio Green standards; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:


SECTION 1. The updated Tax Increment Financing Program Policy, dated December 15, 2022, is incorporated into and attached to this Ordinance as **Exhibit “A”** and is hereby adopted and approved as the guidelines and criteria governing the Tax Increment Financing Program for the City of San Antonio.

SECTION 2. The Policy approved in Section 1 of this Ordinance supersedes the prior 2015 Manual.

SECTION 3. Approval of the updated Tax Increment Financing Program Policy will have no fiscal impact on the City's General Fund. All revenues from fees received are deposited in the Tax Increment Financing Fund for each TIRZ in accordance with the City's approved FY budget and Chapter 311 of the Texas Tax Code.

SECTION 4. This Ordinance is effective upon passage by eight affirmative votes; otherwise, it is effective on the tenth day after passage.

PASSED AND APPROVED this 15th day of December, 2022.




M A Y O R
Ron Nirenberg

ATTEST:



Debbie Racca-Sittre, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney



City of San Antonio

City Council Meeting December 15, 2022

50.

2022-12-15-0990

Ordinance approving the City's Tax Increment Financing (TIF) Program Policy. [Lori Houston, Assistant City Manager; Veronica Garcia, Director, Neighborhood & Housing Services]

Councilmember Rocha Garcia moved to Approve on the Consent Agenda. Councilmember Castillo seconded the motion. The motion carried by the following vote:

Aye: Nirenberg, Bravo, McKee-Rodriguez, Viagran, Rocha Garcia, Castillo, Cabello Havrda, Sandoval, Pelaez, Courage, Gallagher

EXHIBIT A

City of San Antonio

Tax Increment Financing (TIF)

Program Policy



Neighborhood and Housing Services Department (NHSD)

December 2022

I. Purpose of the Tax Increment Financing Program Policy

The purpose of this document is to establish the policy for the City of San Antonio to exercise the power granted under the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code. The TIF Act authorizes the governing body of a municipality or a county to promote reinvestment in and redevelopment of a contiguous geographic area by designating it a Tax Increment Reinvestment Zone (TIRZ). The future value of private investment within a TIRZ is leveraged to finance public improvements, to enhance existing public infrastructure, and to maximize the benefits of other incentive tools.

The City of San Antonio uses Tax Increment Financing to encourage development in areas where it is desired but not being provided by traditional market mechanisms or other City incentives. Through TIF, the City intends to achieve goals and objectives established in City adopted initiatives and policies and to support projects that increase diversity of uses and decrease income segregation.

II. TIF Program Policy Objectives

Tax Increment Financing supports the current initiatives and policies adopted by the City Council. Each of these policies provides strategic objectives for the use of TIF Program funds. These policies include, but are not limited to, initiatives relating to

- Housing and Affordable Housing
- Sustainability and Resiliency
- Transportation and Connectivity
- Economic Development
- Universal Design and Accessibility
- Historic Preservation and Placemaking
- Health
- Arts and Culture
- Job Training and Education

The TIF policy will work to encourage investment in designated reinvestment zones but minimize or prevent displacement of people or adverse impacts related to history, culture, and quality of life of unique and historical neighborhoods.

TIF provides a financing option that meets the stated objectives as follows:

- Pursues a balanced housing approach that facilitates the provision of affordable housing.
- Increases the diversity of property uses through support of mixed-use development.
- Decreases income segregation by supporting mixed income development.
- Encourages a balance of new development and redevelopment throughout the city.
- Encourages growth within identified growth centers and adjacent to future high-capacity transit stations.

- Prioritizes areas within high equity census tracts as defined by the City's Equity Atlas.
- Improves infrastructure to support private sector investment in areas targeted for redevelopment and infill.
- Redevelops underutilized properties that impair or prevent investment.
- Provides opportunities for employment within targeted industries in alignment with the City's Economic Development Framework
- Embraces Smart Growth, Low Impact Development and Green Building principles in alignment with the SA Tomorrow Comprehensive Plan and Climate Action Plan

III. General guidelines in the use of Tax Increment Financing

The City will use Tax Increment Financing only when a clearly identified City development objective is served and only to the degree necessary to accomplish that development objective.

Tax Increment Financing will only be used in cases where the City has the financial capacity to provide the needed public assistance, City Council deems it fiscally prudent to provide such assistance, and the developer can clearly demonstrate that the development will be able to meet its financial and public purpose commitments.

Only those public improvements and public redevelopment costs directly associated with or needed to service the proposed development plan or project should be financed through tax increment.

Eligible expenses for reimbursement include, but are not limited to:

Building canopies that cover public sidewalks	Public drinking fountains
Environmental remediation	Public sidewalks
Façade preservation	Storm water control
Green roofs	Streets, sidewalks, and curbs
Landscaping in public areas	Street repair and improvement
Low Impact Development (LID) construction	Streetscaping and street lighting
Nature trails	Soft costs
Parks and parklets for use by the public	Utility upgrades
Public benches	Water conservation

Projects funded by Tax Increment Financing Funds must meet all applicable City, State, and Federal environmental laws. TIF Funds can be applied to reimburse the actual costs of the remediation of conditions that contaminate public or private land or buildings, as well as the costs of conducting environmental impact studies or other studies. A copy of any Phase I environmental review must be submitted to the TIF Division. Based on the findings, the City may also require a Phase II study.

Examples of **ineligible expenses** include, but are not limited to:

Artificial water parks	Hotels, motels, and short-term rentals
Bars and sexually oriented businesses	Interior of privately owned buildings
Construction on the Edwards Aquifer Recharge Zone	

IV. Application for Tax Increment Financing Funds

Developers considering a project within a City-Initiated TIRZ must submit a completed application that includes the following provisions:

- a. Proposed development plan, including a detailed construction schedule
- b. Identification of all project costs, including acquisition, construction, soft costs, and applicable long-term management costs
- c. Projected TIF Property Tax Increment over the life of the TIRZ
- d. Sources and Uses budget and a project pro forma detailing projected cash flows over the life of the zone including other public sources, private financing, and Developer equity contribution
- e. Evidence of financial capability to meet project costs and complete project (ex. the most current three years of financial statements and/or a Letter of Credit from the lender)
- f. Demonstration of how the project meets the statutory and City eligibility criteria and
- g. Evidence of experience developing similar scale and type of project(s)

V. Review Process for Tax Increment Financing Funding Applications

The City of San Antonio will comply with all requirements of the Texas Tax Increment Financing Act, Chapter 311, Texas Tax Code, as amended. Upon submission of an Application for Tax Increment Financing Funds, the City will undertake a rigorous analysis to ensure that the proposed project satisfies the "but for" test embodied within the Tax Increment Financing Act.

The Application for Tax Increment Financing Funds will address the following questions as part of the standard format:

- What is the public purpose of the financial assistance to the project?
- In what ways does the proposed use align with current City initiatives and policies?
- What public purpose(s) or initiative(s) does the Project address?
- Why is there a financial need for public investment?
- What is the total cost of the project?
- What is the project's impact on other publicly financed projects?
- How does the proposed project compare with previously approved comparable projects?

A Staff Recommendation based on the results of the economic analysis and assessment will be presented to the applicable TIRZ Board of Directors and, if approved by the Board, to City Council to request approval of the proposed use of Tax Increment Financing Funds.

VI. Customary Development Agreement Provisions

City Staff and Applicant will negotiate the terms of an Agreement that is consistent with the Project Plan, Finance Plan, Funding Application, Staff analysis, and direction from the Board of Directors and/or City Council. The Project must be completed subject to the terms of the Agreement(s).

Project Costs are limited to eligible expenses approved by the Board within the TIRZ boundary and incurred after execution of this Agreement or the specific terms of the Agreement.

The Developer must provide evidence that the insurance requirements contained in the Agreement are included in all contracts or agreements for construction where the Developer requests reimbursement from TIF funds.

In accordance with Texas Government Code Chapter 2253, all projects funded in whole or in part with TIF funds shall obtain a performance and/or payment bond naming the City as beneficiary or obligee of the bonds in an amount equal to or greater than the TIF funding. Projects that do not meet the thresholds set forth in Chapter 2253 are exempt from this requirement. Reimbursement requests for projects that have not met this requirement will be denied.

Upon the commencement and throughout the duration of the construction of Projects, the Developer shall submit Project Status Reports on a quarterly basis. Reports are due no later than the 15th day of January, April, July, and October or as requested by the City. Reimbursement requests that have not met this requirement will be delayed or denied.

VII. Tax Increment Reinvestment Zones (TIRZ)

Chapter 311 of the Texas Tax Code allows for two types of Tax Increment Reinvestment Zones: Petition Initiated TIRZ and City Initiated TIRZ. The City of San Antonio utilizes both types of TIRZ.

Petition-Initiated Tax Increment Reinvestment Zones allow property owners, residents, and project developers to contract with the City to bring high-quality development or redevelopment to areas that have not seen any significant development in recent history, in conjunction with the City's adopted plans.

The Board of Directors of a Petition-Initiated Tax Increment Reinvestment Zone must include at least one appointee from each taxing entity participating in the TIRZ, the State Senator and the

State Representative in which district the zone is located pursuant to the provisions of Chapter 311 of the Texas Tax Code.

City-Initiated Tax Increment Reinvestment Zones are designed to assist ongoing revitalization and reinvestment initiatives by implementing the goals of existing City programs and City adopted plans. City-initiated TIRZ maximize the benefits of public-private collaboration by focusing on targeted areas of the City.

The Board of Directors of a City Initiated Tax Increment Reinvestment Zone will be comprised of no less than 7 and no more than 11 members appointed by the City Council pursuant to the provisions of this Policy and Chapter 311 of the Texas Tax Code. The Board may include City Staff from the City Manager's Office and/or Finance Department and/or other City Departments aligned with the purpose of the TIRZ. Each taxing unit other than the City that levies taxes on real property in the TIRZ may also appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by that taxing unit into the TIRZ Fund. Any taxing unit that has not approved the payment of all or part of the tax increment produced by that taxing unit into the TIRZ Fund is not eligible to appoint a member of the board.

VIII. Process for TIRZ Creation, Extension, and Termination

Criteria

A TIRZ or a TIF funded project shall not cause direct residential displacement. Direct residential displacement as defined by the City includes any occupied and habitable household(s) located on the proposed project site that will require permanent displacement.

The City of San Antonio will not designate Tax Increment Reinvestment Zones over the Edwards Aquifer Recharge Zone. In addition, the City reserves the right to deny designation of any TIRZ that may have a negative impact on environmentally sensitive areas.

The City supports the development of new partnerships and the use of existing partnership programs which promote cooperation among public agencies, industry, and the community to encourage economic growth throughout the City. The proposal must describe how the development supported by the TIRZ will contribute to ongoing or proposed revitalization activities in the surrounding area, and how the TIRZ will leverage additional revitalization activity.

Proposal Submission

A Petitioner considering the submission of a petition for a new TIRZ must meet with the TIF Division. Applications must be submitted by the property owners whose ownership constitutes at least 50 percent of the appraised value of the property in the proposed TIRZ, according to the most recent certified appraisal roll.

Petitioners must execute and submit the Petitioner's Sworn Acknowledgement of General Requirements for Use of TIF.

For City Staff to effectively evaluate a proposed new TIRZ, the Proposal must provide sufficient information to demonstrate how the Project meets the statutory requirements and specific the eligibility criteria. In addition, the Proposal must include sufficient financial data, through a project pro forma and extended cash flow analysis, that clearly demonstrates a quantifiable need for public assistance. Staff's review of the Proposal will be used to determine the recommended amount of City participation, the City's maximum dollar contribution, and the length of time the TIRZ will be in existence. The typical term for a TIRZ is twenty years.

At a minimum, all Proposals require the following information:

- Proposed development plan including construction schedule
- Identify all project costs, including acquisition, construction, soft costs, and applicable long-term management costs
- Projected TIF revenue
- Source and Uses budget and project proforma detailing projected cash flows over the life of the proposed zone including other public sources, private financing, and developer equity contribution into project
- Demonstration of financial wherewithal to meet project costs and complete project (i.e. the most current three years of financial statements, complete Sources and Uses budget, and/or Letters of Credit from Bank)
- Demonstrated previous experience developing similar scale and type of project
- Evidence that no construction is taking place within the proposed TIRZ boundaries (New TIRZ cannot include sites where construction has been initiated or where construction is ongoing; the costs of such construction cannot be financed through TIF)

Adoption

All proposals for a new TIRZ will be reviewed by City Departments, including Departments managing housing, planning, economic development, finance, and other Departments as requested by TIF Staff. Staff is authorized to notify the City Council Offices for the Council District(s) in which the proposed TIRZ is located, other participating taxing entities, and give public notice regarding a new TIRZ to be approved. Several other taxing entities have adopted an independent review processes and utilize different selection criteria to determine participation in the proposed TIRZ. Applicants must contact the other taxing entities impacted by the proposed TIRZ to expedite the review processes. Updates must be provided to the TIF Division staff regarding any commitments or negotiations. These findings become the basis for any Interlocal Agreement that will be created.

Staff will conduct a full financial and project review of the proposed project. The findings will form the basis for the Preliminary Project Plan and Finance Plan. Results of any potential

Interlocal Agreements will be included in these plans. When completed, the TIRZ designation request will be scheduled for presentation to City Council for approval.

All TIRZ designations require City Council approval. If approved, City Council will issue a Designation Ordinance that gives authority to officially name the TIRZ, create a TIRZ Board of Directors, establish official start and termination dates, and create a Tax Increment Fund.

Subsequent to City Council Designation, the Applicant and City Staff will negotiate the terms and conditions of the Development Agreement in alignment with the Project Plan and Finance Plan. The Development Agreement must be approved by the TIRZ Board of Directors and City Council.

Extensions

A recommendation to extend the termination date of an existing TIRZ may be initiated by the Applicant in a Petition Initiated TIRZ, the TIRZ Board, City Staff, or City Council. Upon recommendation of an extension, Staff will conduct a financial and project review of the proposed extension. The request for extension will be reviewed by City Departments, including Departments managing housing, planning, economic development, finance, and other Departments as requested by TIF Staff. If the extension is recommended, Staff is authorized to notify the City Council Offices for the Council District(s) in which the proposed TIRZ is located, other participating taxing entities, and give notice of the proposed extension of the existing TIRZ to be considered by City Council. All TIRZ extensions require City Council approval.

Termination

An existing TIRZ will terminate on the earlier of the Termination date in the Ordinance designating the Zone or the date on which all project costs and other obligations have been paid in full. The Applicant in a Petition Initiated TIRZ, the TIRZ Board, City Staff, or City Council may recommend early termination of the TIRZ. Upon recommendation of an early termination, Staff will conduct an analysis to determine the status of the TIRZ and the basis for the recommendation of the early termination with other City Departments, including Departments managing housing, planning, economic development, finance, and other Departments as requested by TIF Staff. If the termination is recommended, Staff is authorized to notify the City Council Offices for the Council District(s) in which the proposed TIRZ is located, other participating taxing entities, and give legal notice, if necessary, of the proposed early termination of the existing TIRZ to be considered by City Council. Early termination of a TIRZ requires City Council approval.

Any remaining funds in the Tax Increment Fund for the TIRZ will be appropriated to the General Fund and designated to the Council District(s) in which the TIRZ is located. If the TIRZ is located in more than one Council District, the remaining funds will be appropriate to those Council Districts on a proportional basis.

IX. Fees

Designation Fee:

The Designation Fee becomes due and payable upon passage of the City Council Ordinance designating or extending a Tax Increment Reinvestment Zone. The Designation Fee is intended to reimburse the City for project costs incurred by the City during the process of designating or extending a TIRZ. The Designation Fee is reimbursable through the TIRZ Fund. The Designation Fee will be calculated based on the amount of funding being requested.

Fee	Amount of TIF Funding Requested
\$50,000	\$10,000,000 +
\$25,000	\$5,000,000 - \$9,999,999
\$10,000	Under \$5,000,000

The Designation Fee may be reduced or waived for Non-Profits or 501(c)(3) entities whose Projects include Affordable Housing. Projects with Affordable Housing at 60%/120% AMI qualify for a reduction of Designation fee. Projects with Affordable Housing at less than 60%/120% AMI qualify for a waiver of Designation fee. The request for a reduction or waiver of the Designation Fee must be in Application. Reductions or waivers must have consent of City Council.

Administration Fees

Administrative Fees are established at the time of Designation by City Council and are due and payable upon the first day of each year the TIRZ is in effect, to include the Designation Year. The Administrative Fee is intended to reimburse the City for project costs, imputed administrative costs, including but not limited to reasonable charges for the Staff time spent in connection with the implementation of a project plan. This is a recurring annual fee and is paid through the TIRZ Fund. Administrative fees may be increased after TIRZ Board and City Council approval.

Administration Fees will be calculated at 20% of annual tax increment collections but capped at approved maximums as shown in the table below.

Degree of Complexity – as determined by City Staff	Description	Annual Administrative Fee
High Degree of Complexity	Multiple projects; Frequent board meetings and processing of payments; Coordination with multiple City departments; large demand of staff time	Lesser of 20% of the increment or \$120,000

Average/Moderate Degree of Complexity	One large project or multiple projects; Multiple board meetings and processing of payments	Lesser of 20% of the increment or \$75,000
Low Degree of Complexity	Smaller in size; Typically a single developer; limited board meetings and processing of payments	Lesser of 20% of the increment or \$45,000

Staff may recommend a reduction in Administration Fees for Projects with Affordable Housing at no more than 60%/120% AMI if requested in Application. Any reduction of Administration Fees must have consent of City Council

X. Additional Provisions – Housing

Housing projects seeking TIRZ funding should align with the priority areas in the City's Strategic Housing Implementation Plan (SHIP). If a project does not propose affordable housing in line with the SHIP, the need for the housing must be supported by a Market Analysis and Displacement Impact Assessment.

a. Market Analysis

Projects will be required to provide a Market Analysis to detail how the housing will be supported by the surrounding area. At a minimum the study must include the sub-market area existing supply of housing, cost of housing in area, existing and projected employment opportunities and wages in area, and types of housing available (rental, single family detached, condominium etc.).

b. Displacement Impact Assessment

Housing projects will need to complete the City's adopted Displacement Impact Assessment (DIA) to provide data on the vulnerability of the neighborhood in the surrounding area to potential increased property values.

c. Alignment with City Initiatives and priorities

Housing project review will be coordinated with the appropriate departments to include but not limited to:

- Alignment with SHIP if building affordable housing to determine affordability level, resident protections, and affordability periods for the project type.
- Alignment with SA Tomorrow on location and type of housing in appropriate land use areas (mixed-use, transit oriented)
- Alignment with Economic Development Framework for mixed-use developments for employment and economic development criteria
- Alignment with Disability Access Office to provide Universal Design when financially feasible

d. Resident protections

All housing agreements shall include adopted City resident protection including the Housing Voucher Incentive Policy and Notice of Tenants Rights

e. Contributions to the Affordable Housing Fund

Housing Projects will include a minimum of 25% of the total units as Affordable Housing as defined in the SHIP or current City adopted Housing Policy and supported by the Market Analysis. Projects that do not include a minimum of 25% of the total units as Affordable Housing will contribute 25% of the tax increment to the City's Affordable Housing Fund in accordance with terms negotiated with City Staff and included in the Development Agreement. Exemptions for these limitations can be made by City Council when approving the Development Agreement or amendment.

XI. Additional Provisions - Sustainability

Projects should strive to meet the goals outlined in the Climate Action Plan. Projects are required to meet a minimum standard of Build San Antonio Green (BSAG) level 2 or equivalent unless technically or financially unfeasible. Certification is not required but the applicant must provide plans to show the equivalent is being met.

Projects should strive to meet additional priority items including but not limited to:

- Solar Ready (single family homes)
- EV ready (single family homes)
- Energy efficient roofs
- Drought resistant landscaping
- Heat island mitigation design
- Leveraging other funding available (PACE, State and Federal funding)

XII. Other Provisions

Appointments to the Board of Directors

Board of Directors positions are to be filled through open selection in coordination with the City Clerk's Office. Applications will be reviewed by NHSD Staff to verify applicants meet any requirements for Board membership set out in the Designation of the TIRZ, any amendments approved by City Council, or state law. Applicants who are deemed qualified will be referred to an ad hoc committee of the TIRZ Board that consists of (1) the TIRZ Board Chair or delegate if a Councilmember; (2) any Vice-Chair; and (3) the Councilmember(s) of the District(s) in which the TIRZ is located or delegate if the Councilmember is the TIRZ Board Chair. Applicants who received a favorable recommendation from the ad hoc committee will be referred to City Council for final approval and appointment.

Once appointed, Board members are expected to comply with City Code requirements relating to Boards and Commissions, including meeting attendance, ethics and reporting expectations. Board members who fail to sufficiently meet the requirements may be removed from the Board of Directors.

Each taxing unit other than the City that levies taxes on real property in the TIRZ may appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by that taxing unit into the TIRZ Fund. Taxing units that have not approved the payment of all or part of the tax increment produced by that taxing unit into the TIRZ Fund are not eligible to appoint board members.

Priorities and Goals of City Initiated TIRZ Boards

City Initiated TIRZ Boards are strongly encouraged to adopt Priorities and Goals to address needs specific to their community and the surrounding areas and align with the TIF Program Objectives. The Boards will have the discretion to revise or update their Priorities and Goals to meet changing needs of their communities and surrounding areas.

a. Purpose

TIRZ boards will adopt their own priorities and goals in order to be proactive with their areas in funding the needs in the community. These goals and priorities should be in alignment with an overall City Plan or Policy. The prioritization can specify the type of projects they would like to see and additional criteria they would like applied to projects

b. Community Benefits

Projects can address additional needs of the community. Applicants are strongly encouraged to address Community benefits in funding applications. As part of their Priorities and Goals, TIRZ Boards can specify additional community benefits to be included in Funding or Development Agreements as a condition of funding as appropriate.

c. Updates

The TIRZ Board's priorities and goals can be updated at the board discretion and are to be reviewed annually.

The goals and priorities will be available online and linked to the funding application of that TIRZ board.

Materials changes to TIF Policy must be approved by City Council

On July 30, 1998, City Council adopted a TIF Policy to serve as a guiding document for City staff, potential TIRZ applicants, and other interested parties regarding the use of Tax Increment Financing. The Policy was updated on May 14, 2015. Material changes to this Policy must be approved by City Council.