



**To: TIRZ Board**  
**From: Laura Mueller, City Attorney**  
**Date: November 8, 2021**  
**RE: TIRZ Project and Area Review and Expansion**

**Discuss and consider possible action on review of priority projects, new projects, and new or expanded areas of the Tax Increment Reinvestment Zones and possible appointment of subcommittee to review options.**

Staff was asked to look into expanding areas of the TIRZ, either with creation of a new TIRZ or expanding existing TIRZs, and to examine current and potential projects for an update to the Project Plans. This memo describes the process and criteria for accomplishing these changes.

### **Creation of a new TIRZ**

1. **City Council meeting.** Governing body adopts resolution approving preliminary project and financing plan, calling a public hearing on the creation of the TIRZ, and directing publication of notice of public hearing.
2. **Newspaper Notice Published.** Notice of the public hearing is published one time, in newspaper of general circulation in the City, no later than the seventh day prior to the public hearing.
3. **City Council meeting.** Public Hearing. Governing body holds public hearing on creation of the TIRZ.
4. **Appointment of Board of Directors.** Governing body appoints the City's members to the Board of Directors. Governing body designates chairman of board of directors.
5. **Organizational meeting of TIRZ Board of Directors.** Board elects officers (other than president), approves bylaws (if applicable), and takes other action as scheduled. TIRZ Boards generally meet quarterly.
6. **TIRZ Board of Directors Adoption of Project Plan and Financing Plan.** TIRZ board must approve the TIRZ project plan and financing plan.
7. **Governing Body Approval of Project Plan and Financing Plan.** Municipality's governing body must approve the TIRZ financing plan after adoption by TIRZ board.

- (a) The approval must be by ordinance that finds that the plan is feasible.
- (b) May specify the portion of the City's tax increment to be deposited into the TIRZ fund.

### **Expansion of the TIRZ boundaries**

In expanding areas for the TIRZ boundaries, a city will look at a financial model consisting of input from City Engineers on areas that are undeveloped and what public infrastructure is necessary to serve those areas.

1. Petition from property owner to include property in TIRZ.
2. Determination of the appropriateness of the property.
3. Public hearing on inclusion at TIRZ and City Council.
4. Ordinance adding property.
5. Amend Interlocal Agreement between City and County.
6. Notification of appropriate agencies.

### **Changing of the TIRZ Project Plan (2 TIRZ meetings; 2 City Council meetings)**

The TIRZ Board and City Council can modify the TIRZ Project Plans by Ordinance.

1. Review current and potential projects.
2. Update project plans to create a draft amended project plan.
3. Present amended project plans to TIRZ and City Council.
4. Take amended project plans to TIRZ for recommendation and City Council for approval by ordinance.

### **Eligible Project Costs**

Eligible Project Costs included the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county designating a reinvestment zone that are listed in the project plan as costs of public works, public improvements, programs, or other projects benefiting the TIRZ, plus other costs incidental to those expenditures and obligations. Project Costs include:

1. capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; the actual costs of the remediation of conditions that contaminate public or private land or buildings; the actual costs of the preservation of the facade of a public or private building; the actual costs of the demolition of public or private buildings; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;
2. financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

3. real property assembly costs;
4. professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;
5. imputed administrative costs, including reasonable charges for the time spent by employees of the municipality or county in connection with the implementation of a project plan;
6. relocation costs;
7. organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the TIRZ, and the cost of implementing the project plan for the TIRZ;
8. interest before and during construction and for one year after completion of construction, whether or not capitalized;
9. the cost of operating the reinvestment zone and project facilities;
10. the amount of any contributions made by the municipality or county from general revenue for the implementation of the project plan;
11. the costs of school buildings, other educational buildings, other educational facilities, or other buildings owned by or on behalf of a school district, community college district, or other political subdivision of this state; and
12. payments made at the discretion of the governing body of the municipality or county that the governing body finds necessary or convenient to the creation of the TIRZ or to the implementation of the project plans for the TIRZ.

### **Conclusion and Recommendation**

The review of the area of the TIRZs and possible and current projects can happen concurrently, but the expansion, if any, should be finalized prior to finalizing the amended project plans. Staff recommendation is to create a subcommittee to review current and future projects and areas that are appropriate to be within the TIRZ.

**Sec. 311.007. CHANGING BOUNDARIES OR TERM OF EXISTING ZONE.**

(a) Subject to the limitations provided by Section 311.006, if applicable, the boundaries of an existing reinvestment zone may be reduced or enlarged by ordinance or resolution of the governing body of the municipality or by order or resolution of the governing body of the county that created the zone.

(b) The governing body of the municipality or county may enlarge an existing reinvestment zone to include an area described in a petition requesting that the area be included in the zone if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located. The composition of the board of directors of the zone continues to be governed by Section 311.009(a) or (b), whichever applied to the zone immediately before the enlargement of the zone, except that the membership of the board must conform to the requirements of the applicable subsection of Section 311.009 as applied to the zone after its enlargement. The provision of Section 311.006(b) relating to the amount of property used for residential purposes that may be included in the zone does not apply to the enlargement of a zone under this subsection.

(c) The governing body of the municipality or county that designated a reinvestment zone by ordinance or resolution or by order or resolution, respectively, may extend the term of all or a portion of the zone after notice and hearing in the manner provided for the designation of the zone. A taxing unit other than the municipality or county that designated the zone is not required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

Sec. 311.011(e)

(e) The board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of this chapter. The amendment takes effect on approval by the governing body of the municipality or county that created the zone. That approval must be by ordinance, in the case of a municipality, or by order, in the case of a county. If an amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing unit, increases the total estimated project costs, or designates additional property in the zone to be acquired by the municipality or county, the approval must be by ordinance or order, as applicable, adopted after a public hearing that satisfies the procedural requirements of Sections 311.003(c) and (d).