



AGENDA MEMORANDUM

Action Item for the City Council Meeting January 31, 2023

DATE: January 10, 2023

TO: Peter Zaroni, City Manager

FROM: Heather Hurlbert, CPA, CGFO Director of Finance and Procurement
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Motion to Cancel the Tax Increment Refinancing Zone (TIRZ) #5
Developer Reimbursement Agreement

CAPTION:

Motion authorizing the termination of the TIRZ #5 developer reimbursement agreement with South Padre Investment, Inc. by agreement of the parties.

SUMMARY:

This item is a motion for City Council to consider the cancellation of the existing TIRZ #5 developer reimbursement agreement with South Padre Investment, Inc. The proposed development was to have 999 multi-family units, 777 townhomes, and 450,000 square feet of commercial space. The existing developer's reimbursement agreement allows for reimbursement of the cost of street, sewer, stormwater, and water infrastructure and development and subsequent maintenance of a 10-acre park in an amount not to exceed \$17,000,000. However, in October 2022, the City was made aware that the landowner sold approximately one-third of the land to another developer who is proposing a different type of development. Therefore, this agenda item is needed to terminate the existing TIRZ #5 developer reimbursement agreement.

BACKGROUND AND FINDINGS:

On July 14, 2020, the City Council was presented with an overview of a developer-petitioned Tax Increment Reinvestment Zone (TIRZ) (Ch 311 Tax Code) called Bohemian Colony (BOCO) for developer reimbursement of street, sewer, stormwater, and water infrastructure and development and subsequent maintenance of a 10-acre park. The proposed 258.9-acre development is located on the southwest corner of South Padre Island Drive (SPID) and Crosstown Expressway and is currently used primarily for agricultural purposes. The proposed development was to have 999 multi-family units, 777 townhomes, and 450,000 square feet of commercial space.

In October 2022 the City was made aware that the landowner for the property located in the TIRZ sold approximately one-third of the land to another developer who is proposing a different type of development. The new developer indicated that they have the option to purchase more of the land for future development.

Staff reached out to the original developer in November 2022. The developer indicated that despite his best efforts, the development, as proposed, would not be going forward. With the remaining land, the developer will be patiently waiting for the right time to continue its development. At this time, the developer has no objection to canceling the existing development agreement.

On December 14, 2022, the attached memo was sent to the City Council regarding the situation that had transpired. On January 18, 2023, the same memo was sent to the TIRZ #5 Board. The TIRZ #5 Board does not need to approve the cancellation of the developer agreement prior to being presented to the City Council, and so this agenda item authorizes the termination of the developer agreement with the original developer since the project is not feasible as proposed.

ALTERNATIVES:

City Council could choose not to cancel the developer agreement and either leave the agreement in place or negotiate a different agreement with the developer.

FISCAL IMPACT:

There is no fiscal impact.

Funding Detail:

Fund:

Organization/Activity:

Mission Element:

Project # **(CIP Only)**:

Account:

RECOMMENDATION:

City staff recommends canceling the developer agreement with the original developer since the project is not feasible as proposed.

LIST OF SUPPORTING DOCUMENTS:

Agreement

Memo sent to the City Council and TIRZ #5 Board