

ORDINANCE NO. 2024-O-189

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATHENS, TEXAS, DESIGNATING A GEOGRAPHIC AREA WITHIN THE CITY AS A TAX INCREMENT REINVESTMENT ZONE PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE, TO BE KNOWN AS REINVESTMENT ZONE NUMBER ONE, CITY OF ATHENS, TEXAS; DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE AND APPOINTING MEMBERS OF THE BOARD; ESTABLISHING A TAX INCREMENT FUND (TIRZ NO. 1 FUND) FOR THE ZONE; CONTAINING FINDINGS RELATED TO THE CREATION OF THE ZONE; PROVIDING A DATE FOR THE TERMINATION OF THE ZONE; PROVIDING THAT THE ZONE TAKE EFFECT IMMEDIATELY UPON PASSAGE OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Athens, Texas (the "City"), pursuant to Chapter 311 of the Texas Tax Code, as amended (the "Act"), may designate a geographic area within the City as a tax increment reinvestment zone if the area satisfies the requirements of the Act; and

WHEREAS, the City Council of the City (the "City Council") desires for the City to consider the creation of a tax increment reinvestment zone in the City consisting of approximately 5,694.28 acres depicted on *Exhibit A* and identified within *Exhibit B* attached hereto (the "Property"); and

WHEREAS, pursuant to and as required by the Act, the City Council prepared a *Reinvestment Zone Number One, City of Athens, Texas, Preliminary Project and Finance Plan* (the "Preliminary Project and Finance Plan") attached hereto as *Exhibit B* and incorporated herein for all purposes; and

WHEREAS, notice of the public hearing on the creation of the proposed zone was published in the Athens Daily Review, a newspaper of general circulation within the City, on Saturday, November 2, 2024, which date is not later than the seventh (7th) day before the public hearing held on November 12, 2024; and

WHEREAS, at the public hearing on November 12, 2024, interested persons were allowed to speak for or against the creation of the zone, the boundaries of the zone, and 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 zone; and

WHEREAS, evidence was received and presented at the public hearing in favor of the creation of the zone; and

WHEREAS, the City has taken all actions required to create the zone including, but not limited to, all actions required by the Act, the Texas Open Meetings Act, and all other laws applicable to the creation of the zone; and

WHEREAS, the City desires to appoint initial members to the board of directors of the zone; and

WHEREAS, terms used in this Ordinance that have their initial letters capitalized shall have the meanings given to them in this Ordinance; however, terms that are **CAPITALIZED IN BOLD** shall have the meanings given to them in the Preliminary Project and Finance Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, TEXAS:

SECTION 1. FINDINGS.

(a) The recitals, findings, and determinations contained in the preamble to this Ordinance are incorporated into the body of this Ordinance as if fully set forth in this Section and are hereby found and declared to be true and correct legislative findings and are adopted as part of this Ordinance for all purposes.

(b) The City Council finds that the **PUBLIC IMPROVEMENTS** will significantly enhance the value of all the taxable real property in the zone and will be of general benefit to the City.

(c) The City Council finds that the proposed zone meets the requirements of Section 311.005(a) of the Act in that:

- (i) there is a need for essential public infrastructure and economic development programs to attract new business and commercial activity to the proposed zone for the purposes of increasing the real property tax base for all taxing units within the zone, increasing sales and use taxes for the City and the State of Texas, and increasing job opportunities for residents of the City and the region; and
- (ii) the proposed zone, as shown within **Exhibit A**, meets the criteria for the creation of a reinvestment zone set forth in Section 311.005 of the Act in that the area is predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs and arrests the sound growth of the municipality; and
- (iii) these factors substantially impair and arrest the sound growth of the City.

(d) The City Council finds that the proposed zone is a geographic area 100% within the City's corporate limits or extraterritorial jurisdiction.

(e) The City Council finds that not more than thirty percent (30%) of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes, and the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones does not exceed fifty percent (50%) of the total appraised value of taxable real property in the City and in the industrial districts created by the City.

(f) The City Council finds that the development or redevelopment of the property in the proposed zone will not occur solely through private investment in the reasonably foreseeable future.

(g) The City Council finds that the Preliminary Project and Finance Plan is feasible.

(h) The City Council finds that the implementation of the Project and Finance Plan (as defined below) will alleviate the conditions described in Section 1(c) above and will serve a public purpose.

SECTION 2. DESIGNATION AND NAME OF THE ZONE. Pursuant to the authority of, and in accordance with the requirements of the Act, the City Council hereby designates the Property as a tax increment reinvestment zone. The name assigned to the zone for identification is Reinvestment Zone Number One, City of Athens, Texas (the "Zone"). The Zone is designated pursuant to Section 311.005(a)(2) of the Act.

SECTION 3. BOARD OF DIRECTORS.

3.1 The City Council hereby creates a board of directors for the Zone (the "Board") consisting of seven members. Five members shall be appointed by the City Council to Places 1, 2, 3, 4, and 5. Place 6 shall be appointed by the Commissioners Court of Henderson County, Texas (the "County"), if the County participates in the Zone. If the County does not participate in the Zone, the Commissioners Court shall be deemed to have waived its right to appoint such members and the Place goes away. Place 7 shall be appointed by Trinity Valley College (the "College"), if the College participates in the Zone. If the College does not participate in the Zone, the College shall be deemed to have waived its right to appoint such members and the Place goes away.

3.2 The City Council hereby appoints the following individuals to serve as the initial members of the Board for the terms indicated:

Place 1	Mark Carroll, Councilman	Place 1	(term expires May, 2025)
Place 2	Cody Craig, Councilman	Place 2	(term expires May, 2026)
Place 3	Sytanna Freeman, Mayor Pro-Tem		(term expires May, 2026)
Place 4	Bryan Barker, Councilman	Place 4	(term expires May, 2026)
Place 5	Aaron Smith, Mayor		(term expires May, 2025)

If applicable, Place 6 shall be appointed by the County for a term that expires May, 2026.

If applicable, Place 7 shall be appointed by the College for a term that expires May, 2026.

Upon expiration of the indicated terms or upon City Council action to reconstitute the initial Board by appointing replacement members, subsequent appointments to fill vacancies shall be for terms of two years. The member appointed to Place 1 shall serve as the chairman of the Board. The Board is authorized to elect a vice-chairman and other officers as determined by the Board.

3.3 The Board shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board shall prepare or cause to be prepared and adopted a project plan and a reinvestment zone financing plan for the Zone (the "Project and Finance Plan") as required by the Act, and shall submit the Project and Finance Plan to the City Council for approval. The Board may enter into agreements as the Board considers necessary or convenient to implement the Project and Finance Plan and reimburse **PROJECT COSTS** from the **TIRZ NO. 1 FUND** established pursuant to Section 7 of this Ordinance.

3.4 Directors shall not receive any salary or other compensation for their services as directors.

3.5 Pursuant to Section 311.010(h) of the Act and Article III, Section 52-a of the Texas Constitution, the City Council hereby authorizes the Board, as necessary or convenient to implement the Project and Finance Plan and achieve its purposes, to establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the Zone, eliminating unemployment and underemployment in the Zone, and developing or expanding transportation, business, and commercial activity in the Zone, including programs to make grants of land and buildings and make grants from the **TIRZ NO. 1 FUND** for activities that benefit the Zone and stimulate business and commercial activity in the Zone. In addition, the City Council hereby authorizes the Board to exercise all of the powers of the City under Chapter 380, Texas Local Government Code, as amended.

SECTION 4. DURATION OF THE ZONE. The Zone shall take effect immediately upon the passage and approval of this Ordinance. The Zone shall terminate on December 31, 2054 (with final year's tax due by January 31, 2055), unless otherwise terminated in accordance with this section. The City shall have the right to terminate the Zone prior to the expiration of its stated term if all of the **PROJECT COSTS** have been paid in full. If upon expiration of the stated term of the Zone, **PROJECT COSTS** have not been paid, the City, County, and College, shall have no obligation to pay the shortfall.

SECTION 5. TAX INCREMENT BASE. The "tax increment base" for purposes of calculating the **CITY TIRZ INCREMENT**, and if the County participates in the Zone the **COUNTY TIRZ INCREMENT**, and if the College participates in the Zone the **COLLEGE TIRZ INCREMENT**, means the total appraised value of all real property in the Zone that is taxable by the City, the County, and the College respectively, as of January 1, 2024.

SECTION 6. CAPTURED APPRAISED VALUE. The "captured appraised value" for purposes of calculating the annual **CITY TIRZ INCREMENT**, and if the County participates in the Zone the **COUNTY TIRZ INCREMENT**, and if the College participates in the Zone the **COLLEGE TIRZ INCREMENT**, means the total real property value taxable (including increase tax values attributable to changes in use) by a taxing unit for a year and located in the Zone for that year less the tax increment base of the unit.

SECTION 7. TAX INCREMENT FUND. There is hereby created and established a **TIRZ NO. 1 FUND** for the Zone. Within the **TIRZ NO. 1 FUND**, there may be maintained subaccounts as necessary and convenient to carry out the purposes of the Act. The **CITY TIRZ INCREMENT**,

COUNTY TIRZ INCREMENT, and **COLLEGE TIRZ INCREMENT** shall be deposited into the **TIRZ NO. 1 FUND** as of the effective date of the Zone. The **TIRZ NO. 1 FUND** and all subaccounts 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. Prior to termination of the Zone, funds shall be disbursed from the **TIRZ NO. 1 FUND** only to pay **PROJECT COSTS**.

The **TIRZ NO. 1 FUND** shall consist of (i) the percentage of the tax increment, as defined by Section 311.012(a) of the Texas Tax Code, that each taxing unit which levies real property taxes in the Zone, other than the City, has elected to dedicate to the **TIRZ NO. 1 FUND** under an agreement with the City authorized by Section 311.013(f) of the Texas Tax Code, and (ii) fifty percent (50%) of the City's tax increment as defined by section 311.012(a) of the Texas Tax Code (**CITY TIRZ INCREMENT**), subject to any binding agreement executed at any time by the City that pledges a portion of such tax increment or an amount of other legally available funds whose calculation is based on receipt of any portion of such tax increment.

SECTION 8. SEVERABILITY. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no provision of this Ordinance shall become inoperative because of the invalidity of another provision; and, therefore, all provisions of this Ordinance are declared severable for that purpose.

SECTION 9. OPEN MEETINGS. It is hereby found, determined, and declared that 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 Texas Open Meetings Act, Chapter 551 of the Texas Government Code, as amended, 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 10. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage as provided by law.

First Reading November 12, 2024.

PASSED, APPROVED and ADOPTED this the **25th** day of **November 2024** at a regular meeting of the City Council of the City of Athens, Texas, with the following record vote:

Aaron Smith, Mayor	Aye
SyTanna Freeman, Mayor Pro Tem	Aye
Mark Carroll, Councilmember	Aye
Cody Craig, Councilmember	Aye
Bryan Barker, Councilmember	Aye
Voted in favor of the motion	5
Voted against the motion	0
Motion carried	5-0

Aaron Smith, Mayor

ATTEST:

Bonnie Hambrick, City Secretary

Effective: _____

APPROVED AS TO FORM AND LEGALITY:

City Attorney

EXHIBIT A
PROPERTY DEPICTION

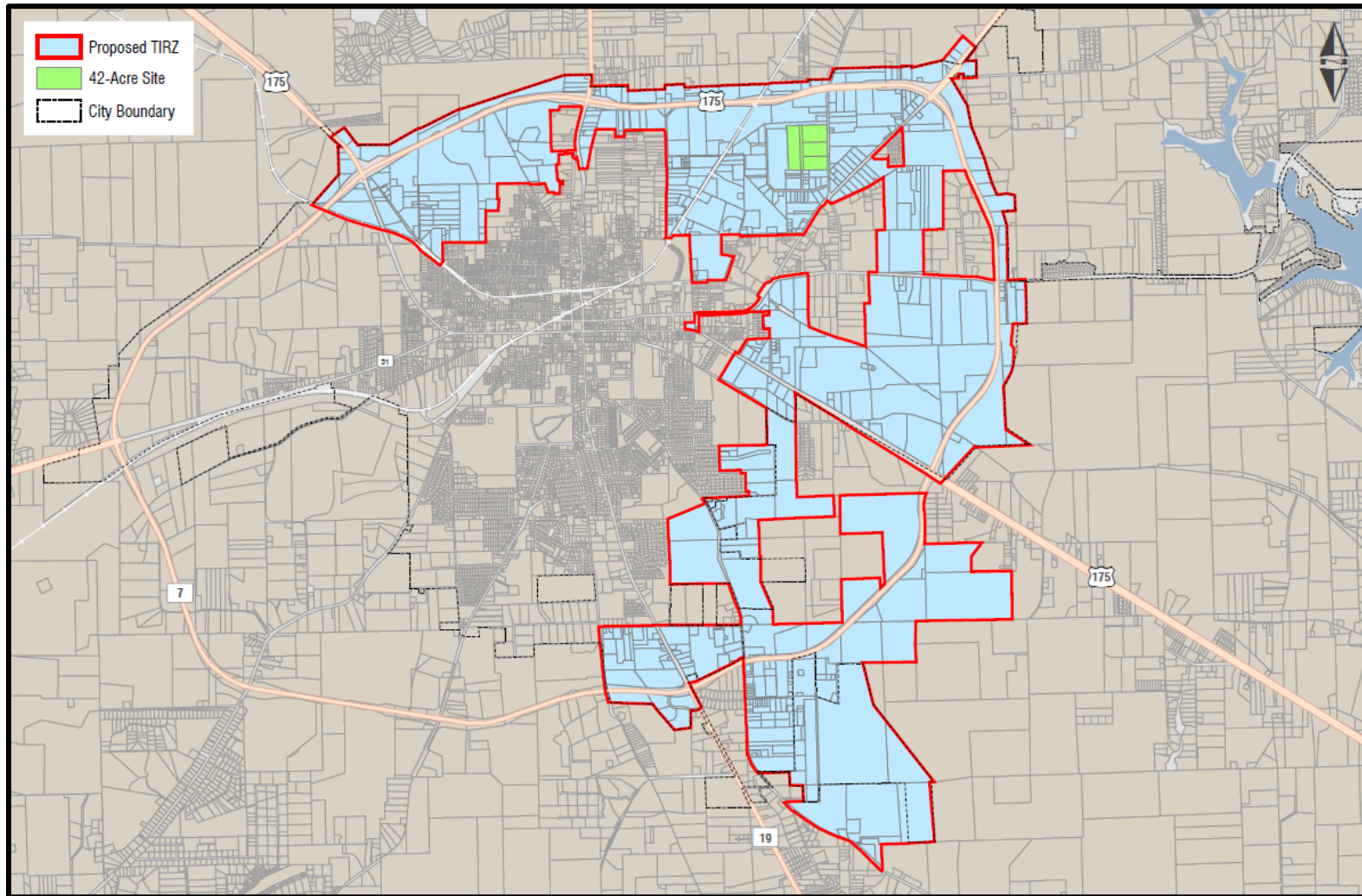


EXHIBIT B

PRELIMINARY PROJECT AND FINANCE PLAN

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