

AN ORDINANCE 2010-05-13-0429

**AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING AMONG THE CITY, TAX INCREMENT REINVESTMENT ZONE NUMBER THIRTY-ONE, CITY OF SAN ANTONIO, TEXAS BOARD OF DIRECTORS, AND THE SAN ANTONIO RIVER AUTHORITY, FOR DEVELOPMENT OF A MASTER PLAN FOR THE MIDTOWN TIRZ.**

\* \* \* \* \*

**WHEREAS**, tax increment financing is an economic development tool authorized by the Tax Increment Financing Act, Texas Tax Code, Chapter 311; and

**WHEREAS**, the City recognizes the importance of its continued role in economic development, community development, planning and urban design; and

**WHEREAS**, in accordance with the Act and by Ordinance Number 2008-12-11-1134, dated December 11, 2008, the City created Tax Increment Reinvestment Zone Number Thirty-One, City of San Antonio, Texas (the "Midtown TIRZ"), a Board to oversee operation of the TIRZ, and the Midtown TIF Fund; and

**WHEREAS**, the Board continues to support the City in its revitalization activities for Midtown and actively participates in the development of Midtown TIRZ Projects; and

**WHEREAS**, at the Board's meeting of September 14, 2009, the San Antonio River Authority (the "Authority") offered to facilitate the creation of a Master Plan to guide development in the Midtown TIRZ and to provide oversight and upfront financing for the Master Plan in lieu of becoming a participating taxing entity in the TIRZ; and

**WHEREAS**, the Authority, at their meeting of October 14, 2009, approved the execution of a Memorandum of Understanding ("MOU") in substantial form among itself, the City, and the Midtown TIRZ Board for development of a Master Plan for the Midtown TIRZ; and

**WHEREAS**, the Board, at their meeting of April 27, 2010, approved the execution of the Memorandum of Understanding ("MOU") among the same parties; and

**WHEREAS**, pursuant to the MOU, the Authority will provide in-kind support and up to \$310,000 for development of the Master Plan and will oversee the planning consultant and the City will be reimbursed up to \$40,000 from the Midtown TIF Fund for its efforts in developing the Midtown TIRZ Master Plan; and

**WHEREAS**, any sums owed the City will be reimbursed from the Midtown TIRZ Fund before the Authority; and

**WHEREAS**, 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.** The City Council approves the Memorandum of Understanding, as approved in substantially final form by the San Antonio River Authority on February 18, 2010 and by the TIRZ Board on April 27, 2010. A copy of the Memorandum of Understanding is attached and incorporated into this Ordinance as Exhibit A. The City Manager or her designee is authorized to execute the Memorandum to fulfill the purpose and intent of this Ordinance and to implement the goals of the Midtown TIRZ.

**SECTION 2.** The financial allocations of this Ordinance are subject to approval by the Chief Financial Officer ("CFO"), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, create, direct, and correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

**SECTION 3.** Reimbursement to the City and the San Antonio River Authority under this Memorandum of Agreement will come solely from the Midtown TIRZ Fund. Funding for the Master Plan is contingent upon the development of a Final Project Plan and a Final Finance Plan approved by the TIRZ Board and City Council. All parties to the Memorandum agree that the City will receive first priority when making distributions from the Midtown TIRZ Fund and the San Antonio River Authority will receive second priority.

**SECTION 4.** The statements set out in the recitals of this Ordinance are true and correct and are incorporated as part of this Ordinance.

**SECTION 5.** 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 6.** This Ordinance shall take effect immediately upon passage by eight (8) affirmative votes; otherwise, it shall be effective ten (10) days after its passage.

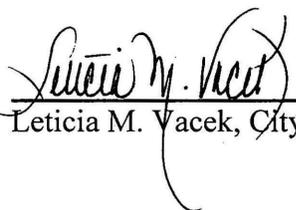
ACW  
5/13/10  
Item No. 30

**PASSED AND APPROVED** this 13<sup>th</sup> day of May, 2010.



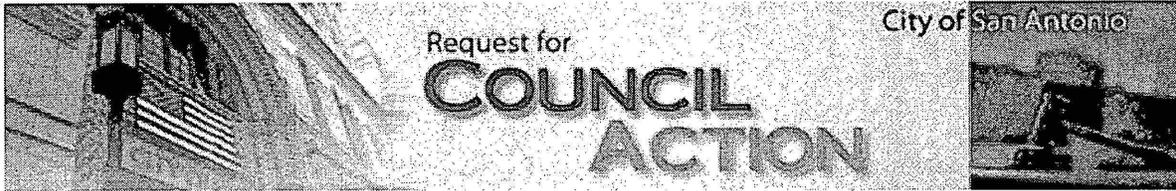
**M A Y O R**  
Julián Castro

**ATTEST:**

  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
for Michael D. Bernard, City Attorney



### Agenda Voting Results - 30

<b>Name:</b>	30						
<b>Date:</b>	05/13/2010						
<b>Time:</b>	04:19:01 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing a Memorandum of Understanding between the City of San Antonio, San Antonio River Authority and the MidTown Tax Increment Reinvestment Zone Number 31 Board of Directors. [Pat DiGiovanni, Deputy City Manager / Interim Director, Center City Development]						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1	x					
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7	x					
W. Reed Williams	District 8	x					
Elisa Chan	District 9		x			x	
John G. Clamp	District 10		x				x

ACW  
5/13/10  
Item No. 30

**Exhibit A**

**Midtown TIRZ  
Memorandum of Understanding among the City, the Midtown TIRZ Board,  
and the San Antonio River Authority**

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into this \_\_\_ day of \_\_\_\_\_, 2010, among the **San Antonio River Authority**, a political subdivision of the State of Texas ("RIVER AUTHORITY"); the **City of San Antonio, Texas** a home rule municipality situated within Bexar County, Texas ("CITY"); and the **Board of Directors of Tax Increment Reinvestment Zone Number Thirty-One, City of San Antonio, Texas** ("BOARD"). The RIVER AUTHORITY, CITY, and BOARD may hereinafter be referred to collectively as the "Parties."

1. The Parties have joined together to develop a Master Plan for the redevelopment of the Tax Increment Reinvestment Zone Number Thirty-One, City of San Antonio, Texas (Midtown TIRZ). The Midtown TIRZ was designated by the San Antonio City Council on December 11, 2008 in order to assist revitalization and reinvestment initiatives within the TIRZ. Creation of a Midtown Master Plan is the first step in identifying and prioritizing required public infrastructure improvements needed to support responsible and sustainable economic development within the TIRZ. The Midtown Master Plan will serve as the CITY's foundation in defining development incentives and standards that encourage long-term, high quality investment within the Midtown TIRZ. The Parties seek to create a viable and lively district of economic, cultural, educational, residential, and entertainment activity within the TIRZ by implementing the positive, sustainable public development identified in the Midtown Master Plan.
  
2. The RIVER AUTHORITY will not contribute tax increment to the Tax Increment Financing (TIF) Fund for the Midtown TIRZ. However, in lieu of contributing tax increment to the Midtown TIRZ, the RIVER AUTHORITY shall provide financial support to the Midtown TIRZ by providing at their own cost in-kind services and making initial payment to parties hired by the RIVER AUTHORITY to support development of the Midtown Master Plan. The RIVER AUTHORITY shall serve as lead agency with the CITY in the development of the Midtown Master Plan. The RIVER AUTHORITY at a minimum shall provide or contract for the maximum development and the complete utilization of all soil and water resources of the Midtown TIRZ, including technical support or expertise in:
  - Native/San Antonio architecture and design
  - Innovative financing
  - Inner city redevelopment
  - Light imprint/low impact development in an urban watershed
  - Multi-modalism
  - Connections/integration of areas in an urban context
  - Economic, cultural, educational, residential and entertainment activity and
  - Practical urban design

The RIVER AUTHORITY shall be able to appoint two (2) representatives to serve on the Oversight Subcommittee that recommends the planning consultant to be selected, establishes the Midtown Master Plan schedule and reviews the adequacy of all deliverables.

3. The CITY shall support the public process in developing the Midtown Master Plan by conducting and facilitating meetings of the Midtown Planning Team. The CITY shall submit a list of entities, businesses, and neighborhoods that are necessary for a successful Midtown Planning Team. The BOARD shall review and approve the CITY's initial list of entities, businesses, and neighborhoods and any amendments thereto. The CITY shall be responsible for selecting the particular representatives to serve on the Midtown Planning Team from the BOARD's approved list of entities, businesses, and neighborhoods.

The CITY shall be able to appoint two (2) representatives to serve on the Oversight Subcommittee that recommends the planning consultant to be selected, establishes the Midtown Master Plan schedule and reviews the adequacy of all deliverables.

The BOARD agrees to reimburse the CITY for its planning services in developing the Midtown Master Plan in an amount not to exceed Forty Thousand Dollars (\$40,000.00). The BOARD agrees to reimburse the CITY from the TIF Fund established for the Midtown TIRZ. The Parties each agree that all payments to the CITY shall receive first priority when making distributions from the Midtown TIF Fund. The CITY shall submit an invoice for the planning services it provided in developing the Midtown Master Plan to the CITY's TIF Unit. The CITY's TIF Unit shall review the submitted invoices and recommend reimbursement to the BOARD accordingly. The BOARD shall authorize any reimbursement made to the CITY from the Midtown TIF Fund. The Parties anticipate that reimbursement to the CITY for its Midtown planning services will commence in 2012 and will be completed by 2015; however, the Parties recognize that tax increment projections are not guaranteed.

4. The BOARD will create an Oversight Subcommittee that will recommend the planning consultant to be selected, establish the Midtown Master Plan schedule and review the adequacy of all deliverables. The BOARD will appoint five (5) members of the BOARD to serve on the Oversight Subcommittee. The Oversight Subcommittee shall report on the Midtown Master Plan status at each meeting of the BOARD until the Midtown Master Plan has been adopted by the CITY Council.
5. Consistent with such goals, the Parties through the Oversight Subcommittee will cooperate in preparing a Request for Proposal, which is to be issued by the RIVER AUTHORITY, seeking planning services for the Midtown TIRZ. The Request for Proposal will include the criteria to be used in evaluating the submitted responses to the proposal. The RIVER AUTHORITY will base the Request for Proposal on the Scope of Work for the Master Plan

developed by the BOARD. The Parties anticipate that the RIVER AUTHORITY will release the Request for Proposal in mid-February 2010.

6. The RIVER AUTHORITY will forward all submitted responses to the Request for Proposal to the other members of the Oversight Subcommittee for their evaluation. The Oversight Subcommittee will meet to recommend the consultant best suited to provide the requested planning services. The RIVER AUTHORITY will then contract with the consultant for the necessary planning services.
7. The Scope of Work to be provided by the selected consultant will be outlined in a Professional Services Agreement to be executed by the RIVER AUTHORITY. Under this Memorandum of Understanding and the Professional Services Agreement, the total compensation to be paid to the selected consultant shall not exceed the sum of Three Hundred Ten Thousand Dollars (\$310,000.00). The Parties recognize that the RIVER AUTHORITY will provide at their own cost in-kind support to the planning process that will not be compensated. The Parties anticipate that the master planning effort will be concluded by mid-October 2010 with CITY Council approval of the Midtown Master Plan to follow.
8. The Parties agree that the compensation to be paid to the consultant selected by the RIVER AUTHORITY to support development of the Midtown Master Plan shall be paid by the RIVER AUTHORITY. The RIVER AUTHORITY shall be responsible for determining whether the services required to be performed by the selected consultant under the Professional Services Agreement have in fact been completed and delivered, and whether to accept such services and issue payment for such services. The BOARD and the CITY each agree to reimburse the RIVER AUTHORITY for payments made under the Professional Services Agreement up to an amount not to exceed the sum of Three Hundred Ten Thousand Dollars (\$310,000.00). The BOARD and the CITY agree to reimburse the RIVER AUTHORITY from the TIF Fund established for the Midtown TIRZ. The Parties each agree that payments to the CITY shall receive first priority when making distributions from the Midtown TIF Fund. The BOARD and the CITY also agree that the RIVER AUTHORITY shall receive second priority when making distributions from the Midtown TIF Fund to reimburse the RIVER AUTHORITY for work done under the Professional Services Agreement and that no other entity, but the CITY, shall receive a higher or equal priority. The RIVER AUTHORITY shall submit an executed copy of the Professional Services Agreement and proof of their payments made under the Professional Services Agreement to the CITY's TIF Unit. The CITY shall review the RIVER AUTHORITY's documented payments and recommend reimbursement to the BOARD accordingly. The BOARD shall authorize any reimbursement made to the RIVER AUTHORITY from the Midtown TIF Fund. The Parties anticipate that reimbursement to the RIVER AUTHORITY will commence in 2012 and will be completed by 2015; however, the Parties recognize that tax increment projections are not guaranteed.

9. The RIVER AUTHORITY agrees to reexamine its status as a participating taxing entity in the Midtown TIRZ given the results of the Midtown Master Plan, the prioritization of projects within the Midtown TIRZ, and the RIVER AUTHORITY's then current policy for TIRZ participation.
10. The Parties agree that if reimbursement to the RIVER AUTHORITY from the Midtown TIF Fund is not completed by December 2015, then they will reexamine the options for payment in full to the RIVER AUTHORITY for the planning services provided the Midtown TIRZ.
11. The BOARD and the CITY each acknowledge and understand that they will have no rights or benefits under the Professional Services Agreement other than those afforded a third party beneficiary, and each agrees that the RIVER AUTHORITY shall be the sole party with the right to enforce the terms and provisions of the Professional Services Agreement.

Singular and Plural: Words used herein in the singular, where the context so permits, also include the plural and vice versa, unless specified otherwise.

This Memorandum of Understanding is entered into this \_\_\_ day of \_\_\_\_\_, 2010.

SAN ANTONIO RIVER AUTHORITY:

CITY OF SAN ANTONIO:

\_\_\_\_\_  
**SUZANNE B. SCOTT**

General Manager

Date: \_\_\_\_\_

\_\_\_\_\_  
**PAT DIGIOVANNI**

Deputy City Manager

Date: \_\_\_\_\_

TAX INCREMENT REINVESTMENT  
 ZONE THIRTY-ONE, CITY OF SAN  
 ANTONIO, TEXAS:

\_\_\_\_\_  
**LOUIS J. FOX**

Presiding Officer

Date: \_\_\_\_\_

ATTEST:

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APPROVED AS TO LEGAL FORM:

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**Michael Bernard**

City Attorney

City of San Antonio, Texas

Date: \_\_\_\_\_

APPROVED AS TO FINANCIAL CONTENT:

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**Memorandum of Understanding**

Among the San Antonio River Authority,

Tax Increment Reinvestment Zone Number Thirty-One, San Antonio, Texas, and

The City of San Antonio, Texas.

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