

2018-2019 BUDGET QUESTION
Response to Request for Information

DEPARTMENT: Law and Financial Services

REQUEST NO.: 206

REQUESTED BY: Tovo

DATE REQUESTED: 9/6/18

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REQUEST: Can the City cash fund the following from Tax Increment Reinvestment Zones (TIRZ):

- a) Homeless Shelters;
- b) Transitional Housing for homeless people;
- c) Permanent supportive housing for homeless people;
- d) Affordable Housing

Can the City issue non-voter approved debt to finance any of the above, either services or improvements?

RESPONSE: City staff, in response to Resolution No. 20180614-066, related to funding for homeless initiatives, is currently working on an overall plan related to homelessness, including potential funding sources, such as funding from Tax Increment Reinvestment Zones (TIRZ). City Council was provided an update memo on August 10th, titled, "Comprehensive Memo regarding Homelessness Topics", which provides information regarding the status of the work. The memo can be found here:

<http://www.austintexas.gov/edims/pio/document.cfm?id=303465>

In general, the City can use the "pay as you go" model (cash funding) to set aside a portion of TIRZ revenues on an annual basis for homeless shelters, transitional housing for homeless people, permanent supportive housing for homeless people, or affordable housing projects. These types of uses would need to be included in the TIRZ project and finance plan approved by council. This model is used by other Texas cities, including Dallas. Under this "pay as you go" model, projects would need to benefit the TIRZ, although the projects can be either in the boundaries of the area that is subject to the TIRZ, or in an area that would provide a benefit to the TIRZ area, but outside the boundaries. (See below for how this applies to Waller Creek TIRZ #17).

Texas law supports the position that providing capital investments for facilities owned by a city to serve people experiencing homelessness is a municipal purpose, as these facilities would protect the public health and safety of the City's citizens. Bond counsel has confirmed that the City can issue non-voter approved property tax backed debt and available City revenues, including TIRZ revenues (to the extent supported by, and authorized in a TIRZ Project and Financing Plan approved by council), to finance these capital investments as they relate to Homeless Shelters and Transitional Housing for homeless people. Bond counsel would need to work with the Public Finance Division of the Attorney General before proceeding with this use of non-voter approved property tax backed debt to ensure that this Division will approve the debt. The debt cannot be used to fund services, only capital projects.

The Texas Constitution prohibits the use of non-voter approved property tax-back debt (such as Certificates of Obligation) for economic development. Economic development includes affordable housing. Due to this legal framework associated with property tax-backed debt for affordable housing, the City cannot issue Certificates of Obligation, even if they are backed by Tax Increment Financing revenues (the funds that are generated in a TIRZ), for affordable housing. This may also apply to use of this type of debt for permanent supportive housing for homeless people. If there is a particular project that council decides to consider, staff can work with Bond Counsel to review the project with the Attorney General's Office.

Waller Creek TIRZ #17

The recent Amendment No. 2 to the Waller Creek TIRZ #17 approved by City Council in May 2018 will provide up to \$110 million in debt financing for build-out of the Waller Creek Chain of Parks. Per the Project and Financing Plan approved as part of this amendment, the issuance of this \$110 million would occur over the next seven years. Staff indicated that the TIRZ could also support an additional \$30 million in debt to support other capital improvements – including for homelessness – in the TIRZ. As with the \$110 million, this additional \$30 million cannot all be issued immediately, but could be available over the next seven years.

Annual revenue into the Waller Creek TIRZ is dedicated to paying debt service for the original \$106 million owed for the Waller Creek Tunnel project and \$110 million in debt for the Waller Creek Chain of Parks. Because the TIRZ revenue is dedicated to supporting these debt service payments, annual revenue is not available to fund “pay as you go” or “cash funded” programs in the TIRZ, until all debt has been repaid.