

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Economic and International Development

AGENDA DATE: 3/31/2015

CONTACT PERSON/PHONE: Cary Westin, Economic Development, 212-1614

DISTRICT(S) AFFECTED: 1

SUBJECT:

That the City Manager be authorized to execute an amendment to an existing Chapter 312 Tax Abatement Agreement by and between the **CITY OF EL PASO, TEXAS**, a Texas home rule municipal corporation, and Edgar Lopez, the property owner, for the construction of a 5,380 square feet quadraplex rental housing development at 2308 Wheeling, El Paso, Texas, 79930. **(DISTRICT 1) [Cary S. Westin, Economic Development, 212-1614]**

BACKGROUND/DISCUSSION:

The applicant, Edgar Lopez, is proposing an amendment to an existing Chapter 312 Tax Abatement Agreement due to a clerical error written in the agreement, which was executed in 2012. The amendment includes a change in the term of the agreement from five to seven years, and removing the references in the term of the agreement to the years 2012, 2013, 2014, 2015, and 2016. The purpose of the amendment is to allow the applicant to recoup the lost property tax abatement due to the clerical error.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes. On 8/24/10, City Council adopted and on 11/16/10 & 11/16/13 amended the Infill Development Incentive Policy. Subsequently, City Council approved a resolution authorizing the City Manager to sign an agreement between the City of El Paso and:

- 4/10/12: 2308 Wheeling Ave, 79930; 4-plex rental housing
- 4/2/13: 540 S. Yarbrough Dr. 79915; 26-unit apartment complex
- 4/2/13: 2431 Yandell Dr., 79903; ft. office space
- 8/13/13: 2413 Tremont Ave., 79930; 12-unit apartment complex
- 11/12/13: 4301 E. Missouri, 79903; 18-unit apartment complex
- 12/3/2013: 5000 Riley Ct., 79924; 10-unit apartment complex
- 7/21/2014: 1423 Missouri Ave. 79902; commercial office space
- 9/2/2014: 1217 Magoffin Ave. 79901; mixed use
- 10/22/2014: 1731 Myrtle. 79901; warehouse
- 12/11/2014: 6801 N. Mesa. 79912; retail, office, and restaurant space.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

BOARD/COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____

(Example: If RCA is initiated by Purchasing, client department

should sign also). *Information copy to appropriate Deputy City Manager*

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to execute a First Amendment to the Tax Abatement Agreement between the City of El Paso and Edgar Lopez, a property owner, pursuant to the City's Infill Development Incentive Policy, for the construction of a multi-family rental property and development to be located at 2308 Wheeling Avenue.

APPROVED this ____ day of _____, 2015.

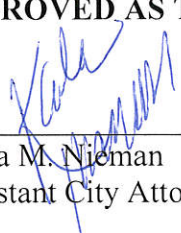
CITY OF EL PASO

ATTEST:

Oscar Leaser
Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:



Cary S. Westin, Managing Director
Economic & International Department

STATE OF TEXAS § **FIRST AMENDMENT TO TAX ABATEMENT**
 § **AGREEMENT**
 COUNTY OF EL PASO § (Infill Development Incentive Policy)

This First Amendment to Tax Abatement Agreement (“Amendment”) is made this ____ day of _____ 2015, by and between the **CITY OF EL PASO, TEXAS** (the “CITY”) and **EDGAR LOPEZ** (the “APPLICANT”).

WHEREAS, on **April 10, 2012**, the CITY and the APPLICANT entered into a Tax Abatement Agreement (the “Agreement”) related to infill development incentives for the construction of a quadraplex rental housing development on 2308 Wheeling in El Paso, Texas; and

WHEREAS, the parties now desire to amend the Agreement for the purpose of amending the definition of “Term” as it is used in the agreement, which is necessary to properly administer the grant application process.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL COVENANTS AND AGREEMENTS, THE PARTIES HEREBY MUTUALLY AGREE AS FOLLOWS:

Section 1: On page 3, Section 2, Definitions, subsection J is revised to read as follows:

Term. The word “Term”, when used in reference to the term of this Agreement, shall mean a period not exceed seven (7) years from the Effective Date of this Agreement.

Section 2: On page 4, Section 4. Abatement Period, subsection A is revised to read as follows:

The tax abatement period in which the APPLICANT is eligible for REAL PROPERTY abatement shall be five (5) consecutive years, with the first year of abatement being the first tax year that begins after: (i) the issuance of the Certificate of Occupancy for the REAL PROPERTY; and, (ii) the APPLICANT having met the investment amount noted in subsection B, Table 1 below, subject to verification by the CITY and inspection of the REAL PROPERTY to ensure compliance with the Infill Development Incentive Policy requirements. Failure of the APPLICANT to receive its Certificate of Occupancy and meet its investment requirement within two (2) years of the Effective Date of this Agreement shall result in the immediate termination of this Agreement without any further action required by the CITY.

Section 3: On page 5, Deleting the references to years 2012, 2013, 2014, 2015, and 2016

IN WITNESS WHEREOF, the CITY and APPLICANT have executed this First Amendment to the Agreement as of the date first written above.

CITY OF EL PASO

Tomás González, City Manager

APPROVED AS TO FORM:



Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:



Cary S. Westin, Managing Director
Economic & International Development

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the ____ day of _____, 2015, by Tomás González, as City Manager of the City of El Paso, Texas, on behalf of the City of El Paso, Texas (City).

Notary Public, State of Texas

My Commission Expires:

APPLICANT: EDGAR LOPEZ

[Signature]
Edgar Lopez
Date: FEB. 24 - 2015

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 24th day of February, 2015, by Edgar Lopez, (APPLICANT).

[Signature]
Notary Public, State of TEXAS

My Commission Expires:

11-24-2017





Infill Development Program

Applicant: Edgar Lopez

District: 1

Project Address:

2308 Wheeling Ave
El Paso, TX 79930

Strategic Goal 1:


Create an Environment Conducive to
Strong, Sustainable Economic Development

1.1 – Stabilize & Expand El Paso's tax base





2308 Wheeling Background Information

- Applicant requests an amendment to existing Chapter 312 Property Tax Abatement Agreement due to ***clerical error***, to recoup loss property tax abatements.
- All current infill development agreements provide a term of **seven years**.
 - 2 years max to complete construction & obtain certificate of occupancy
 - 5 consecutive years to receive property tax abatements.
- 2308 Wheeling agreement ***incorrectly states*** the term of the agreement is **five years**.
- The agreement also ***incorrectly states*** the 1st year of property tax abatement is in 2012, when the agreement was executed. 



2308 Wheeling Proposed Amendment

- Change the term of agreement from five years to seven years to account for construction time, and receipt of certificate of occupancy.
- Provide five consecutive years of property tax abatements.
- Remove reference to years 2012, 2013, 2014, 2015, and 2016.