

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

DEPARTMENT: Economic and International Development

AGENDA DATE: Introduction: December 12, 2017
Public Hearing: December 19, 2017

CONTACT PERSON/PHONE: Jessica L. Herrera, Economic & International Development 212-1624

DISTRICT(S) AFFECTED: 1

SUBJECT:

An ordinance of the City Council of El Paso, Texas, designating a noncontiguous geographic area within the city as a reinvestment zone pursuant to Chapter 311 of the Texas Tax Code, to be known as reinvestment zone number ten. [Economic Development, Jessica L. Herrera (915) 212-1624]

BACKGROUND/DISCUSSION:

The City of El Paso desires to promote the development of a certain noncontiguous geographic area in the City, which is more specifically described in Exhibits "A" and "B" of this Ordinance (the "Zone"), through the creation of a new reinvestment zone as authorized by and in accordance with the Tax Increment Financing Act, codified at Chapter 311 of the Texas Tax Code, for the purposes of stimulating specified economic activity within the defined zone.

PRIOR COUNCIL ACTION:

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

Yes:

On May 16, 2017, the City of El Paso City Council created Tax Increment Reinvestment Zone Number Nine. The purpose of Tax Increment Reinvestment Zone Number Nine is to fund a portion of the construction costs and maintenance costs associated with the Eastside Sports Complex as well as other public spaces and infrastructure.

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?

Incremental Property Tax Values derived from the Tax Increment Reinvestment Zone (TIRZ) No. 10.

BOARD/COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD: _____

(Example: If RCA is initiated by Purchasing, client department should sign also). *Information copy to appropriate Deputy City Manager*

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, DESIGNATING A NONCONTIGUOUS GEOGRAPHIC AREA WITHIN THE CITY AS A REINVESTMENT ZONE PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE, TO BE KNOWN AS REINVESTMENT ZONE NUMBER TEN, CITY OF EL PASO; DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE; ESTABLISHING A TAX INCREMENT 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 El Paso, 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 Act provides that the governing body of a municipality by ordinance may designate a noncontiguous geographic area that is in the corporate limits of the municipality to be a reinvestment zone if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future; and

WHEREAS, the City Council desires to promote the development of a certain noncontiguous geographic area in the City, which is more specifically described in *Exhibits "A" and "B"* of this Ordinance (the "Zone"), through the creation of a new reinvestment zone as authorized by and in accordance with the Tax Increment Financing Act, codified at Chapter 311 of the Texas Tax Code; and

WHEREAS, pursuant to and as required by the Act, the City has prepared a *Preliminary Reinvestment Zone Project Plan and Financing Plan for Reinvestment Zone Number Ten, City of El Paso*, attached as *Exhibit C* (hereinafter referred to as the "Preliminary Project and Finance Plan") for a proposed tax increment reinvestment zone containing the real property within the Zone; and

WHEREAS, notice of the public hearing on the creation of the proposed zone was published in a newspaper having general circulation in the City on December 8, 2017, which date is before the seventh (7th) day before the public hearing held on December 19, 2017; and

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WHEREAS, at the public hearing on December 19, 2017, 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; the public hearing was held in full accordance with Section 311.003(c) of the Act; and

WHEREAS, evidence was received and presented at the public hearing on December 19, 2017, and in favor of the creation of the Zone; and

WHEREAS, after all comments and evidence, both written and oral, were received by the City Council, the public hearing was closed on December 19, 2017; and

WHEREAS, the City has taken all actions required to create the Zone including, but not limited to, all actions required by the home-rule Charter of the City, the Act, the Texas Open Meetings Act (defined herein), and all other laws applicable to the creation of the Zone; and

WHEREAS, the percentage of the property in the proposed zone, excluding property that is public owned, that is used for residential purposes is less than thirty percent; and

WHEREAS, a Preliminary Project and Finance plan has been prepared for the proposed reinvestment zone.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, THAT:

SECTION 1. RECITALS INCORPORATED.

The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

SECTION 2. FINDINGS.

That the City Council, after conducting the above described hearing and having heard the evidence and testimony presented at the hearing, has made the following findings and determined based on the evidence and testimony presented to it:

(a) That the public hearing on creation of the proposed reinvestment zone has been properly called, held, and conducted and that notice of such hearing has been published as required by law; and

(b) That the creation of the proposed reinvestment zone with boundaries as described and depicted in *Exhibits "A" and "B"* will result in benefits to the City, its residents and property owners, in general, and to the property, residents, and property owners in the reinvestment zone; and

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(c) That the proposed reinvestment zone, as defined in *Exhibits "A" and "B"*, meets the criteria for the creation of a reinvestment zone set forth in the Act in that:

1. It is a geographic area located wholly within the City limits of the City; and
2. That the City Council further finds and declares that the proposed zone meets the criteria and requirements of Section 311.005 of the Texas Tax Code because the proposed zone is predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the City or county.

(d) That 30 percent or less of the property in the proposed reinvestment zone, excluding property dedicated to public use, is currently used for residential purposes; and

(e) That the total appraised value of all taxable real property in the proposed reinvestment zone according to the most recent appraisal rolls of the City, together with the total appraised value of taxable real property in all other existing reinvestment zones within the City, according to the most recent appraisal rolls of the City, does not exceed 25 percent of the current total appraised value of taxable real property in the City and in the industrial districts created by the City, if any; and

(f) That the improvements in the proposed reinvestment zone will significantly enhance the value of all taxable real property in the proposed reinvestment zone and will be of general benefit to the City or county; and

(g) That the development or redevelopment of the property in the proposed reinvestment zone will not occur solely through private investment in the reasonable foreseeable future.

SECTION 3. 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 area described and depicted in Exhibits "A" and "B" hereto as a tax increment reinvestment zone. The name assigned to the zone for identification is Reinvestment Zone Number Ten, City of El Paso, Texas (hereinafter referred to as the "Zone").

SECTION 4. BOARD OF DIRECTORS.

That a board of directors for the Zone ("Board") is hereby created. The Board shall consist of nine (9) members comprised of City Council members from Places 1 through 8 and the Mayor. The Mayor shall serve as chairman of the Board and the Board may elect a vice chairman and such other officers as the Board sees fit. Additionally, each taxing unit that levies taxes within the Zone and chooses to contribute all or part of the tax increment

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produced by the unit into the tax increment fund may appoint one member of the board. The number of directors on the Board of Directors shall be increased by one for each taxing unit that appoints a director to the board; provided, that the maximum number of directors shall not exceed fifteen (15).

The Board shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board shall prepare and adopt a project plan and a reinvestment zone financing plan for the Zone and submit such plans to the City Council for its approval. The Board shall perform all duties imposed upon it by Chapter 311 of the Texas Tax Code and all other applicable laws. Notwithstanding anything to the contrary herein, the Board shall not be authorized to (i) issues bonds; (ii) impose taxes or fees; (iii) exercise the power of eminent domain, or (iv) give final approval to the Zone's project plan and financing plan.

SECTION 5. DURATION OF THE ZONE.

That the Zone shall take effect immediately upon the passage and approval of this Ordinance, consistent with Section 311.004(a)(3) of the Act, and termination of the Zone shall occur upon any of the following: (i) on December 31, 2048; (ii) at an earlier time designated by subsequent ordinance; (iii) at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, notes and other obligations of the Zone, and the interest thereon, have been paid in full, in accordance with Section 311.017 of the Act.

SECTION 6. TAX INCREMENT BASE AND TAX INCREMENT.

That a tax increment fund for the Zone (the "TIF Fund") is hereby established. The TIF Fund may be divided into additional accounts and sub-accounts authorized by resolution or ordinance of the City Council. The TIF Fund shall consist of (i) the percentage of the tax increment, as defined by Section 311.012(a), 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 TIF Fund under an agreement with the City authorized by Section 311.013(f), Texas Tax Code, plus (ii) one-hundred percent (100%) of the City's available portion of the tax increment, as defined by section 311.012(a), Texas Tax Code, 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. The TIF Fund shall be maintained in an account at the depository bank of the City and shall be secured in the manner prescribed by law for Texas cities. In addition, all revenues from (i) the sale of any obligations hereafter issued by the City and secured in whole or in part from the tax increments; (ii) the sale of any property acquired as part of a tax increment financing plan adopted by the Board; and (iii) other revenues dedicated to and used in the Zone shall be deposited into the TIF Fund. Prior to the termination of the Zone, money shall be disbursed from the Tax Increment Fund only to pay project costs, as defined by the Texas Tax Code, for the Zone, to satisfy the claims of holders of tax increments bonds or notes issued for the Zone, or to pay obligations incurred pursuant to agreements entered

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into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010(b), Texas Tax Code.

SECTION 7. TAX INCREMENT FUND.

That there is hereby created and established a "Tax Increment Fund" for the Zone which may be divided into such subaccounts as may be authorized by subsequent ordinance, into which all tax increments of the City, as such increments are described in the final project plan and reinvestment zone financing plan and may include administration costs, less any of the amounts not required to be paid into the Tax Increment Fund pursuant to the Act, are to be deposited. The Tax Increment Fund and any subaccounts are to be maintained in an account at the affiliated depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. In addition, all revenues to be dedicated to and used in the Zone shall be deposited into such fund or subaccount from which money will be disbursed to pay project costs, plus interest, for the Zone.

SECTION 8. SEVERABILITY CLAUSE.

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

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 Chapter 551 of the Texas Government Code, 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 adoption and publication in accordance with and as provided by law and the City Charter.

ADOPTED this _____ day of December 2017.

(SIGNATURES ON THE FOLLOWING PAGE)

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CITY OF EL PASO

Dee Margo, Mayor

ATTEST:

Laura D. Prine
Interim City Clerk

APPROVED AS TO FORM:



Karla M. Neman
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Jessica Herrera, Director
Economic & International Development

EXHIBIT "A"
BOUNDARY DESCRIPTION

Beginning at the point of intersection of the southern (Right-of-Way) ROW line of Paseo del Norte Drive and the eastern ROW line of N Desert Boulevard, thence
South along the eastern ROW line of N Desert Boulevard to a point where said line intersects with the southern property line of 125195 (Legal Description: 1 EL PASO WEST SLY PT OF 1 (1130.63 FT ON S- IRREG ON W-IRREG ON N-678.11 FT ON E) (13.3152 AC)), thence
East along the southern property line of 125195 (Legal Description: 1 EL PASO WEST SLY PT OF 1 (1130.63 FT ON S- IRREG ON W-IRREG ON N-678.11 FT ON E) (13.3152 AC)) to a point where said line intersects with the southern property line of 313987 (Legal Description: 1 EL PASO WEST PT OF 1 BEG 128.49' N OF SWC (684.25' ON NWLY - 1018.96' ON ELY-IRREG ON SLY-1075.89' ON WLY)), thence
East along the southern property line of 313987 (Legal Description: 1 EL PASO WEST PT OF 1 BEG 128.49' N OF SWC (684.25' ON NWLY - 1018.96' ON ELY-IRREG ON SLY-1075.89' ON WLY)) to a point where said line intersects with the western ROW line of Northwestern Drive, thence
North along the western ROW line of Northwestern Drive to a point where said line intersects with the southern ROW line of Paseo del Norte Drive, thence
West along the southern ROW line of Paseo del Norte Drive to a point where said line intersects with the eastern ROW line of N Desert Blvd, which is the point of beginning.
Save and Except: 2017 Property ID 71487 with legal description: 1 EL PASO WEST PT OF 1 BEG 242.30' S OF NEC (335' ON E - 293.20' ON S - IRREG ON W - IRREG ON N)(4.0210 AC)

EXHIBIT "B"
BOUNDARY MAP



EXHIBIT "C"
PRELIMINARY PROJECT PLAN AND FINANCE PLAN

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