

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

DEPARTMENT: Economic and International Development

AGENDA DATE: CCA May 11, 2021

CONTACT PERSON/PHONE: Jessica L. Herrera-Director, 212-1624

DISTRICT(S) AFFECTED: ALL

SUBJECT:

That the City Manager be authorized to sign the Second Amendment to the City of El Paso Transit Oriented Development Incentive Policy that was approved by City Council on May 30, 2017; extending the effective date of this policy through June 1, 2022.

[Economic and International Development, Jessica L. Herrera, Director, (915) 212-1624]

BACKGROUND/DISCUSSION:

The City's Chapter 380 Transit Oriented Development Incentive Policy is utilized to encourage the construction and renovation of higher density, pedestrian-friendly developments within specified target areas. City Economic Development staff desires to formally extend the term of this policy through June 1, 2022 after which, more-comprehensive, CID planning study-driven amendments will be affected. All other terms and aspects of this policy will remain exactly the same.

PRIOR COUNCIL ACTION:

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

Yes. The associated Chapter 380 Transit Oriented Development Incentive Policy was originally adopted, by City Council action on May 30, 2017.

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*****

Eduardo Garcia

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DEPARTMENT HEAD: _____

RESOLUTION

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

THAT the City Manager be authorized to sign the Second Amendment to the City of El Paso Transit Oriented Development Incentive Policy that was approved by City Council on May 30, 2017; extending the effective date of this policy through June 1, 2022.

APPROVED this _____ day of _____ 2021.

CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Juan S. Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

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For Jessica Herrera, Director
Economic & Int'l Development

Transit Oriented Development Incentive Policy

SECTION I: PURPOSE

The success of the Rapid Transit System (RTS) and the Streetcar Project will hinge on the quality of urban spaces that surround the transit stations, corridors and stops and the nature of development within the defined incentive areas. It is the policy of the City of El Paso to provide incentives within designated Transit-Oriented Development (TOD) incentive areas (more specifically depicted on the maps attached hereto as Exhibit A, the “Transit-Oriented Development Incentive Areas”) to improve mobility and travel choices, spur economic development, support downtown revitalization, and stimulate investment in established neighborhoods.

Transit-Oriented Development is a design and development strategy that links higher-density, walkable neighborhoods to transit stations and corridors. Transit-Oriented Development strengthens the urban fabric that surrounds public transportation with a mix of daily uses, including housing, retail and office. Most transit riders begin and end their trips as pedestrians and the streets around transit stations and stops should be safe, interesting and convenient for pedestrians.

The purpose of this policy is to define the incentives available to encourage the growth and development of sustainable city centers and to jumpstart economic development in the selected locations to improve the quality of life for El Paso residents while reducing the City’s carbon footprint.

SECTION II: DEFINITIONS

Adaptive reuse - means the conversion or change of use of all or any part of an existing building to a residential use, a mixed-use or any use allowed in the underlying district or any construction to expand or modify an existing building located in an area designated with an adaptive reuse overlay that meets the development guidelines adopted in the city's comprehensive plan for the area.

City Heritage Section – Area located within the El Paso, Texas city limits and more specifically described within Exhibit D.

Mixed Use – The combination of multiple functions or uses, including but not limited to residential, office or commercial uses, within the same building, development or project.

New Construction Projects - The construction of a new building or the demolition of existing building(s) to create a new structure. If a development includes both rehabilitation and new construction, a project is defined as new construction if the combined square footage of the new building(s) exceeds the square footage of the rehabilitated structures.

Rehabilitation - The act or process of returning a building or structure to a state of utility through repair, remodeling or alteration that makes possible an efficient contemporary use while preserving those portions or features of the building or structure that are significant to its historical, architectural and cultural values.

Transit-Oriented Development (TOD) Incentive Area – The geographic districts more fully described in Exhibit A designated in proximity to the current and planned Rapid Transit System (RTS) stations and stops and the Streetcar Corridor. Transit-Oriented Development (TOD) Incentive Areas are located in the following eight areas: Streetcar Corridor, Greater Downtown Area, El Dorado, Five Points, Mission Valley, Northgate, the El Paso International Airport Southern Industrial Park (EPIA SIP), and the Medical Center of the Americas (MCA).

Vertical Mixed Use – The combination of different functions or uses, including residential, office or commercial uses, within the same building. More public uses such as retail shops, restaurants or commercial businesses are provided for on the lower floor, while more private uses such as residential units, or office space are provided for on the upper floors.

SECTION III: ELIGIBILITY CRITERIA

To be eligible for incentives under this policy, the property must meet the following eligibility criteria:

1. Location. The project must be located within the Transit-Oriented Development incentive areas, as depicted in Exhibit A.
2. Design. Applicants requesting Transit-Oriented Development incentives for new construction and rehabilitation projects shall comply with the mandatory design requirements and no less than three (3) of the selective design requirements as identified in Subsection 20.10.280(c).
3. Use. New construction and/or rehabilitation projects must propose a mix of uses to include a residential use. Projects proposing single residential uses will not be required to incorporate a mix of uses.
4. Legal. The project is in compliance with all local, state and federal laws.

SECTION IV: EXCLUSIONS

For the purposes of this policy, industrial uses will not qualify for incentives.

Any project proposing development activity that does not comply with all of the eligibility criteria contained herein may be eligible for incentives through the Infill Incentive Policy if all Eligibility Criteria and Program Policies are met.

SECTION V: PROGRAM POLICY

The City of El Paso will review Transit Oriented Development incentive policy applications for adherence to the eligibility criteria and compliance with the procedural and program guidelines as detailed in this policy. Project consideration will include the potential impact of the reinvestment project on the immediate and surrounding area.

In order to be considered for incentives under this policy, the proposed project shall comply with the mandatory design requirements and no less than three (3) of the selective design requirements as

identified in Subsection 20.10.280(c). In addition proposed projects must also adhere to the following Transit-Oriented Development policy-specific criteria:

1. New construction projects shall demonstrate the following qualitative criteria:
 - a. All projects proposing a residential use must generate a minimum of twenty (20) residential units per acre and a minimum of five (5) units per development.
 - b. The structure will be a minimum of two (2) stories.
 - c. Within the proposed structure, provide vertical mixed use if the project does not include a residential use.
2. Rehabilitation projects shall generate a minimum of twenty (20) residential units per acre and a minimum of five (5) units per development.
3. Minimum Investment. For the purposes of this policy, all applicants will have to comply by the following minimum investment requirements to be considered eligible to receive incentives.
 - A. The minimum investment required for a new construction project is \$400,000.
 - B. The minimum investment required for an adaptive reuse or rehabilitation project is \$200,000.
4. Project must demonstrate the potential to generate revenues to the City which outweigh costs associated with incentives through:
 - a. a net increase or retention of jobs in the City; or
 - b. will add to the tax base; or
 - c. will result in additional rental housing units.
5. APPLICANT/PROPERTY OWNER must provide proof that they neither caused nor contributed to the present blighted condition.
6. Project must not include the demolition of properties with a historic overlay that are deemed historic or contributing.
7. Project must not include the demolition of properties that were built in or before 1950 and that are also located within the City Heritage Section as identified in Exhibit D. Exemptions may be provided for structures that have an official order from the Building Standards Commission for demolition of the structure.

In addition, the project must:

1. Provide proof that the APPLICANT/PROPERTY OWNER has the financial stability and capacity to complete the project. Proof can include financial statements for a corporation or tax statements for an individual; and

2. Demonstrate compliance with all local, state and federal laws. All proposals must comply with the City's Zoning regulations as to the uses being proposed. In the event that a proposed use is not permitted in the base zoning district the applicant will be required to apply for a rezoning of the property.

In order to receive any such incentives from the City of El Paso, APPLICANT/PROPERTY OWNER will make available credible information to enable the City to prepare a fiscal impact analysis. The APPLICANTS/PROPERTY OWNERS will update this information annually during the term of any incentives contract. The decision to provide any economic development incentives will be considered on a project-by-project basis, in accordance with the criteria set forth in this policy, at the discretion of the City Manager or his designee, and the City Council of the City of El Paso. In order to be eligible for incentives, businesses or individuals must be current on all city taxes or any other obligation to the City.

Incentives approval for applicants applying for ad valorem property tax rebate incentives for properties located within Tax Increment Reinvestment Zone (TIRZ) boundaries and Transportation Reinvestment Zone (TRZ) boundaries will only be eligible for real ad valorem property tax rebate incentives upon the approval of the respective Tax Increment Reinvestment Zone (TIRZ) and Transportation Reinvestment Zone (TRZ) board of directors' and that of the City Council of the City of El Paso.

SECTION VI: PROCEDURAL AND PROGRAM GUIDELINES

Any person, partnership, organization, corporation or other entity which requests transit oriented development incentives under this policy shall be required to comply with the following procedural guidelines. No representations made herein are considered binding unless and until approved by the City Manager or designee.

Application required. APPLICANTS/PROPERTY OWNERS shall submit a completed "Application for Transit Oriented Development Incentives" form for consideration of financial incentives to the Economic and International Development Department, 801 Texas- Economic Development and International Development Department, El Paso, Texas 79901.

Detailed site development plan required. Applications for rehabilitation or new construction shall require submittal of a detailed site development plan in accordance with Section 20.04.160 of the City Code for review by the Planning Division. The Planning Division shall review the application for conformance with the base zoning district density and dimensional standards found in Section 20.12.020 (Appendix B) of the City Code, as well as the design requirements and guidelines found Subsection 20.10.280(C) of the City Code. In order to be eligible to receive the incentives detailed herein, all applications for rehabilitation or new construction shall comply with the requirements of the Sections 20.12.020 (Appendix B) and 20.10.280(C) of the City Code.

In the event the base zoning district density and dimensional standards are not met, the applicant may request reductions in accordance with Section 20.10.280 or of the City Code. Such request must be filed

with the Planning Division prior to consideration as part of the Transit Oriented Development Incentive Policy.

Consideration of the Application. The City Manager or designee will consider requests for financial incentives in accordance with these policies, the City Code, the Texas Tax Code, and the Texas Local Government Code. Additional information may be requested as needed. APPLICANTS/PROPERTY OWNERS satisfying the criteria detailed in the program policy and meeting the location criteria will be considered. When authorized by City Council, the City may enter into a Chapter 380 agreement/incentives contract that outlines the terms and conditions between the City and the APPLICANTS/PROPERTY OWNERS, and governs the provision of the incentives to be provided for the project.

Pre-submission conference required. A pre-submission conference will be required for rehabilitation or new construction projects receiving incentives under this policy. The pre-submission conference will be scheduled through the Planning and Inspections Department prior to meeting with appropriate project staff to review proposed development and receive instruction/requirements to expedite the review and permitting of the project. The conference will be scheduled and conducted in advance of any plan submittals to the City for plan review and building permit issuance.

Inspection of the Project. During the term of such agreement, the City of El Paso will have the right to inspect the project facility during regular business hours to ensure compliance with the agreement and accuracy of the APPLICANTS/PROPERTY OWNERS certification.

Recapture. If a project is not completed as specified, or if the terms of the agreement are not met, the City has the right to cancel or amend the incentive agreement, recapture any rebated or exempted taxes, and assess penalty payments for the amounts previously paid, which can be secured by City liens against the property and all previously waived fees and abated taxes shall become due to the City.

Effect of Sale, assignment or lease of property. No incentives rights may be sold or assigned without the approval of the City Council. Any sale, assignment or lease of the property may trigger the recapture provision, as outlined above. Incentives cannot be transferred as a result of a change in ownership of the property without the expressed written consent of the City of El Paso. Any new owner shall file a new application for an economic development incentive. It shall be the responsibility of the APPLICANTS/PROPERTY OWNERS to notify the City of any change in ownership.

Additional Information. A project is limited to receiving incentives from only one incentive program. With the exception of work associated with a demolition and/or grading permit, the applicant shall not submit for construction permits or begin construction of the project prior to approval of the Chapter 380 Agreement by the El Paso City Council.

SECTION VII: DIRECT FINANCIAL INCENTIVES

Building and Planning Permit Fee Rebates. For properties located in the Downtown 2015 Plan Area, up to 100% of certain planning, land development and building construction fees will be waived based on the

fee schedule established in Ordinance 017725. For properties located outside of the Downtown 2015 Plan Area, up \$10,000 of certain planning, land development and building construction fees will be rebated based on the fee schedule established in the Ordinance 018581.

Construction Materials Sales Tax Rebate. An approved project may receive a 100% rebate of the City’s portion of sales tax collected on the purchase of materials and labor associated with the incentivized project.

Property Tax Rebate. An approved project may have the City’s portion of the project’s incremental ad valorem property taxes collected over the base year, rebated according to the following schedule.

New Construction and Rehabilitation - For Single Residential Use									
Incremental Property Tax Rebate Table									
Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
100%	100%	100%	100%	90%	90%	90%	75%	75%	75%

New Construction and Rehabilitation - For Mixed-Use Including Residential Component														
Incremental Property Tax Rebate Table														
Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
100%	100%	100%	100%	90%	90%	90%	75%	75%	75%	75%	75%	75%	75%	75%

Retail Sales & Use Tax Rebate. An approved project may have the City’s portion of the project’s sales & use taxes rebated according to the following schedule.

New Construction and Rehabilitation - Sales Tax Rebate Table				
Year 1	Year 2	Year 3	Year 4	Year 5
100%	75%	50%	25%	25%

SECTION VIII: SUPPLEMENTAL BENEFITS

Lien Waivers. In conjunction with receipt of a direct finance incentive contract, an APPLICANT/PROPERTY OWNER may take advantage of the Lien Waiver Program to be implemented under this Policy. This program will provide APPLICANT/PROPERTY OWNER a release of liens which are attached to properties as the result of condemnation, demolition, sanitation, or other city-imposed non-property tax liens, but excluding Community Development or other federally-funded liens. Release of such liens would only be allowed in consideration for the Applicant's investment in new construction or renovation of eligible facilities and are only waived upon sale of the property to a new owner, upon confirmation that the APPLICANT/PROPERTY OWNER did not contribute to the liens being attached to the property.

SECTION IX: TERM OF FINANCIAL INCENTIVES

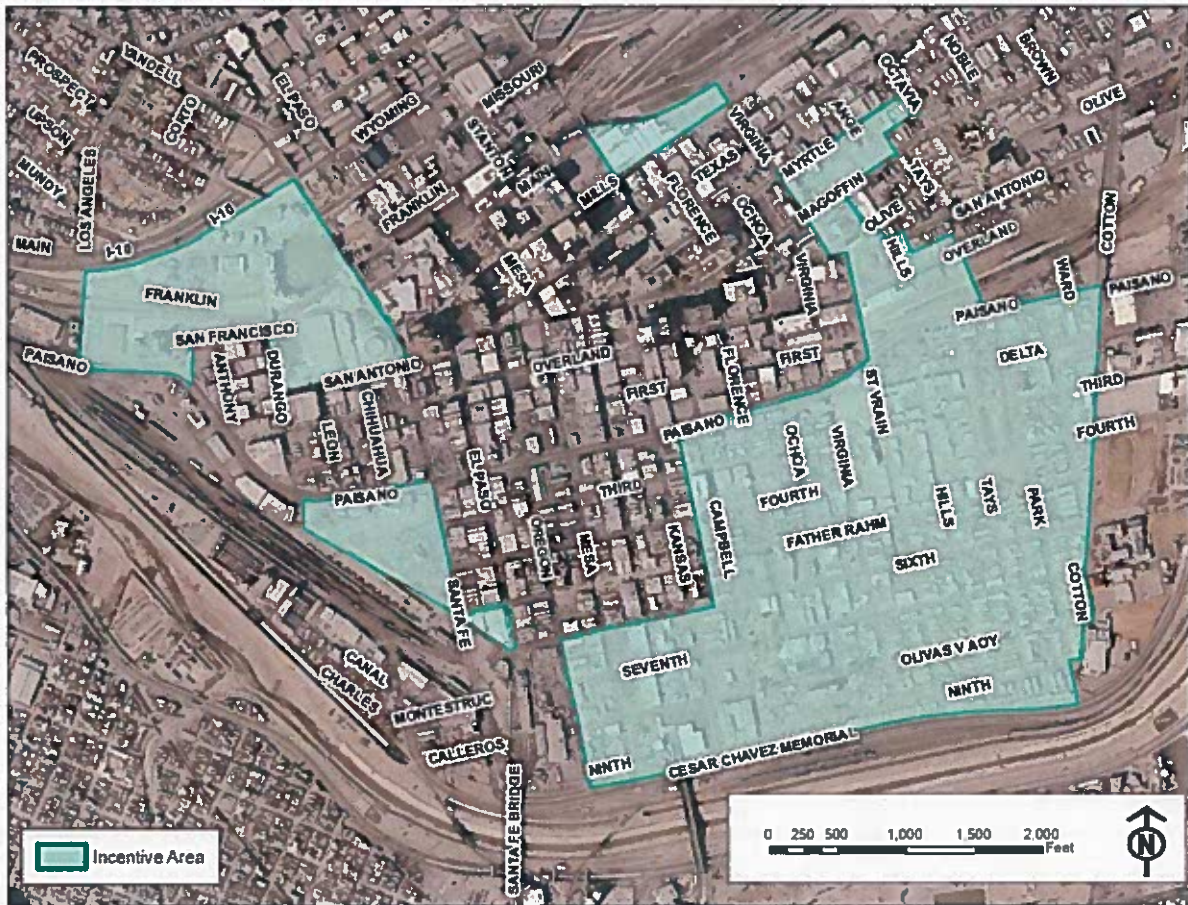
The availability of financial incentives under this Policy shall remain in effect until June 1, 2022.

EXHIBIT A: TRANSIT ORIENTED DEVELOPMENT INCENTIVE AREAS

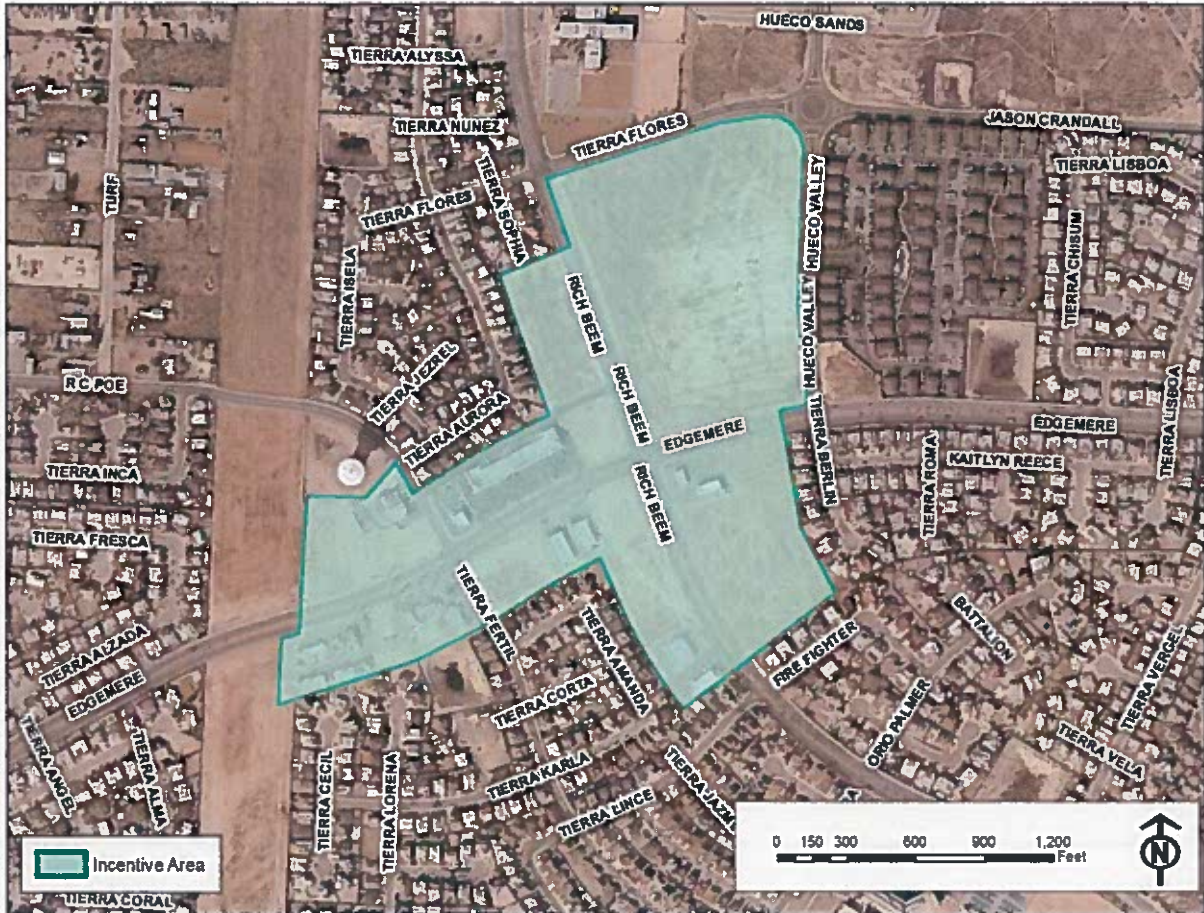
Streetcar Corridor Incentive Area



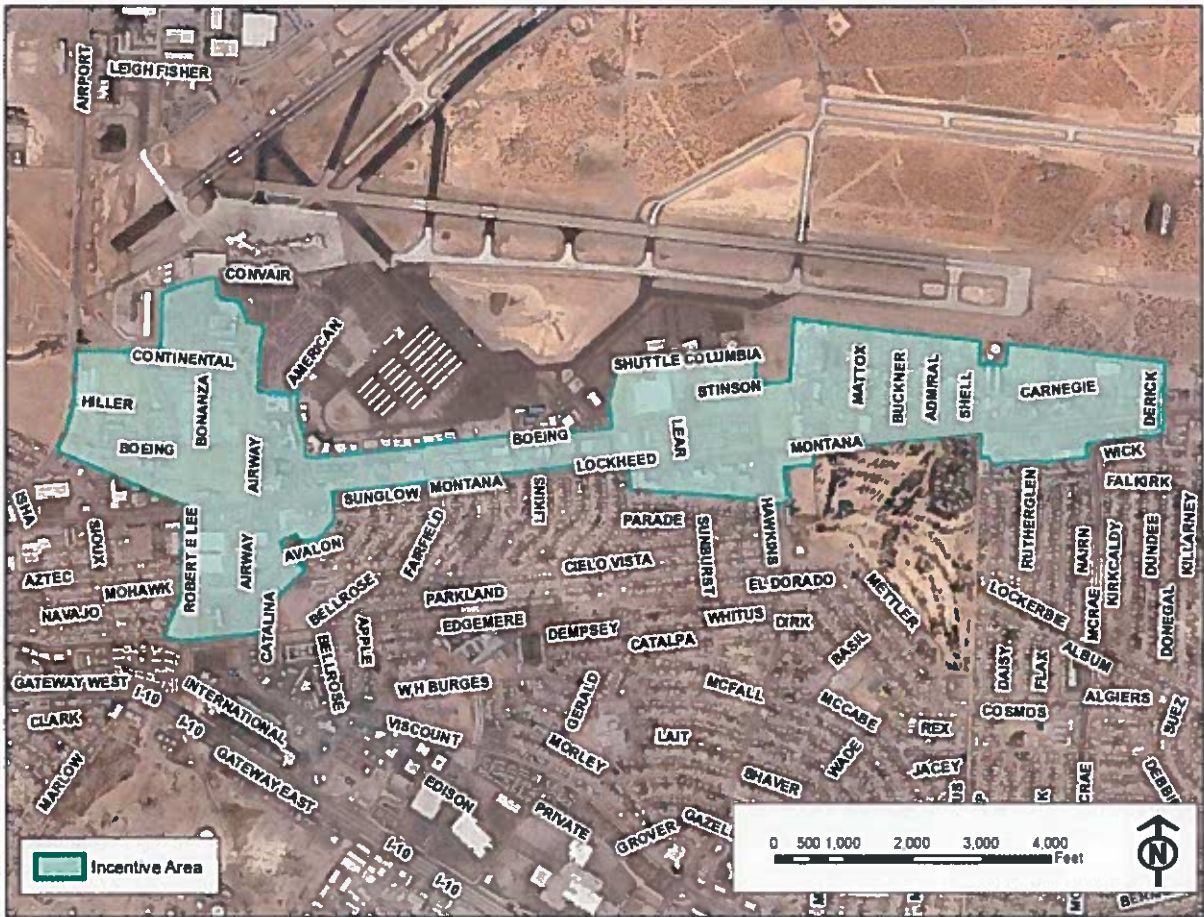
Greater Downtown Incentive Area



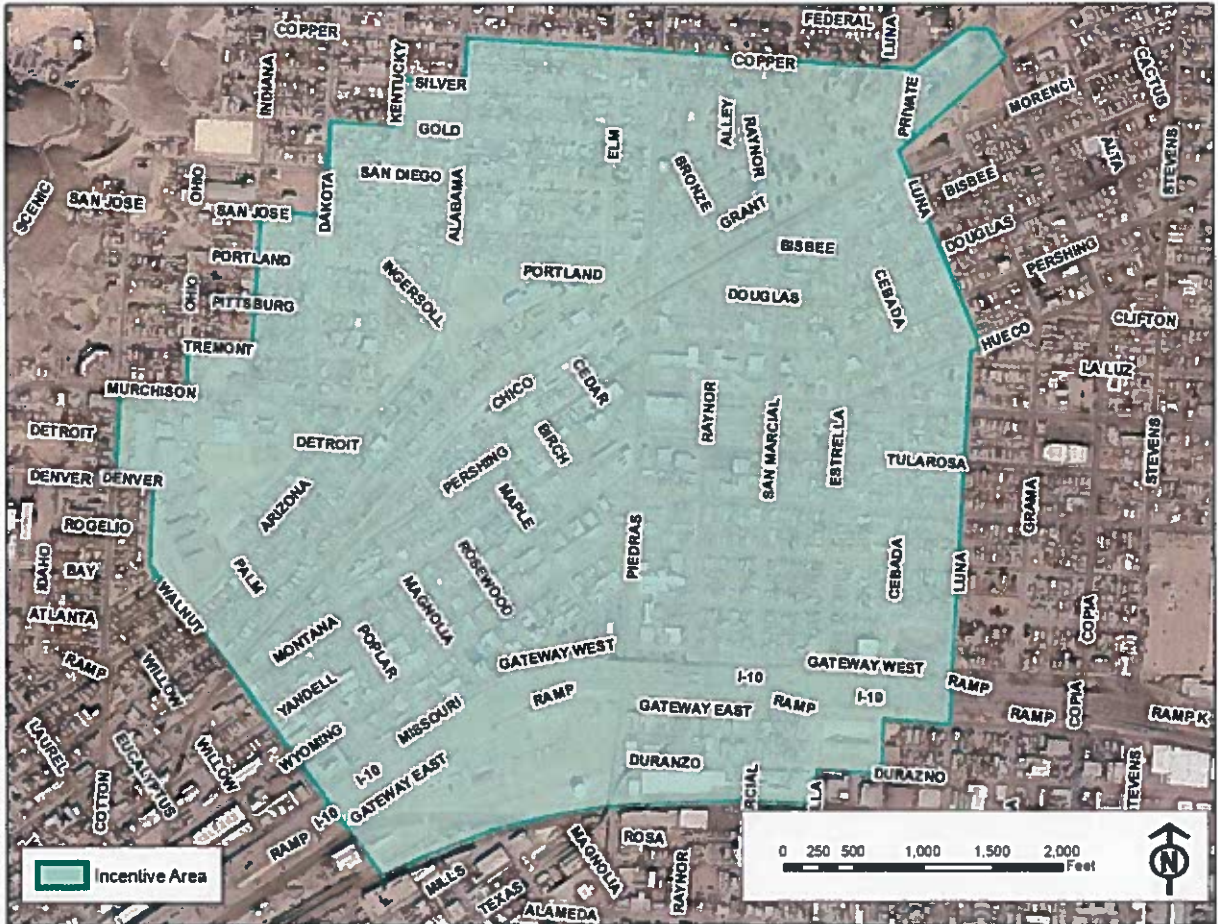
El Dorado Incentive Area



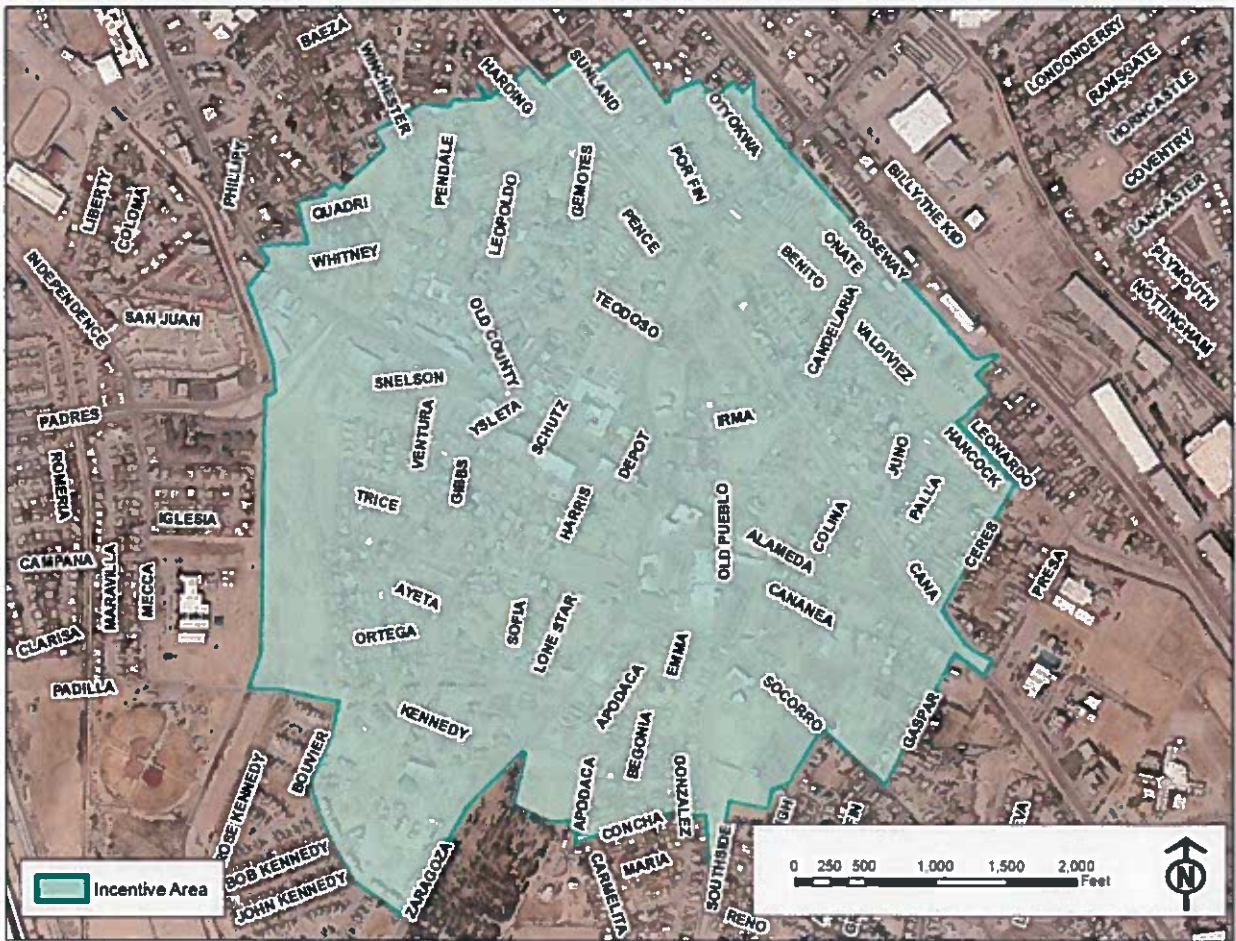
El Paso International Airport Incentive Area



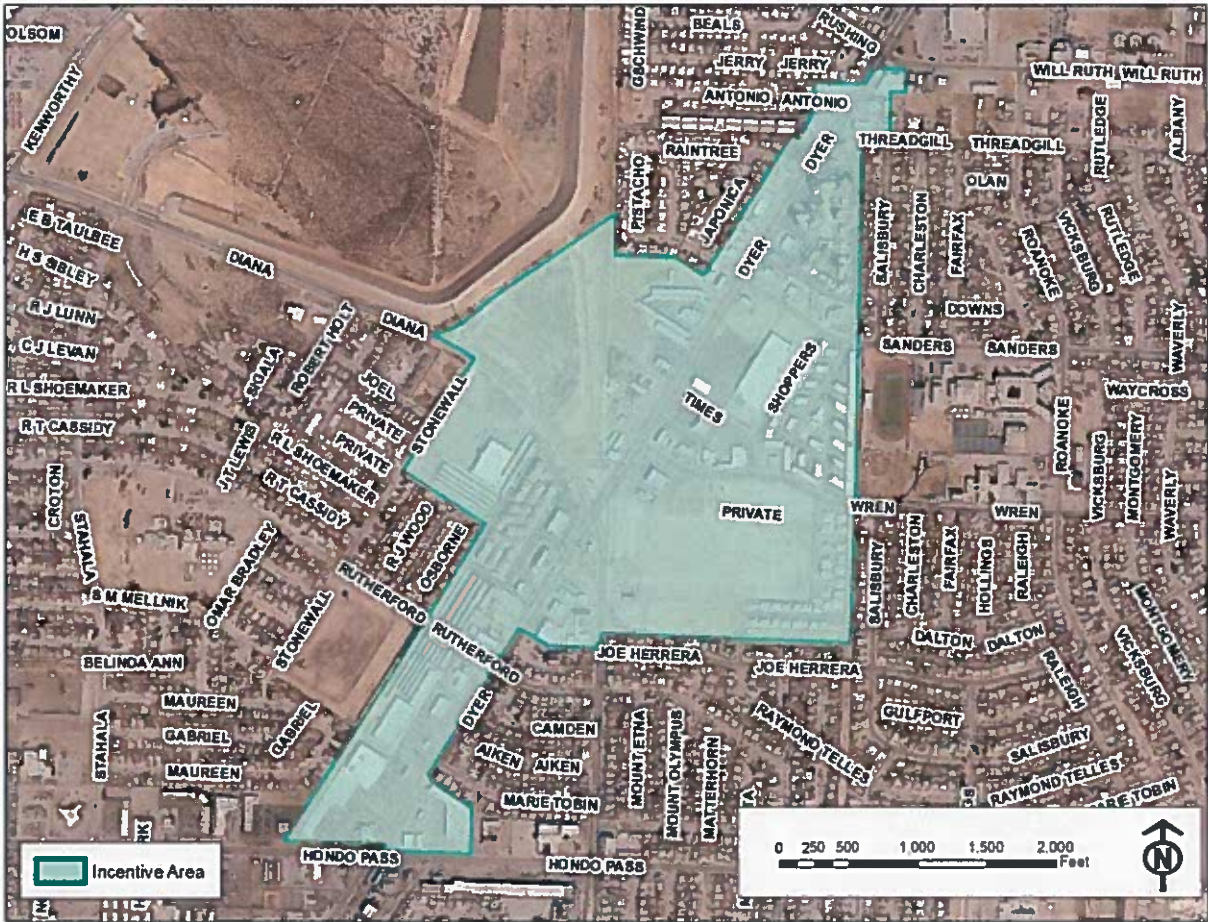
Five Points Incentive Area



Mission Valley Incentive Area



Northgate Incentive Area



Medical Center of the Americas

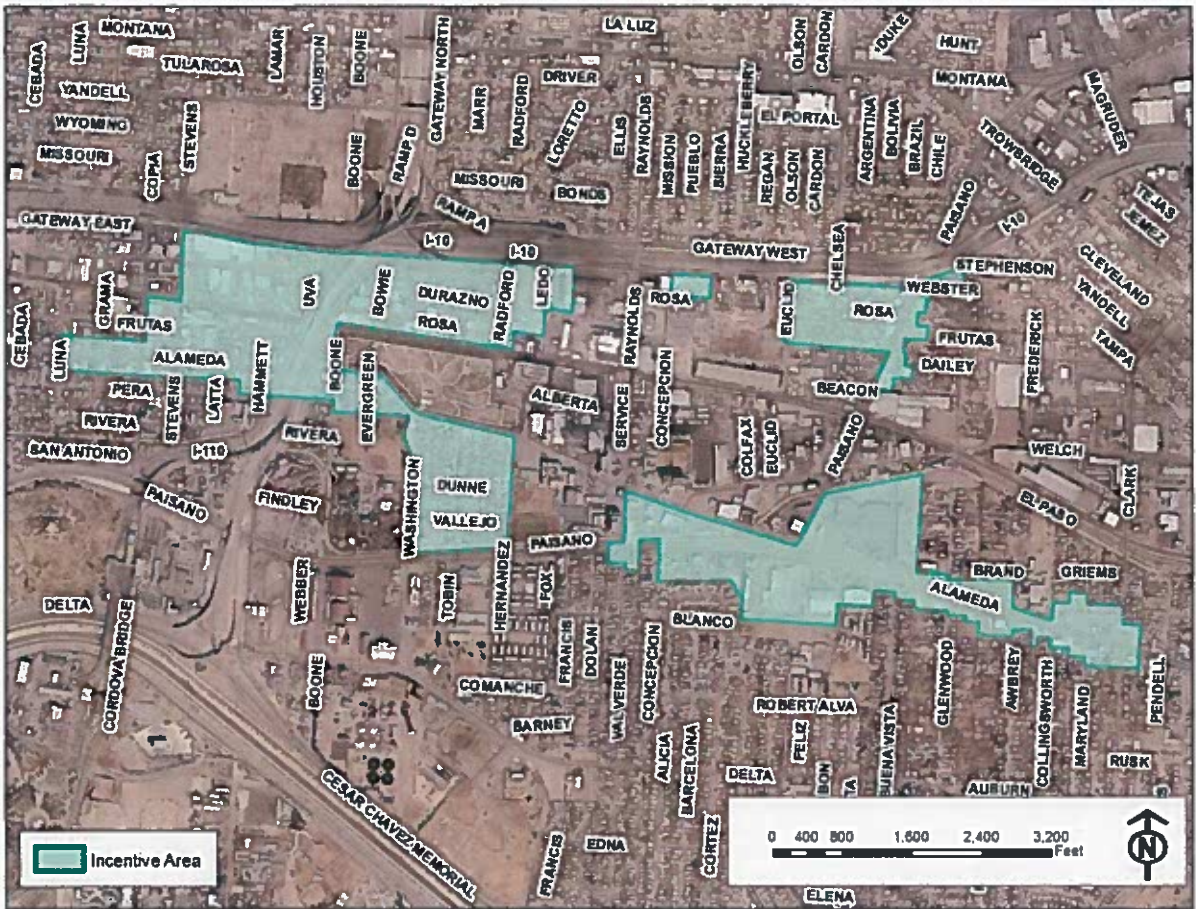


EXHIBIT B

Downtown Plan Area



EXHIBIT C

Application and Timeline

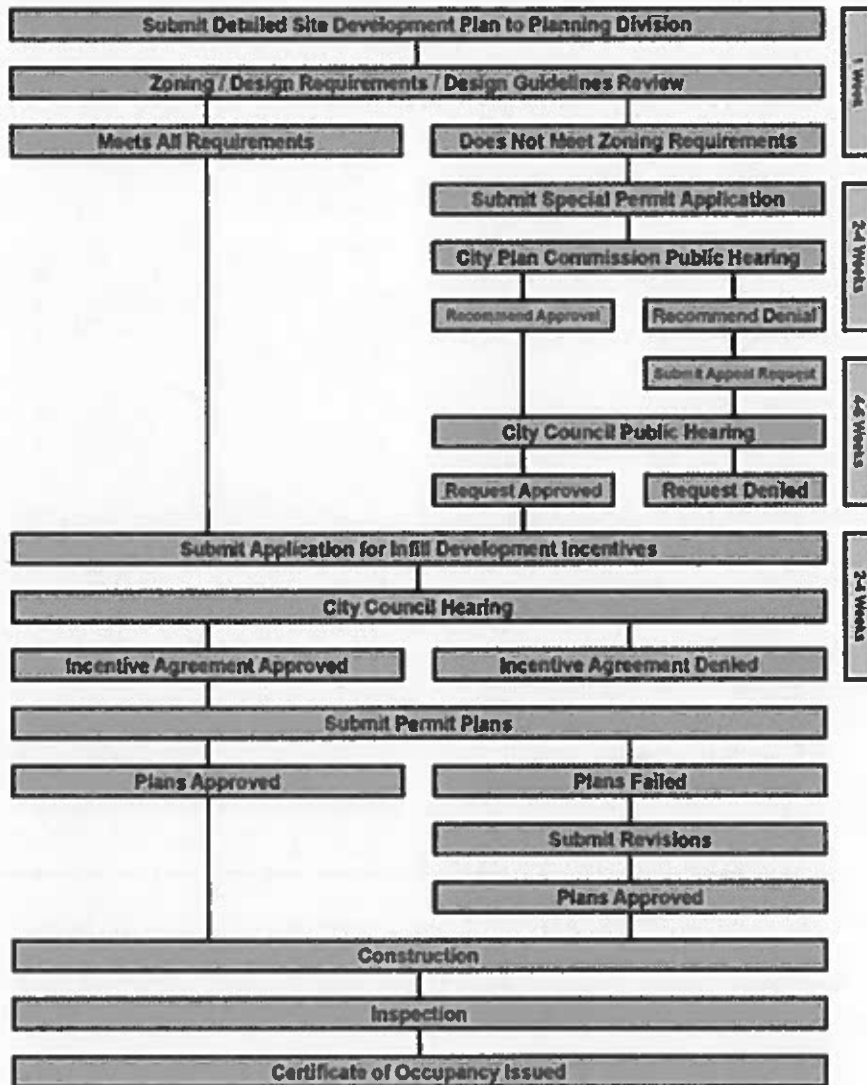


EXHIBIT D

City Heritage Section

