

**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 First Amendment to the City of El Paso Infill Development Incentive Policy that was approved by City Council on May 16, 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 Infill Incentive Policy is utilized to encourage the construction and/or renovation of pedestrian-friendly developments within identified 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 Infill Development Incentive Policy was originally adopted, by City Council action, on May 16, 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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Eduardo Garcia  
Date: 2021.05.03 16:25:52  
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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 First Amendment to the City of El Paso Infill Development Incentive Policy that was approved by City Council on May 16, 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:**

Eduardo Garcia Digitally signed by Eduardo Garcia  
Date: 2021.05.03 16:19:00 -06'00'  
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Jessica Herrera, Interim Director  
Economic & International  
Development Department

## **Infill Development Incentive Policy**

### **PURPOSE**

The purpose of the City's Infill Development Incentive Policy is to provide financial incentives to develop vacant and underutilized properties within the City limits, in accordance with the standards established within Title 20. The City recognizes there may be physical and monetary challenges to developing such parcels and as such, have provided financial incentives to make it economically-feasible to do so. As an additional source of financing to assist in funding a project, the City not only seeks to develop vacant and underutilized lots, but also to promote high-quality development. To be eligible, projects must meet the 'Eligibility Criteria' section of this Policy.

### **DEFINITIONS**

The following words, terms and phrases, when used in this policy, shall have the meanings ascribed to them in this section:

**Brownfield development** means the redevelopment of abandoned or obsolete parcels in which demonstrable environmental remediation or mitigation is undertaken as defined in Section 20.02.149 of the City Code.

**Greenfield development** means the development of an area that consists of open or wooded land or farmland that has not been previously developed as defined in Section 20.02.421 of the City Code.

**Greyfield development** means the redevelopment of abandoned or obsolete or underutilized parcels surrounded by substantial existing development as defined in Title 20.02.423 of the City Code.

**Infill Development** means any development activity, including but not limited to new construction, rehabilitation, addition, rehabilitation or redevelopment, associated with vacant or underutilized parcels within existing, largely developed urban areas as defined in Title 20.02.471.

**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.

### **ELIGIBILITY CRITERIA**

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

1. The property must meet the definition for infill development as established in Section 20.02.471 of the City Code; and
2. The property must be located within the jurisdictional limits of the City; and
3. The property must meet the locational criteria, as per Subsection 20.10.280(B) of the City Code:
  - a. Any parcel of land designated within a historic district and developed in compliance with section 20.20.080;  
or

- b. Any parcel of land within the downtown plan area; or
- c. Any parcel of land annexed prior to 1955; or
- d. Parcels of land within or share a common property line to an existing subdivision platted for no less than 25 years; or
- e. Any brownfield or greyfield development; or
- f. Parcels of land within areas identified by the city's comprehensive plan as G-2 Traditional Neighborhood and G-7 Industrial and/or Railyards and other areas where infill development should be encouraged; or
- g. Redevelopment of sites previously or currently occupied by civic buildings, public spaces or educational facilities as defined in 20.10.145.

## **EXCLUSIONS**

Any project proposing development activity defined in Subsection 20.10.280(K) of the City Code shall not be eligible for incentives contained herein.

## **PROGRAM POLICY**

The City of El Paso will review Infill Development incentive policy applications for compliance with the guidelines, criteria and procedures outlined in this document. 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 infill development project must adhere to the following criteria:

1. The mandatory design requirements and no less than three (3) of the selective design requirements as identified in Subsection 20.10.280(C) of the El Paso City Code; and
2. Total private investment in a minimum amount of \$50,000. For the purposes of this section; the total private investment amount excludes property acquisition costs; and
3. New construction and/or rehabilitation of a brownfield or greyfield development, with existing structure(s), must result in a commercial, industrial or multi-family residential use as permitted under Title 20 (Zoning) of the El Paso City Code.
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; or
  - d. provide demonstrable proof of an improvement or enhancement of the economic welfare of the residents or businesses of the City; and

5. APPLICANT/PROPERTY OWNER must provide proof that they neither caused nor contributed to the present blighted condition; and
6. Project must not include the demolition of properties with a historic overlay that are deemed historic or contributing.
7. Brownfield and Greyfield redevelopment projects are subject to a minimum \$200,000 investment these developments are exempt from the selective design criteria.

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.

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, and at the discretion of 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.

#### **PROCEDURAL AND PROGRAM GUIDELINES**

Any person, partnership, organization, corporation or other entity which requests infill 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 City Council.

**Application required.** APPLICANTS/PROPERTY OWNERS shall submit a completed "Application for Infill 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. The application process is depicted in Exhibit A.

**Detailed site development plan required.** The application 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 infill development 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 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 of the City Code. Such request must be filed with the Planning Division prior to consideration as part of the Infill Development Incentive Policy. Reference Exhibit A.

**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 projects receiving incentives under this policy. The pre-submission conference will be scheduled through the Planning and Inspections Department prior to meet 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 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 Infill Agreement by the El Paso City Council.

## **DIRECT FINANCIAL INCENTIVES**

**Construction Materials Sales Tax Rebate.** The Construction Materials Tax Rebate Program is an economic development tool designed to provide incentives for the infill development project. An approved project may receive a 100% rebate of the City's portion of sales tax used on materials and labor that has been remitted to the City's general fund, for construction is available for investments in eligible properties that are equal or greater than the Central Appraisal District (CAD) value of the property upon Chapter 380 contract execution. This incentive will be delivered by execution of a Chapter 380 Agreement.

**Property Tax Rebate.** An approved project may have the City's portion of the project's ad valorem property taxes rebated according to the following schedule to allow for the following eligibility under this infill development policy:

**Infill Incentive Property Tax Rebate Schedule**

Year 1	Year 2	Year 3	Year 4	Year 5	*Year 6	*Year 7	*Year 8	*Year 9	*Year 10
100%	100%	100%	75%	75%	50%	50%	50%	50%	50%

\*Greyfield and Brownfield Developments shall qualify for an extended property tax rebate for an additional 5 years.

Ad valorem property tax is only available on properties with available ad valorem taxes (i.e. taxes cannot be diverted through Historic Tax Credits, Transportation Reinvestment Zone, prior 380 agreements, Tax Increment Reinvestment Zones or other means, except for properties within Tax Increment Reinvestment Zone No. 5). The base year used for the calculation of incentives will be the year of contract execution.

**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 rehabilitation 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.

**Building Construction Fee Rebates or Waivers.** If the City Council approves by ordinance the reduction or the rebating/waiving of building construction fees and planning fees associated with the construction or redevelopment on infill development properties, the Economic and International Development Department will implement a Building Construction Fee Rebate/Waiver Program for the purpose of providing eligible APPLICANT/PROPERTY OWNERS an opportunity to apply for a waiver or rebate from planning and building fees associated with new construction or rehabilitation and occupancy of their infill facilities. It is anticipated that the eligibility requirements will be as follows:

1. 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; and
2. For properties located outside of the Downtown 2015 Plan Area, if the APPLICANT/PROPERTY OWNER provides acceptable documentation to the City to demonstrate that the total rehabilitation/construction cost is greater than the Central Appraisal District appraised value of the land and improvements, then 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.

**Customized Plan Review.** In order to facilitate redevelopment of infill properties, the Economic and International Development Department is committed to assisting applicants through the planning and permitting phase under an

expedited review process at no additional cost to the applicant. At the time of building permit application submittal, the applicant may request participation in the City's Customized Plan Review service at no additional cost.

**TERM OF FINANCIAL INCENTIVES**

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



# 'Exhibit A'

## Application Process and Timeline

