

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

DEPARTMENT: City Development Department

AGENDA DATE: February 19, 2013

CONTACT PERSON/PHONE: Mathew McElroy, Director, City Development Department, (915)541-4193

DISTRICT(S) AFFECTED: [ALL]

SUBJECT:

Discussion and action on the proposed amendments to the Downtown New Construction Incentive Policy. (All Districts) [City Development Department, Mathew McElroy, City Development Department, (915) 541-4193]

BACKGROUND/DISCUSSION:

The proposed amendments to the Downtown New Construction Incentive Policy, passed by Council on July 31, 2012, seek to clarify the requirements and procedures for the policy that provides financial and other incentives to promote commercial investment in the renovation, restoration and rehabilitation of properties and new development and construction within the City's historic downtown core. The amendments to the policy seek to clarify and add to the following: the creation of the Sustainable City Centers Fund, extend the term of the policy, reduce the minimum construction requirement, clarify the minimum investment for renovation and new construction, make the policy more attractive for multi-use developers, revised incentive map for the City to expand the incentive area and clarification of verbiage throughout the policy.

PRIOR COUNCIL ACTION:

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

Yes. On July 31, 2012, City Council adopted the current Downtown New Construction Incentive Policy.

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:

Enter appropriate comments or N/A.

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:** _____

**A RESOLUTION AMENDING THE CITY'S DOWNTOWN NEW CONSTRUCTION
INCENTIVE POLICY**

WHEREAS, on July 31, 2012, the El Paso City Council, adopted a resolution that established the Downtown New Construction Incentive Policy (the "Policy"); and

WHEREAS, the Director of City Development now recommends that the adopted Policy be amended: (1) create the Sustainable City Centers Fund; (2) extend the term of the Policy; (3) reduce the minimum construction requirement; (3) clarify the minimum investment amount for renovation and new construction; (4) to make the Policy more attractive to multi-use developers by increasing the financial incentives available under the Policy; (5) revise the incentive map for the City to expand the incentive area; and (6) clarification of verbiage throughout the Policy.

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

(1) The City of El Paso Downtown New Construction Incentive Policy be amended and restated as shown in Exhibit "A", attached to this Resolution.

(2) It is the intention of City Council that any applicants who have received building permits since the date of the initial adoption of the Program are also eligible to participate under the amended Program.

PASSED AND APPROVED this ____ day of _____ 2013.

CITY OF EL PASO, TEXAS

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Matthew K. Behrens
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew McElroy, Director
City Development Department

Downtown New Construction Incentive Policy

PURPOSE

It is the policy of the City of El Paso to provide incentives to promote commercial investment in the renovation, restoration and rehabilitation of properties and new development and construction and use of design guidelines described within Plan El Paso, the City of El Paso's Comprehensive Plan ("Comprehensive Plan") within the Downtown 2015 Plan area, the Downtown Historic District, and within the designated downtown area around San Jacinto Plaza and the Union Plaza District as defined below (more specifically depicted on the Map attached hereto as Exhibit A, the "Incentive Area"), to encourage infill and redevelopment in the City's historic downtown core, and create a vibrant urban fabric with a wide mix of uses, street-oriented buildings, proud architecture of distinctive character; and numerous public and civic gathering spaces. Insofar as these goals are served by enhancing the value of the local tax base and foster and support economic growth and opportunity and to ensure new investments will market the area as a thriving place to work, live and visit, the City of El Paso will give consideration to provide incentives for property development and redevelopment within the downtown area.

The purpose of this policy is to define the financial or other incentives available to encourage renovation, restoration, rehabilitation and new construction within the downtown area that utilize the use of design guidelines described within Plan El Paso, the City of El Paso's Comprehensive Plan ("Comprehensive Plan") .

The City of El Paso is under no obligation to approve any requested incentive and the right to these incentives is neither intended nor implied.

DEFINITIONS

Comprehensive Plan – City of El Paso's Comprehensive Plan entitled "Plan El Paso" adopted by El Paso City Council on March 6, 2012.

Downtown Historic District - a special purpose district as defined in Title 20 of the City of El Paso municipal code (as depicted on the Map attached hereto as Exhibit A, within the "Incentive Area").

Downtown Plan – the Downtown 2015 Plan adopted by El Paso City Council on October 31, 2006, and incorporated into the Comprehensive Plan pursuant to the provisions of Section 213.002 of the Texas Local Government Code (as depicted on the Map attached hereto as Exhibit A, within the "Incentive Area – Level 2").

Leadership in Energy and Environmental Design (LEED) – program for construction of buildings that meet the LEED rating system that scores buildings according to their energy savings, water efficiency, CO2 emissions reduction, improved indoor environmental quality and stewardship of resources and sensitivity to their impacts.

Parking structure – As per Title 21 of the El Paso Municipal Code (21.70.010), parking structure means a building containing one or more stories of parking above grade.

San Jacinto Plaza – a three (3) block radius surrounding San Jacinto Plaza (as depicted on the Map attached hereto as Exhibit A, within the “Incentive Area – Level 1”).

Smart Code – a land development ordinance adopted by City Council as referenced in Title 21 of the City of El Paso municipal code. The ordinance is a set of development policies and principles designed to create compact, walkable and mixed-use neighborhoods with a variety of transportation options, conservation of green space and local character with diverse housing options.

Sustainable City Centers Fund -- a separate funding source ~~for economic development incentives intended~~ for projects eligible for a property tax rebate under this Incentive Policy and located in a Transportation Reinvestment Zone (TRZ) or Tax Increment Reinvestment Zone (TIRZ) ~~whereby~~, wherein the property tax increment has already been allocated to one of these specific ~~zones~~. reinvestment zones' funds.

Union Plaza District – a special purpose district as defined in Title 20 of the City of El Paso municipal code (as depicted on the Map attached hereto as Exhibit A, within the “Incentive Area – Level 1”).

PROGRAM POLICY AND ELIGIBILITY CRITERIA

It is the policy of the City of El Paso that consideration will be provided in accordance with the guidelines, criteria and procedures outlined in this document. This policy applies to the owners of real property. Project consideration will include the potential impact of the new construction project on the immediate and surrounding area.

The City of El Paso may provide incentives to a property owner if the proposed renovation project meets the following requirements:

1. Is private commercial or multi-family use property that includes investment in adaptive reuse or rehabilitation of any property in a historic district or with a historic designation in the Incentive Area; and
2. Renovation projects must have a minimum investment of Two Hundred Fifty Thousand and No/100 U.S. Dollars (\$250,000); and
- 2.3. ~~Building permits must be granted within twenty-four (24) to forty-eight (48) months after adoption of this Downtown New Construction Incentive Policy March 1, 2013;~~ and
- 3.4. Renovation is in accordance with the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City Code, where applicable.

The City of El Paso may provide incentives to a property owner if the proposed new construction project meets the following criteria:

1. Is private commercial or multi-family use property that includes investment in new construction or renovation located in the Incentive Area (Exhibit A); and
2. New construction project must meet the design guidelines outlined in the City's Comprehensive Plan and Downtown Plan or bring the property into greater conformance with the design guidelines as determined by the City Review Committee; and
3. Includes new construction of a building with a minimum of three (3) stories in height and a minimum of ~~75~~36,000 square feet; and
4. ~~Renovation~~New Construction projects must have a minimum investment of ~~Two~~Four Million Five Hundred ~~Fifty~~ Thousand and No/100 U.S. Dollars (~~\$250~~4,500,000); and
5. New construction project must include a minimum of 80% percent required spaces contained within a Parking Structure with no off-street surface parking (handicapped spaces exempt if screened and not in first two parking layers as per the City of El Paso Smart Code as defined in Title 21 of the City of El Paso municipal code); and
6. All Parking Structures must contain ground floor retail or building liners in accordance with the City's Comprehensive Plan; and

7. Demonstrates the potential to generate revenues to the City which outweigh costs associated with incentives; and
8. The building permits must be granted within ~~twenty-four (24) months after adoption of this Downtown New Construction Incentive Policy~~forty-eight (48) months from March 1, 2013; and
9. The Downtown New Construction Policy incentives described herein will not be eligible for projects that include the demolition of properties with a historic overlay that are deemed historic or contributing unless specifically approved by Council; and
10. The Downtown New Construction Policy incentives described herein may be eligible to be used in conjunction with other incentive programs such as the City's LEED grant.

In addition, the following criteria must be satisfied.

The project must:

1. Show a clear demonstration of public purpose and economic benefit through advancement of the City's revitalization strategy for the future growth and development of the downtown area which is the economic heart of the City and its vibrancy is key to investments made throughout the community and promotes public health, safety, and welfare and creates an area with quality and thriving places to work, live and visit; and
2. Include solid evidence provided by the property owner that demonstrates the financial stability and capacity to complete the project, evidence can include financial statements for a corporation or tax statements for an individual; and
3. Be in compliance with all local, state and federal laws.

The applicant, in order to receive any such incentives from the City of El Paso will make available credible information to enable the City to prepare a fiscal impact analysis. The applicant 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.

For purposes of this section, any property in a historic district or with a historic designation shall be subject to the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City Code, and shall not be waived by any provision of this policy.

Agreements may be conditioned on the completion of specific improvements to real property. The Agreements shall contain recapture clauses in the event that such conditions are not met.

PROCEDURAL AND PROGRAM GUIDELINES

Any person, partnership, organization, corporation or other entity desiring that the City of El Paso consider providing downtown new construction incentives shall be required to comply with the following procedural guidelines.

Application

Applicants shall submit a completed "Application for Downtown New Construction Incentives" form for consideration of financial incentives to the City Development Department of the City of El Paso, Economic Development Division, 2 Civic Center Plaza, El Paso, Texas 79901.

Consideration of the Application

The City Manager or designee will consider requests for financial incentives in accordance with these policies, the Texas Tax Code, and the Texas Local Government Code. Additional information may be requested as needed. Applicants satisfying the general criteria and meeting the qualification standards will be considered.

When authorized by City Council, the City Manager, on behalf of the City, may enter into an agreement/incentives contract that outlines the terms and conditions between the City and the applicant, and governs the provision of the incentives to be provided for the project.

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 owner 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 tax amounts, and all previously waived fees and rebated tax amounts shall become due to the City.

TYPES OF DIRECT FINANCIAL INCENTIVES AVAILABLE

1. Property Tax Rebate

The City's portion of the ~~increment~~incremental ad valorem property taxes over the base year may be rebated to the property owner according to the following schedule:

- Ten (10-year) years, 100 percent rebate of the City's portion of Property Taxes, ~~increment only~~incremental to the base year value for projects located within the San Jacinto Plaza area and the Union Plaza District as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 1.
- Five (5-year) years, 100 percent rebate of the City's portion of Property Taxes, ~~increment only~~incremental to the base year value for properties located within the Downtown 2015 Plan area as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 2.
- Additional two (2) years, 100 percent rebate of City's portion of Property Taxes, incremental to the base year value for developments that include multi-family or mixed-use with residential located within the Downtown 2015 Plan area as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 2.

Ad valorem property tax rebate is only available ~~onto~~ properties from which the City receives ad valorem taxes ~~(i.e., with the exception that such taxes cannot be diverted through Historic Tax Credits, collected on properties located in a Transportation Reinvestment Zone (TRZ), prior 380 agreements, Tax Increment Reinvestment Zones (TIRZ) or other means, except for properties within) or a Tax Increment Reinvestment Zone (TIRZ) may not be diverted from these zones' funds, except for properties within TIRZ No. 5).~~ Notwithstanding the foregoing, such properties may be eligible for an amount equivalent with the portion of the property tax increment eligible for rebate under this Incentive Policy, subject to the availability of such monies in the Sustainable City Centers Fund.

The base year used for the calculation of ~~incentives~~the property tax rebate incentive will be the year of contract execution. ~~-~~ This incentive will be delivered by execution of a standard Chapter 380 Agreement, as approved by the City Attorney.

~~Properties located in a TRZ or TIRZ may be eligible for the property tax rebates provided above subject to available funds in the Sustainable City Centers Fund.~~

Additional incentive available to support Downtown Public Improvements:

If the costs for public improvements associated with the development project within the Incentive Area in Level 1 will exceed \$10 million, then the applicant is eligible for an extended contract term in order to receive an additional ad valorem property tax rebate equal to 50% of the public improvements costs based on the following minimum investment level and maximum rebate amount:

Level of Investment in Downtown Development Project	City's Maximum Rebate of Public Improvements
\$10,000,000	\$100,000
\$15,000,000	\$150,000
\$20,000,000	\$200,000
\$25,000,000	\$250,000
\$30,000,000	\$300,000
\$35,000,000	\$350,000
\$40,000,000	\$400,000
\$45,000,000	\$450,000
\$50,000,000	\$500,000

2. Ground Floor Retail Sales & Use Tax Rebate

The City's portion of sales and use taxes may be rebated to the eligible applicant according to the following schedule:

- ~~Ten (10-Year, 50) years, 100~~ percent rebate of City's portion of sales and use taxes from ground floor street oriented retail ~~only~~ for projects located within the San Jacinto Plaza area and the Union Plaza District as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 1.
- For historic landmark buildings or contributing buildings within the historic districts, ~~5-Year~~five (5) years, 100 percent rebate of City's portion of sales and use taxes from ground floor street oriented retail ~~only~~ for projects located within the Downtown Historic District as depicted on the Map attached hereto as Exhibit A.

- ~~5 Year, 50~~ Five (5) years, 100 percent rebate of City's portion of sales and use taxes from ground floor street oriented retail only for properties located within the Downtown 2015 Plan area as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 2.
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Eligibility for this incentive is subject to the City's receipt of waivers of confidentiality of sales tax payments from the applicant's retail tenants.

TERM OF FINANCIAL INCENTIVES

The availability of financial incentives under this Policy shall remain in effect for ~~two~~ four (4) years from ~~adoption by City Council~~ March 1, 2013.

Exhibit A

Downtown New Construction Incentive Policy

PURPOSE

It is the policy of the City of El Paso to provide incentives to promote commercial investment in the renovation, restoration and rehabilitation of properties and new development and construction and use of design guidelines described within Plan El Paso, the City of El Paso's Comprehensive Plan ("Comprehensive Plan") within the Downtown 2015 Plan area, the Downtown Historic District, and within the designated downtown area around San Jacinto Plaza and the Union Plaza District as defined below (more specifically depicted on the Map attached hereto as Exhibit A, the "Incentive Area"), to encourage infill and redevelopment in the City's historic downtown core, and create a vibrant urban fabric with a wide mix of uses, street-oriented buildings, proud architecture of distinctive character; and numerous public and civic gathering spaces. Insofar as these goals are served by enhancing the value of the local tax base and foster and support economic growth and opportunity and to ensure new investments will market the area as a thriving place to work, live and visit, the City of El Paso will give consideration to provide incentives for property development and redevelopment within the downtown area.

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Sustainable City Centers Fund - a separate funding source intended for projects eligible for a property tax rebate under this Incentive Policy and located in a Transportation Reinvestment Zone (TRZ) or Tax Increment Reinvestment Zone (TIRZ), wherein the property tax increment has already been allocated to one of these specific reinvestment zones’ funds.

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1. Is private commercial or multi-family use property that includes investment in adaptive reuse or rehabilitation of any property in a historic district or with a historic designation in the Incentive Area; and

2. Revnovation projects must have a minimum investment of Two Hundred Fifty Thousand and No/100 U.S. Dollars (\$250,000); and
3. Building permits must be granted within forty-eight (48) months after March 1, 2013; and
4. Renovation is in accordance with the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City Code, where applicable.

The City of El Paso may provide incentives to a property owner if the proposed new construction project meets the following criteria:

1. Is private commercial or multi-family use property that includes investment in new construction or renovation located in the Incentive Area (Exhibit A); and
2. New construction project must meet the design guidelines outlined in the City's Comprehensive Plan and Downtown Plan or bring the property into greater conformance with the design guidelines as determined by the City Review Committee; and
3. Includes new construction of a building with a minimum of three (3) stories in height and a minimum of 36,000 square feet; and
4. New Construction projects must have a minimum investment of Four Million Five Hundred Thousand and No/100 U.S. Dollars (\$4,500,000); and
5. New construction project must include a minimum of 80 percent required spaces contained within a Parking Structure with no off-street surface parking (handicapped spaces exempt if screened and not in first two parking layers as per the City of El Paso Smart Code as defined in Title 21 of the City of El Paso municipal code); and
6. All Parking Structures must contain ground floor retail or building liners in accordance with the City's Comprehensive Plan; and
7. Demonstrates the potential to generate revenues to the City which outweigh costs associated with incentives; and
8. The building permits must be granted within forty-eight (48) months from March 1, 2013; and

9. The Downtown New Construction Policy incentives described herein will not be eligible for projects that include the demolition of properties with a historic overlay that are deemed historic or contributing unless specifically approved by Council; and
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In addition, the following criteria must be satisfied.

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1. Show a clear demonstration of public purpose and economic benefit through advancement of the City's revitalization strategy for the future growth and development of the downtown area which is the economic heart of the City and its vibrancy is key to investments made throughout the community and promotes public health, safety, and welfare and creates an area with quality and thriving places to work, live and visit; and
2. Include solid evidence provided by the property owner that demonstrates the financial stability and capacity to complete the project, evidence can include financial statements for a corporation or tax statements for an individual; and
3. Be in compliance with all local, state and federal laws.

The applicant, in order to receive any such incentives from the City of El Paso will make available credible information to enable the City to prepare a fiscal impact analysis. The applicant 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.

For purposes of this section, any property in a historic district or with a historic designation shall be subject to the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City Code, and shall not be waived by any provision of this policy.

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TYPES OF DIRECT FINANCIAL INCENTIVES AVAILABLE

1. Property Tax Rebate

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- Five (5) years, 100 percent rebate of the City's portion of Property Taxes, incremental to the base year value for properties located within the Downtown 2015 Plan area as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 2.
- Additional two (2) years, 100 percent rebate of City's portion of Property Taxes, incremental to the base year value for developments that include multi-family or mixed-use with residential located within the Downtown 2015 Plan area as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 2.

Ad valorem property tax rebate is only available to properties from which the City receives ad valorem taxes, with the exception that such taxes collected on properties located in a Transportation Reinvestment Zone (TRZ) or a Tax Increment Reinvestment Zone (TIRZ) may not be diverted from these zones' funds. Notwithstanding the foregoing, such properties may be eligible for an amount equivalent with the portion of the property tax increment eligible for rebate under this Incentive Policy, subject to the availability of such monies in the Sustainable City Centers Fund.

The base year used for the calculation of the property tax rebate incentive will be the year of contract execution. This incentive will be delivered by execution of a standard Chapter 380 Agreement, as approved by the City Attorney.

Additional incentive available to support Downtown Public Improvements:

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- For historic landmark buildings or contributing buildings within the historic districts, five (5) years, 100 percent rebate of City's portion of sales and use taxes from ground floor street oriented retail for projects located within the Downtown Historic District as depicted on the Map attached hereto as Exhibit A.
- Five (5) years, 100 percent rebate of City's portion of sales and use taxes from ground floor street oriented retail only for properties located within the Downtown 2015 Plan area as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 2.
- Additional two (2) years, 100 percent rebate of City's portion of sales and use taxes from ground floor street oriented retail for developments that include multi-family or mixed-use with residential located within the Downtown 2015 Plan area as depicted on the Map attached hereto as Exhibit A, the Incentive Area – Level 2.

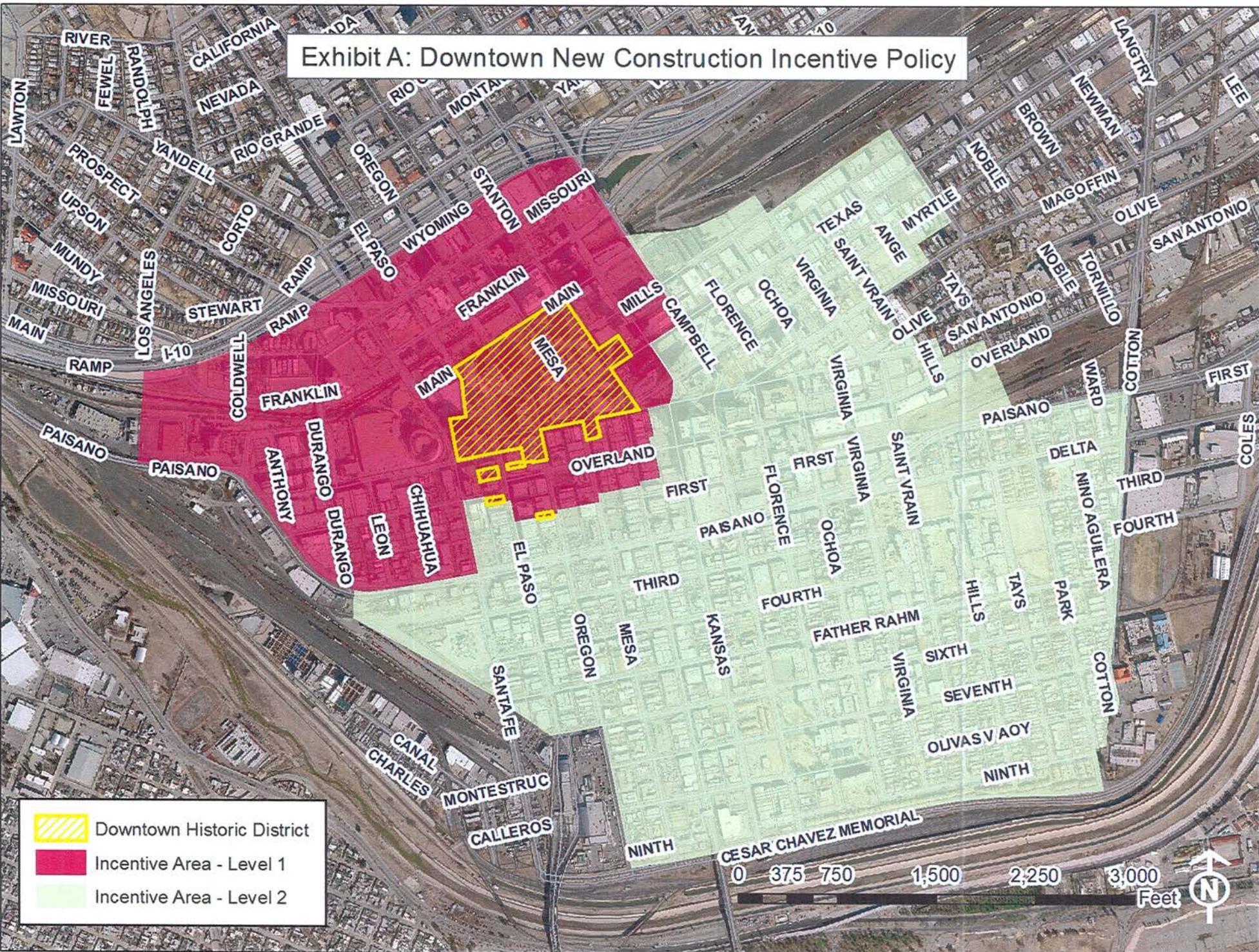
Eligibility for this incentive is subject to the City's receipt of waivers of confidentiality of sales tax payments from the applicant's retail tenants.

TERM OF FINANCIAL INCENTIVES

The availability of financial incentives under this Policy shall remain in effect for four (4) years from March 1, 2013.

Exhibit A

Exhibit A: Downtown New Construction Incentive Policy



-  Downtown Historic District
-  Incentive Area - Level 1
-  Incentive Area - Level 2

