

**AN ORDINANCE RELATING TO THE USE OF THE POWER OF EMINENT DOMAIN
IN THE REDEVELOPMENT DISTRICTS OF THE DOWNTOWN 2015 PLAN.**

WHEREAS, on October 31, 2006 the City Council (the "Council") of the City of El Paso, Texas (the "City") passed and approved Ordinance No. 016487, which adopted the Downtown 2015 Plan (the "Plan") as proposed by the City and SMWM (its consultant), in partnership with the Paso del Norte Group, into the City's comprehensive plan entitled *The Plan for El Paso*;

WHEREAS, on December 19, 2006, the Council passed and approved Ordinance No. 016528 creating "Reinvestment Zone Number Five, City of El Paso, Texas" to support revitalization activities for the Plan's Redevelopment Districts ("Redevelopment Districts");

WHEREAS, the City recognizes that it has a Constitutional responsibility and a moral obligation to always defend the property rights of individuals and only to use the power of eminent domain for public use and contingent upon the just compensation of the individual property owner; and

WHEREAS, it is not the desire of the City to use the power of eminent domain to condemn private property in the Redevelopment Districts that is not blighted in order to implement the Plan.

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

I. THAT the power of eminent domain to condemn private property in the Redevelopment Districts of the Downtown 2015 Plan is hereby limited to the public purposes expressly outlined in this ordinance, as follows:

- (A) In this ordinance, ECONOMIC DEVELOPMENT means an activity to increase tax revenue, the tax base, employment, or general economic health.
- (B) Except as otherwise provided in this ordinance, the City shall not use the power of eminent domain to acquire private real property primarily for the purpose of economic development, without the consent of the property owner.
- (C) Subsection (B) does not limit the City's use of eminent domain power for any of the following public purpose projects:
 - (1) a transportation project, including a railroad, airport, transit facility, public road or highway, parking lot or garage, sidewalk, bus turn-in, or trail;

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- (2) a water supply, wastewater, flood control, water quality, drainage, water detention, stream bank stabilization, electric power, district cooling, combined heat and power, thermal energy storage, or telecommunication project;
 - (3) a project related to annexation;
 - (4) environmental remediation;
 - (5) the provision of utility service;
 - (6) a public facility, including a library, office, vehicular storage or maintenance, hospital, convention center, or recreational facility;
 - (7) a park or park facility;
 - (8) a common carrier or energy transporter;
 - (9) noise mitigation;
 - (10) clearing a land title;
 - (11) urban renewal or revitalization;
 - (12) a housing project;
 - (13) a project authorized or required by state or federal law;
 - (14) acquiring an interest in property owned by a governmental entity;
 - (15) acquiring abandoned property; or
 - (16) a project to remove:
 - (a) a harmful use;
 - (b) a nuisance; or
 - (c) a structure that is unfit for human habitation or use.
- (D) Subsection (B) does not affect the City's right to alienate property.
- (E) This section does not create a cause of action against the City, a council member, or a City official, employee, agent, or contractor.

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II. THAT this ordinance shall be in full force and effect upon the date of its passage.

READ, ADOPTED AND APPROVED this ____ day of _____ 2007.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Charlie F. McNabb
City Attorney

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