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

DEPARTMENT: **Planning and Economic Development**

AGENDA DATE: **November 16, 2010 Regular Agenda**

CONTACT PERSON/PHONE: **Kathryn Dodson, PhD, Director 541-4670**

DISTRICT(S) AFFECTED: **ALL**

SUBJECT:
Discussion and action on the proposed amendments to the City of El Paso Infill Development Incentive Policy (All Districts) [Planning and Economic Development, Kathryn Dodson (915)541-4670]

BACKGROUND/DISCUSSION:
The proposed amendments to the Infill Development Incentive Policy, passed by Council on 8/24/10, seek to clarify the requirements and procedures for the policy that provides financial and other incentives to promote infill development and bring currently underutilized sites throughout the city back to productive use. The amendments to the policy seek to clarify and add to the following: the definition of attainable housing, Smart Growth component for projects of five (5) acres or greater, demolition of historic properties would not be eligible for the program, simplified infill incentive map for the City and clarification of verbiage throughout the policy.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?

Yes. On 8/24/10, City Council adopted the current Infill Development 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:
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:** _____

RESOLUTION

That the City Council approve amendments to the City of El Paso Infill Development Incentive Policy, as recommended by the Director of Planning and Economic Development Department, with the amended policy being attached hereto as Exhibit "A".

ADOPTED this the _____ day of October 2010.

THE CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Kathryn B. Dodson, Ph.D., Director
Planning & Economic Development

ECO/10/Reso/Infill Development Policy /Amendments
Document: #59721/MTAY (10-06-2010)

Exhibit A

Infill Development Incentive Policy

PURPOSE

It is the policy of the City of El Paso to provide incentives to promote infill development, reduce sprawl, increase the availability of attainable housing and increase economic activity and vitality throughout the City all of which will improve the local economy and enhance quality of life for the benefit of the residents of El Paso. Insofar as these goals are served by enhancing the value of the local tax base and increasing economic opportunities, the City of El Paso will give consideration to provide incentives for infill development.

The purpose of this policy is to define the financial or other incentives available to encourage infill development.

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

Infill – As per Title 20 of the El Paso Municipal Code (20.10.280), infill development is any property on which at least two of the following factors are present: the property is wholly or partially located within a designated tax increment financing district, or the property is wholly or partially located within an empowerment zone, or the property is wholly or partially located within a designated redevelopment area pursuant to Chapter 20.14 of this title, or the property is located within a designated historic district, or the property is within an older neighborhood of the city. An older neighborhood of the city is defined as a legally recorded and developed subdivision for at least 30 years. The most current definition of Infill in the city code will control and govern for this policy.

Attainable Rental Housing – residential rental housing (single-family or multifamily) for persons having an annual household income at or below 120% of area median income for the El Paso Region, as determined annually by the United States Department of Housing and Urban Development.

Vacant Building – A building is defined as vacant if it is 60% or more unoccupied and is registered as a vacant building with the City of El Paso.

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.

PROGRAM POLICY

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 reinvestment project on the immediate and surrounding area. The City of El Paso may provide incentives to a property owner if the proposed infill development project meets the following criteria:

1. Is private property that includes investment in new construction and/or renovation with a total investments of $25,000 or greater; for all other land uses is private property that includes investment in new construction and/or renovation with total investment of $50,000 or greater. For the purposes of this policy, the total investment cost excludes property acquisition costs; and

2. Includes new construction on a vacant lot and/or renovation of existing vacant or blighted buildings to be used for any of the following land uses: single-family homes for attainable rental housing, office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing City of El Paso Zoning Code; and

3. Will substantially enhance the economic health of the City of El Paso; and

4. Will result in a net increase or retention of jobs in the City, will add to the tax base, will result in additional attainable rental housing units, or will otherwise improve or enhance the economic welfare of the residents or businesses of the City; and

5. Demonstrates the potential to generate revenues to the City which outweigh costs associated with incentives; and

6. The property was purchased within one year or will be purchased before entering into the incentives contract. If the land is vacant this provision does not apply; and

7. The present owner (new owner) neither caused nor contributed to the present blighted condition.

8. If the project footprint is five (5) acres or greater, the project must adopt Smart Code zoning regulations and be zoned "SmartCode Zone" as

referenced in Title 21 of the City of El Paso municipal code to be eligible for the Infill Development Policy incentives described herein.

9. The Infill Development 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.

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 economic goals which include expanding the tax base, creating quality jobs, increasing private capital investment in the community, spurring development in targeted City locations; encouraging development of targeted businesses or clusters desirable to enhance the City's economy; or creates additional attainable rental housing in the City of El Paso; 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.

ELIGIBILITY CRITERIA

The property must meet the City definition for infill development, must be within the City Limits and must meet the following eligibility criteria:

A. The property must be a platted, unimproved lot; or

B. The property must contain a vacant building; or

C. The property must contain a building that has a CAD physical condition factor of thirty (30) or lower; or

D. The property must be renovated for use as attainable rental housing..

There are two levels of incentives with properties in the infill strategy areas defined as the First Level (First Ring) and Second Level (Second Ring) in the map in Exhibit A that are eligible for additional incentives as specified in the types of incentives available. 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 infill incentives 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

Applicants shall submit a completed "Application for Infill Development Incentives" form for consideration of financial incentives to the Planning & Economic Development Department of the City of El Paso, 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 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 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 result in execution of the recapture provision, as outlined above.

Incentives cannot be transferred as a result of a change in the majority 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 owner to notify the City of any such substantive change.

Attainable Housing Criteria

If the property is to be used for attainable rental housing, the City of El Paso will require submission of income data documentation, recordation of declaration of restrictive covenants placed on the land and have a set affordability period of five (5) years for rental units with controls on rental prices charged to income qualified households. If the property is already subject to affordability covenants of record that are consistent with these requirements, this criteria will be deemed to be satisfied provided the City is given documentation to confirm compliance with the same during the term of the incentives contract.

TYPES OF DIRECT FINANCIAL INCENTIVES AVAILABLE

Construction Materials Sales Tax Rebate

The Construction Materials Tax Rebate Program is an economic development tool designed to provide incentives for the new construction or renovation of single family homes, office, retail, restaurant and multi-family residential facilities that are

considered infill development. 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 CAD value of the property upon contract execution. Construction Materials Tax Rebates are also available on properties used for attainable rental housing. This incentive will be delivered by execution of a Chapter 380 Rebate contract.

Property Tax Abatement

The City's portion of ad valorem property taxes may be abated to the property owner according to the following schedule if the City Council approves an amendment to the City's Tax Abatement Policy to allow for eligibility under this infill development policy:

First Level (First Ring)

Investment: Single family attainable rental housing	Investment: Commercial (including multi-family attainable rental housing)	Year 1	Year 2	Year 3	Year 4	Year 5
$25,000	$50,000	100%	50%	25%	0%	0%
$50,000	$100,000	100%	75%	50%	25%	0%
$100,000	$200,000	100%	100%	75%	50%	25%
	$400,000	100%	100%	75%	66%	50%
	$800,000+	100%	100%	75%	75%	66%

Second Level (Second Ring)

Investment: Single family attainable rental housing	Commercial (including multi-family attainable rental housing)	Year 1	Year 2	Year 3	Year 4	Year 5
$25,000	$50,000	100%	0%	0%	0%	0%
$50,000	$100,000	100%	50%	0%	0%	0%
$100,000	$200,000	100%	66%	33%	0%	0%
	$400,000	100%	75%	50%	25%	0%
	$800,000+	100%	100%	75%	50%	25%

Ad valorem property tax abatement 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. This incentive will be delivered by execution of a Chapter 312 Tax Abatement Agreement.

Lien Waivers

In conjunction with receipt of a direct finance incentive contract, an Applicant may take advantage of the Lien Waiver Program to be implemented under this Policy. This program will provide property owners 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.

TERM OF FINANCIAL INCENTIVES

The availability of financial incentives under this Policy shall remain in effect until August 31, 2015.

SUPPLEMENTAL BENEFITS AVAILABLE TO PROMOTE INFILL DEVELOPMENT

Building Construction Fee Waivers

If the City Council approves by ordinance the reduction or the waiver of building construction fees and planning fees associated with the construction or redevelopment on infill development properties, the Economic Development Department will implement a Building Construction Fee Waiver Program for the purpose of providing eligible property owners an opportunity to apply for an exemption from planning and building fees associated with new construction or renovation and occupancy of their infill facilities. It is anticipated that the eligibility requirements will be as follows: if the property owner provides acceptable documentation to the City to demonstrate that the total renovation/construction cost is greater than the Central Appraisal District appraised value of the land and improvements, then up to 100% of the fees will be waived based on the fee schedule established in the ordinance or other appropriate resolution of Council, but in no event will the total fee waiver amount exceed $4,000 for a single family attainable rental housing project or exceed $10,000 for a commercial, multifamily or mixed-use project for properties in the first ring (first level); or exceed $2,000 for a single family attainable rental housing project; or exceed $5,000 for a commercial, multifamily or mixed-use project for properties in the second ring (second level).

Customized Plan Review

In order to facilitate redevelopment of infill properties, the Planning & Economic Development Department is committed to assisting applicants through the planning and permitting under an expedited review process at no additional cost to the applicant.

Infill Overlay

At the property owner's request, the City will initiate an infill overlay application on the property that may result in decreased parking requirements, a reduced setback provision, increased density, changes of use and other benefits as per section 20.10.280 of the City Code.

Exhibit A

Infill Development Incentive Policy

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2. Includes new construction on a vacant lot and/or renovation of existing vacant or blighted buildings to be used for any of the following land uses: single-family homes for attainable rental housing, office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing City of El Paso Zoning Code; and

3. Will substantially enhance the economic health of the City of El Paso; and

4. Will result in a net increase or retention of jobs in the City, will add to the tax base, will result in additional attainable rental housing units, or will otherwise improve or enhance the economic welfare of the residents or businesses of the City; and

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7. The present owner (new owner) neither caused nor contributed to the present blighted condition.

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D. The property must be renovated for use as attainable rental housing.

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Recapture

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If the property is to be used for attainable rental housing, the City of El Paso will require submission of income data documentation, recordation of declaration of restrictive covenants placed on the land and have a set affordability period of five (5) years for rental units with controls on rental prices charged to income qualified households. If the property is already subject to affordability covenants of record that are consistent with these requirements, this criteria will be deemed to be satisfied provided the City is given documentation to confirm compliance with the same during the term of the incentives contract.

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TYPES OF DIRECT FINANCIAL INCENTIVES AVAILABLE

Construction Materials Sales Tax Rebate

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considered infill development. 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 CAD value of the property upon contract execution. Construction Materials Tax Rebates are also available on properties used for attainable rental housing. This incentive will be delivered by execution of a Chapter 380 Rebate contract.

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Property Tax Abatement

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First Level (First Ring)

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Investment: Single family attainable rental housing	Investment: Commercial (including multi-family attainable rental housing)	Year 1	Year 2	Year 3	Year 4	Year 5
$25,000	$50,000	100%	50%	25%	0%	0%
$50,000	$100,000	100%	75%	50%	25%	0%
$100,000	$200,000	100%	100%	75%	50%	25%
	$400,000	100%	100%	75%	66%	50%
	$800,000+	100%	100%	75%	75%	66%

Second Level (Second Ring)

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Investment: Single family attainable rental housing	Commercial (including multi-family attainable rental housing)	Year 1	Year 2	Year 3	Year 4	Year 5
$25,000	$50,000	100%	0%	0%	0%	0%
$50,000	$100,000	100%	50%	0%	0%	0%
$100,000	$200,000	100%	66%	33%	0%	0%
	$400,000	100%	75%	50%	25%	0%
	$800,000+	100%	100%	75%	50%	25%

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Ad valorem property tax abatement 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. This incentive will be delivered by execution of a Chapter 312 Tax Abatement Agreement.

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Lien Waivers

In conjunction with receipt of a direct finance incentive contract, an Applicant may take advantage of the Lien Waiver Program to be implemented under this Policy. This program will provide property owners 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.

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TERM OF FINANCIAL INCENTIVES

The availability of financial incentives under this Policy shall remain in effect until August 31, 2015.

SUPPLEMENTAL BENEFITS AVAILABLE TO PROMOTE INFILL DEVELOPMENT

Building Construction Fee Waivers

If the City Council approves by ordinance the reduction or the waiver of building construction fees and planning fees associated with the construction or redevelopment on infill development properties, the Economic Development Department will implement a Building Construction Fee Waiver Program for the purpose of providing eligible property owners an opportunity to apply for an exemption from planning and building fees associated with new construction or renovation and occupancy of their infill facilities. It is anticipated that the eligibility requirements will be as follows: if the property owner provides acceptable documentation to the City to demonstrate that the total renovation/construction cost is greater than the Central Appraisal District appraised value of the land and improvements, then up to 100% of the fees will be waived based on the fee schedule established in the ordinance or other appropriate resolution of Council, but in no event will the total fee waiver amount exceed $4,000 for a single family attainable rental housing project or exceed $10,000 for a commercial, multifamily or mixed-use project for properties in the first ring (first level); or exceed $2,000 for a single family attainable rental housing project; or exceed $5,000 for a commercial, multifamily or mixed-use project for properties in the second ring (second level).

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Customized Plan Review

In order to facilitate redevelopment of infill properties, the Planning & Economic Development Department is committed to assisting applicants through the planning and permitting under an expedited review process at no additional cost to the applicant.

Infill Overlay

At the property owner's request, the City will initiate an infill overlay application on the property that may result in decreased parking requirements, a reduced setback provision, increased density, changes of use and other benefits as per section 20.10.280 of the City Code.

Exhibit A

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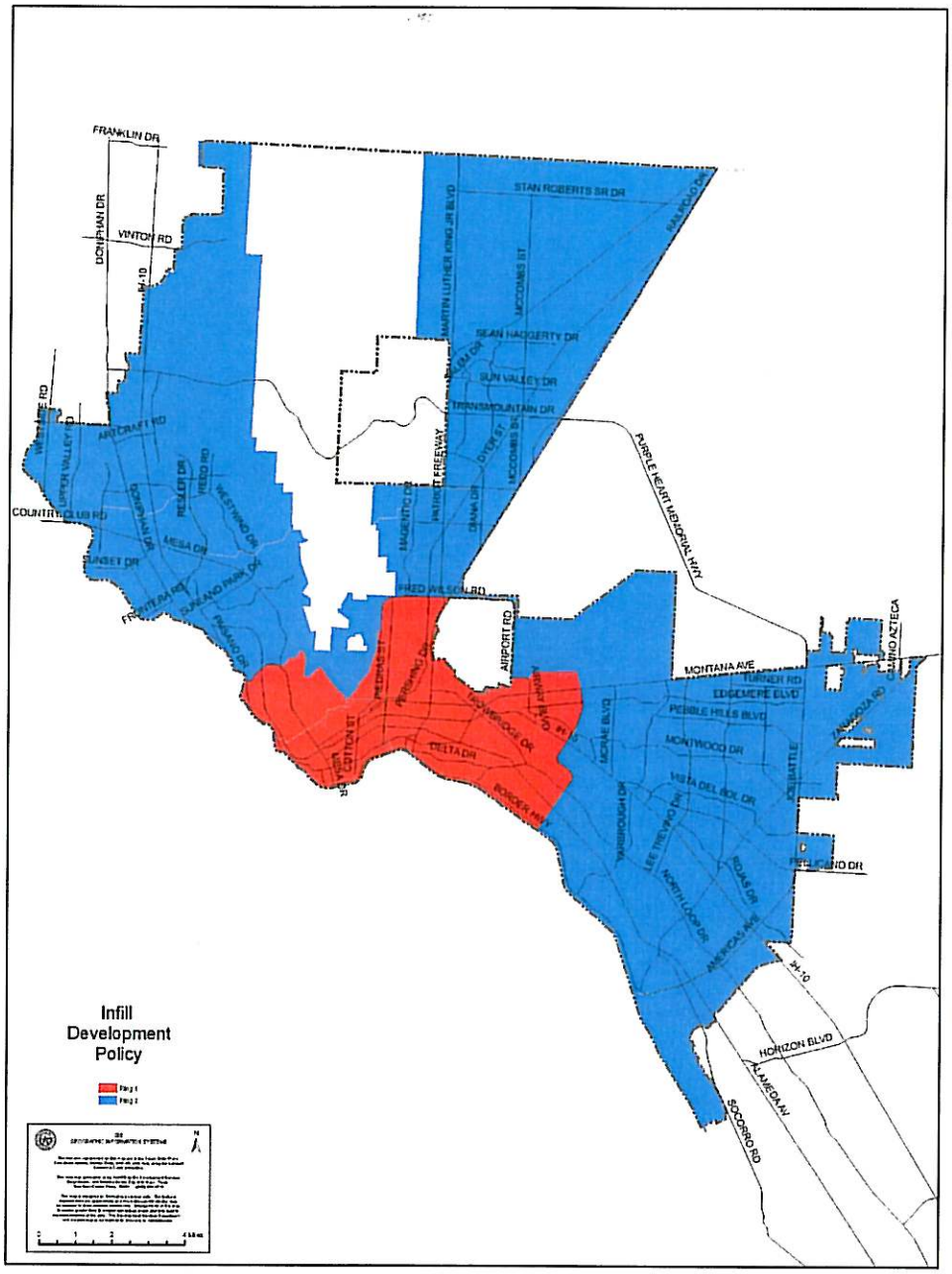

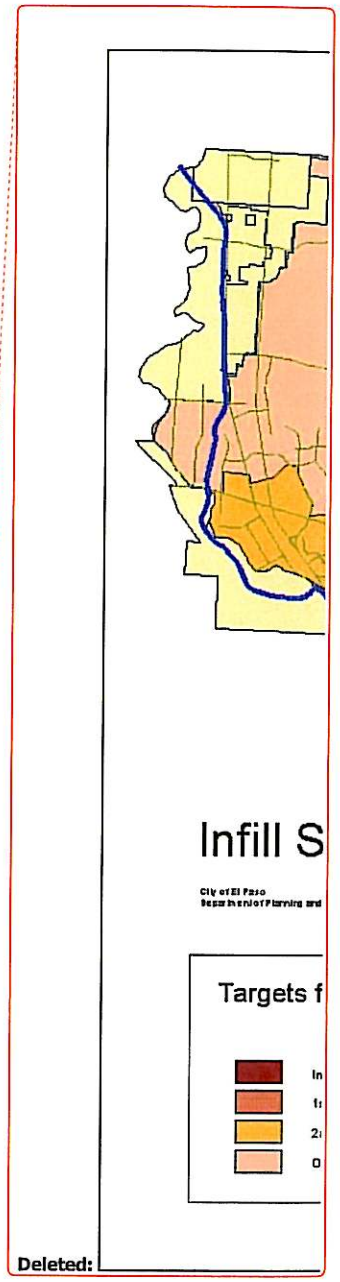

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Exhibit A
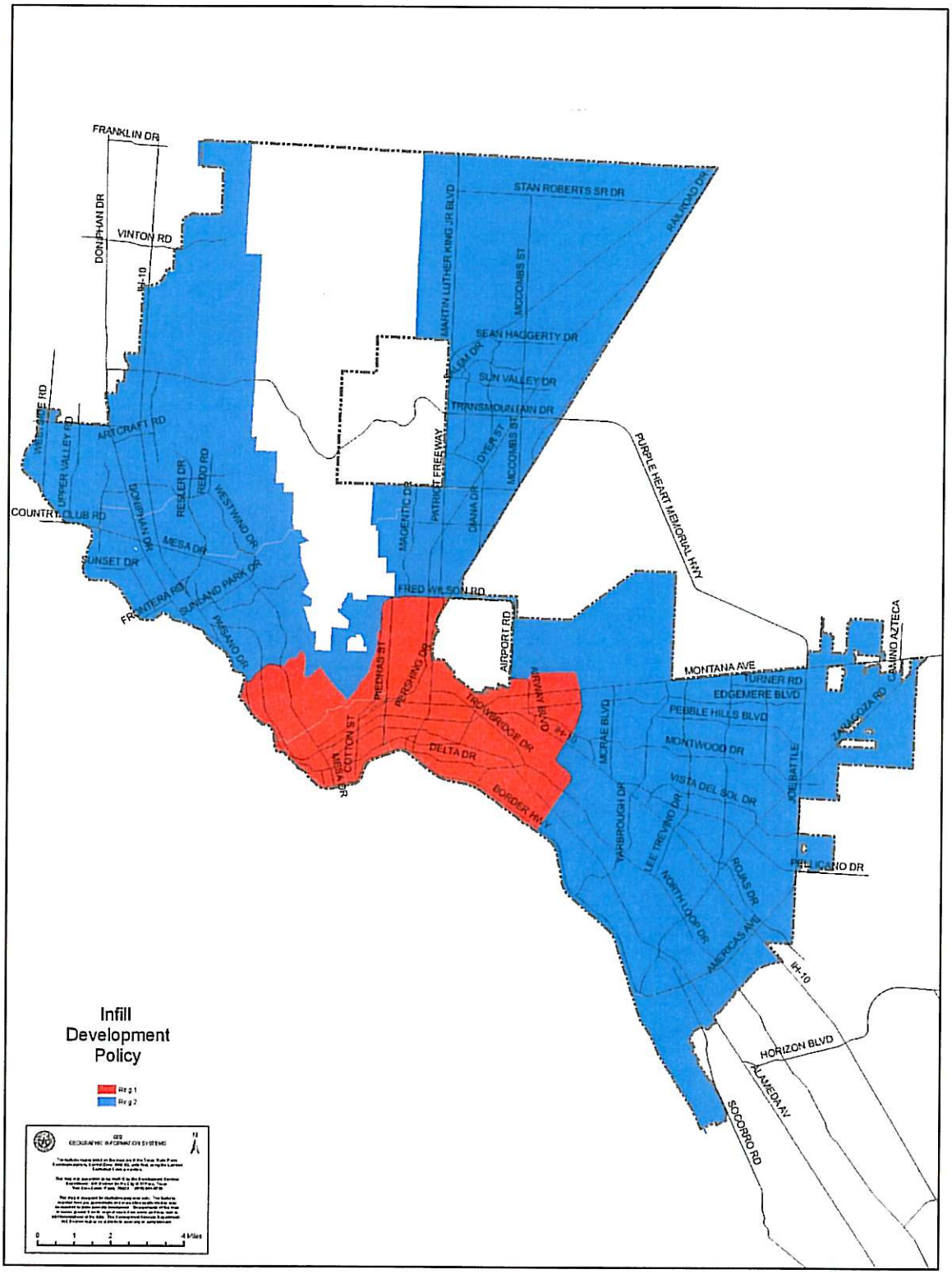
Exhibit A