

ORDINANCE NO.

AN ORDINANCE CREATING AND DESIGNATING THE AREA SURROUNDING THE WALLER CREEK TUNNEL PROJECT AS A TAX INCREMENT FINANCING REINVESTMENT ZONE NAMED "REINVESTMENT ZONE NUMBER SEVENTEEN, CITY OF AUSTIN, TEXAS"; ESTABLISHING A BOARD OF DIRECTORS FOR THE REINVESTMENT ZONE; CREATING A TAX INCREMENT BASE; ESTABLISHING A TAX INCREMENT FUND; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Findings.

The City Council finds that:

- (1) The City has proposed creation of a tax increment financing reinvestment zone under Texas Tax Code Chapter 311 (*Tax Increment Financing Act*) for the approximately 126 acre area surrounding the Waller Creek Tunnel Project, as more particularly described by metes and bounds in Exhibit A and the map in Exhibit B attached to and incorporated as part of this ordinance (Reinvestment Zone).
- (2) The City has prepared a preliminary reinvestment zone project and financing plan, attached to and incorporated as part of this Ordinance as Exhibit C (Preliminary Plan).
- (3) As required by Texas Tax Code Section 311.003 (*Procedure for Creating Reinvestment Zone*) of the Act, the governing body of each taxing unit that levies taxes on real property in the proposed Reinvestment Zone has been given a copy of the Preliminary Plan and provided 60 days notice of the creation of the proposed reinvestment zone. Travis County and the Austin Independent School District have received a formal presentation from City staff.
- (4) The Preliminary Plan provides that the ad valorem taxes of the City that constitutes the City's tax increment, and fifty percent of Travis County's tax increment, from property within the proposed Reinvestment Zone will be deposited into the Tax Increment Fund created by this ordinance, and that the ad valorem taxes of the other taxing units, if agreed to by those taxing

units, constituting their respective tax increments from property within the proposed Reinvestment Zone may also be utilized for the purposes described in the Preliminary Plan.

- (5) On June 21, 2007, at 6 o'clock p.m., at the Austin City Hall, Austin, Texas, the City held a public hearing to receive public comments on the creation of the proposed Reinvestment Zone and its benefits to the City and County, and the property in the proposed Reinvestment Zone.
- (6) In compliance with the Tax Increment Financing Act, notice of the public hearing on the proposed Reinvestment Zone was published at least seven days before the date of the public hearing in the Austin American-Statesman, a daily paper of general circulation in the City.
- (7) At the hearing, the City Council heard comment from each interested person supporting or opposed to: the creation of the proposed Reinvestment Zone; the boundaries of the proposed Reinvestment Zone; inclusion of all or part of the territory included in the proposed Reinvestment Zone; the benefit to the property in the proposed zone the concept of tax increment financing; and the appointment of members to a board of directors for the proposed Reinvestment Zone.
- (8) The owners of property located within the proposed Reinvestment Zone, other taxing units, and other interested persons were given a reasonable opportunity at the public hearing to protest the creation of the proposed Reinvestment Zone, including the inclusion of certain property in the proposed Reinvestment Zone.
- (9) The Reinvestment Zone meets the criteria for the creation of a reinvestment zone as set forth in the Tax Increment Financing Act because:
 - (a) It is a contiguous geographic area located wholly within the corporate limits of the City.
 - (b) It meets the requirements of Texas Tax Code Section 311.005 (*Criteria for Reinvestment Zone*), including specifically Subsections 311.005(a)(1)(D) and (H), because there are unsafe conditions with the potential for flooding that endangers life or property; and Subsection 311.005(a)(2), because the area is predominantly open and contains obsolete structures and site improvements because of its floodplain designation, that substantially impair the sound growth of the City.

(c) The improvements proposed to be implemented in the proposed Reinvestment Zone will significantly enhance the value of all taxable real property in the proposed Reinvestment Zone.

(10) The creation of the proposed Reinvestment Zone will benefit the City, its residents and property owners, including the property, residents, and property owners in the proposed Reinvestment Zone.

(11) The development or redevelopment of the property in the proposed Reinvestment Zone will not occur solely through private investment in the reasonably foreseeable future.

(12) The proposed Reinvestment Zone does not contain more than fifteen percent of the total appraised value of real property taxable by a county or school district and not more than ten percent of the property in the proposed Reinvestment Zone is currently in use for residential purposes.

(13) According to the most recent appraisal rolls of the Travis Central Appraisal District, the total appraised value of all taxable real property in the proposed Reinvestment Zone together with the total appraised value of taxable real property in all other existing reinvestment zones within the City does not exceed fifteen percent of the current total appraised value of taxable real property in the City and in the industrial districts created by the City, if any.

(14) The creation of the proposed Reinvestment Zone and the expenditure of funds on deposit in the Tax Increment Fund is necessary or convenient to the creation of the Reinvestment Zone or to the implementation of the Preliminary Plan for the Reinvestment Zone, and constitutes a program to promote local economic development and to stimulate business and commercial activity in the City.

PART 2. Creation.

A reinvestment zone is created for the area described in Exhibit A and Exhibit B and this reinvestment zone is designated as "Reinvestment Zone Number Seventeen, City of Austin, Texas" (the Zone).

PART 3. Board of Directors.

A board of directors for the Zone is established, consisting of 11 members (Board).

(1) The Board of the Zone shall be appointed as follows:

(a) The Travis County Commissioner's Court and the Austin Community College District may each appoint one member to the Board. The

1 Austin Independent School District and the Travis County Hospital
2 District have waived their right to appoint a board member. The
3 Travis County Commissioner's Court and Austin Community College
4 District shall make their initial appointments by resolution not later
5 than the 60th day after the effective date of this ordinance, or as
6 promptly afterward as reasonably possible. For those board positions
7 for which taxing units have waived the right to appoint a member, the
8 City Council may appoint Board members to fill the board positions.

9 (b) As provided in Subsection 311.009(a) of the Act, the remaining
10 members of the Board are appointed by the City Council.

11 (2) A Board member shall serve a two year term. The City Council shall
12 designate a member of the Board to serve as its chair. The Board shall elect
13 from its members a vice chair and other officers as it deems necessary.

14 (3) The Board shall make recommendations to the City Council concerning the
15 administration of the Zone. It shall prepare and adopt a final project plan
16 and financing plan for the Zone and submit these plans to the City Council
17 for approval. The Board shall possess all powers necessary to prepare,
18 implement and monitor the project plan and zone financing plan for the
19 Zone as the City Council considers advisable, including the submission of an
20 annual report on the status of the Zone.

21 **PART 4. Authority of the Board.**

22 (A) The City Council authorizes the Board of the Zone to exercise any of the
23 City's powers with respect to the administration, management, or operation
24 of the Zone or the implementation of the project plan for the Zone, except
25 that the Board may not: issue tax increment bonds or notes; impose taxes or
26 fees; exercise the power of eminent domain; or give final approval to the
27 project plan.

28 (B) The Board of the Zone may enter into a contract with a local government
29 corporation created by the City under Texas Transportation Code Chapter
30 431 (*Texas Transportation Corporation Act*), to manage the Zone or
31 implement the approved project plan and financing plan. Funds on deposit
32 in the Tax Increment Fund may be transferred to the local government
33 corporation to secure bonds, notes or other obligations issued by the local
34 government corporation relating to the implementation of the approved
35 project plan and financing plan for the Zone.

36 **PART 5. Tax Increment Base.**

1 The tax increment base for the Zone is the total appraised value determined as of
2 January 1, 2007, of all taxable real property located in the Zone as provided in Texas Tax
3 Code Section 311.012(c).

4 **PART 6. Tax Increment Fund.**

- 5 (A) A Tax Increment Fund for the Zone is established. The Tax Increment Fund
6 may be divided into accounts and subaccounts as authorized by the City
7 Council. All tax increments, less the amount not required to be paid into the
8 Tax Increment Fund under the Tax Increment Financing Act, must be
9 deposited into the Tax Increment Fund. All revenues from the sale of tax
10 increment bonds or notes, contract revenue bonds or other indebtedness
11 issued by the City, or property acquired as part of the financing plan, and
12 other revenue dedicated to use in the Zone shall be deposited into the Tax
13 Increment Fund to pay approved project costs for the Zone or to satisfy the
14 claims of holders of tax increment bonds or notes issued for the Zone. It is
15 intended that the City and Travis County, and any other taxing units
16 contributing to the Tax Increment Fund, will contribute their respective
17 payments into the Fund for the years 2009 through 2028.
- 18 (B) City Council approval of an expenditure from the Tax Increment Fund in
19 excess of the city manager's administrative limit or a related contract is
20 required before the expenditure is made or the contract is executed.
- 21 (C) The Tax Increment Fund including an account or subaccount shall be
22 maintained at the City's depository bank and secured as prescribed by state
23 law.

24 **PART 7. Severability.**

25 If any section, paragraph, clause, or provision of this ordinance is for any reason
26 held to be invalid or unenforceable, the invalidity or unenforceability of that section,
27 paragraph, clause, or provision shall not affect any of the remaining provisions of this
28 ordinance.

29 **PART 8. Effective Date and Termination.**

30 The Zone shall take effect on June 21, 2007, and shall terminate on September 30,
31 2028, or at an earlier time designated by the City Council by ordinance if the City
32 Council determines in its sole discretion that the Zone should be terminated due to
33 insufficient private investment, accelerated private investment, or other good cause, or
34 when all project costs and tax increment bonds or notes, contract revenue bonds, or other
35 indebtedness if any, including interest, have been paid in full.

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2 **PART 9. Effective Date.**

3 The council finds that Texas Tax Code Subsection 311.004(a)(3) requires that the
4 Zone take effect immediately upon passage of this ordinance, and that this constitutes an
5 emergency. Because of the emergency, this ordinance takes effect immediately on its
6 passage for the immediate preservation of the public peace, health, and safety, and to
7 comply with state law.

8 **PASSED AND APPROVED**

9
10 _____, 2007

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Will Wynn
Mayor

16
17 **APPROVED:** _____

18 David Allan Smith
19 City Attorney

20 **ATTEST:** _____

Shirley A. Gentry
City Clerk