

ORDINANCE NO.

AN ORDINANCE CREATING AND DESIGNATING THE AREA SURROUNDING THE SEAHOLM PROJECT AS A TAX INCREMENT FINANCING REINVESTMENT ZONE NAMED "REINVESTMENT ZONE NUMBER EIGHTEEN, 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:

- (A) The City has proposed creation of a tax increment financing reinvestment zone under Chapter 311 of the Texas Tax Code (the "*Tax Increment Financing Act*") for the approximately 7.1 acre area surrounding the Seaholm Project, located within the area bounded on the west by the planned Seaholm Drive from Third Street south to Cesar Chavez Street; on the south by Cesar Chavez Street from the planned West Avenue east to Seaholm Drive; on the east by West Avenue from Cesar Chavez Street north to Third Street; and on the north by Third Street between Seaholm Drive and West Avenue, and depicted in the map in Exhibit A attached to and incorporated as part of this ordinance (Reinvestment Zone).
- (B) The City has prepared a preliminary reinvestment zone project and financing plan, attached to and incorporated as part of this Ordinance as Exhibit B (Preliminary Plan).
- (C) As required by 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. Presentations were made to the Travis County Commissioners' Court, the Travis County Healthcare District, the Austin Community College Board of Trustees and the Austin Independent School District Board of Trustees.
- (D) The Preliminary Plan provides that the ad valorem taxes of the City that constitutes the City's tax increment from property within the proposed Reinvestment Zone will be deposited into the Tax Increment Fund created by

1 this ordinance, and that the ad valorem taxes of the other taxing units, if agreed
2 to by those taxing units, constituting their respective tax increments from
3 property within the proposed Reinvestment Zone may also be utilized for the
4 purposes described in the Preliminary Plan.

5 (E) On November 20, 2008, at 6 o'clock p.m., at the Austin City Hall, Austin,
6 Texas, the City held a public hearing to receive public comments on the
7 creation of the proposed Reinvestment Zone and its benefits to the City and the
8 property in the proposed Reinvestment Zone.

9 (F) In compliance with the Act, notice of the public hearing on the proposed
10 Reinvestment Zone was published at least seven days before the date of the
11 public hearing in the Austin American-Statesman, a daily paper of general
12 circulation in the City.

13 (G) At the hearing, the City Council heard comment from each interested person
14 supporting or opposed to: the creation of the proposed Reinvestment Zone; the
15 boundaries of the proposed Reinvestment Zone; inclusion of all or part of the
16 territory included in the proposed Reinvestment Zone; the benefit to the
17 property in the proposed zone the concept of tax increment financing; and the
18 appointment of members to a Board of Directors for the proposed
19 Reinvestment Zone.

20 (H) The owners of property located within the proposed Reinvestment Zone, other
21 taxing units, and other interested persons were given a reasonable opportunity
22 at the public hearing to protest the creation of the proposed Reinvestment
23 Zone, including the inclusion of certain property in the proposed Reinvestment
24 Zone.

25 (I) The Reinvestment Zone meets the criteria for the creation of a reinvestment
26 zone as set forth in the Act because:

27 (1) It is a contiguous geographic area located wholly within the corporate
28 limits of the City.

29 (2) It meets the requirements of Section 311.005 (*Criteria for Reinvestment*
30 *Zone*) of the Act, including specifically Subsections 311.005(a)(1)(B),
31 (D) and (E) because of the inadequate street layout, unsafe conditions,
32 and the deterioration of the site and improvements; and Subsection
33 311.005(a)(2), because the area is predominantly open and contains
34 deteriorating structures and site improvements, that substantially impair
35 the sound growth of the City. Because of these conditions, the area is
36 unproductive and underdeveloped.

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

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

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

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

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

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

27 **PART 2. Creation.** A reinvestment zone is created for the area described in Exhibit A
28 and Exhibit B and this reinvestment zone is designated as "Reinvestment Zone Number
29 Eighteen, City of Austin, Texas" (the "Zone").

30 **PART 3. Board of Directors.** A Board of Directors for the Zone is established,
31 consisting of 11 members (Board).

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

33 (1) The Travis County Commissioners, Court may appoint one member to
34 the Board. The Commissioner's Court has made their initial
35 appointment. The Travis County Healthcare District, the Austin

1 Community College Board of Trustees, and the Austin Independent
2 School District Board of Trustees have waived their right to appoint a
3 member to the Board. For those board positions for which taxing units
4 have waived the right to appoint a member, the City Council may
5 appoint a Board member to fill the board positions.

6 (2) As provided in Subsection 311.009(a) of the Act, the remaining
7 members of the Board are appointed by the City Council.

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

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

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

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

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

33 **PART 5. Tax Increment Base.** The tax increment base for the Zone is the total
34 appraised value determined as of January 1, 2008, of all taxable real property located in
35 the Zone as provided in Texas Tax Code Section 311.012(c).

36 **PART 6. Tax Increment Fund.**

- 1 (A) A Tax Increment Fund for the Zone is established. The Tax Increment Fund
2 may be divided into accounts and subaccounts as authorized by the City
3 Council. All tax increments, less the amount not required to be paid into the
4 Tax Increment Fund under the Act, must be deposited into the Tax Increment
5 Fund. All revenues from the sale of tax increment bonds or notes, contract
6 revenue bonds or other indebtedness issued by the City or property acquired as
7 part of the financing plan, and other revenue dedicated to use in the Zone shall
8 be deposited into the Tax Increment Fund to pay approved project costs for the
9 Zone or to satisfy the claims of holders of tax increment bonds or notes issued
10 for the Zone. It is intended that the City will contribute its annual payment into
11 the Tax Increment Fund for the term of the Zone.
- 12 (B) The City Council shall approve an expenditure from the Tax Increment Fund
13 in excess of the City Manager's administrative limit or a related contract
14 before the expenditure is made or the contract is executed.
- 15 (C) The Tax Increment Fund including an account or subaccount shall be
16 maintained at the City's depository bank and secured as prescribed by state
17 law.

18 **PART 7. Severability.** If any section, paragraph, clause, or provision of this ordinance
19 is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of
20 that section, paragraph, clause, or provision shall not affect any of the remaining
21 provisions of this ordinance.

22 **PART 8. Effective Date and Termination.** The Zone shall take effect on November
23 20, 2008 and shall terminate on the following: (1) September 30, 2038, or (2) at an earlier
24 time designated by the City Council by ordinance if the council determines in its sole
25 discretion that the Zone should be terminated due to insufficient private investment,
26 accelerated private investment, or other good cause, or (3) when all project costs and tax
27 increment bonds or notes, contract revenue bonds, or other indebtedness if any, including
28 interest, have been paid in full.

29 **PART 9. Effective Date.** The council finds that Subsection 311.004(a)(3) of the Act
30 requires that the Zone take effect immediately upon passage of this ordinance, and that
31 this constitutes an emergency. Because of the emergency, this ordinance takes effect
32 immediately on its passage for the immediate preservation of the public peace, health,
33 and safety, and to comply with state law.

PASSED AND APPROVED

_____, 2008

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Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk