

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NOS. 20081211-028 AND 20091119-033 TO INCREASE THE GEOGRAPHIC BOUNDARIES OF THE SEAHOLM REDEVELOPMENT PROJECT TAX INCREMENT FINANCING ZONE NO. 18. CITY OF AUSTIN AND AMENDING THE FINAL PROJECT AND FINANCING PLAN, BOARD APPOINTMENTS, AND TERM OF THE ZONE.

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

PART 1. Findings. The City Council finds that:

- (A) On December 11, 2008, Council adopted Ordinance No. 20081211-028, which created the Seaholm Redevelopment Project Tax Increment Financing Zone No. 18 (Zone), and established a board of directors (Board) and preliminary project and financing plan for the Zone, as well as set the term and satisfied other statutory requirements in order to establish the Zone.
- (B) On March 26, 2009, the Board adopted the final project and financing plan, and on November 30, 2009, Council adopted Ordinance No. 20091119-033, which adopted the final project and financing plan for the Zone (the Plan), finding the Plan feasible and in conformance with the Comprehensive Plan of the City of Austin.
- (C) The Zone was created in accordance with the requirements of chapter 311 of the Texas Tax Code (the Act), and included real property 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 west 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.
- (D) Owner(s) of real property adjacent and contiguous to the Zone's current geographic boundaries are in support of their inclusion in the Zone.
- (E) The City Council has reviewed and determined that the Zone would benefit from the addition of real property described in this ordinance, and that the Zone's geographic boundaries should be revised and enlarged as depicted on the map in **Exhibit A** attached to and incorporated as part of this ordinance (Amended Zone).

- 1 (F) The City has prepared an amended reinvestment zone project and financing
2 plan, attached to and incorporated as part of this ordinance as **Exhibit B**
3 (Amended Plan).
- 4 (G) The Amended Plan provides that the ad valorem and sales taxes of the City
5 that constitute the City's tax increment from property and sales within the
6 Amended Zone will be deposited into the Tax Increment Fund created by
7 Ordinance No. 20081211-028, and that the ad valorem and sales taxes of the
8 other taxing units, if agreed to by those taxing units, constituting their
9 respective tax increments from property within the proposed Amended Zone
10 may also be utilized for the purposes described in the Amended Plan.
11 Further, the Amended Plan is economically feasible and in conformance
12 with the City's Comprehensive Plan.
- 13 (H) The Act was recently amended and provides that the composition of the
14 Board shall consist of members appointed by participating taxing entities of
15 the Zone; and currently the City is the only taxing entity participating in the
16 Amended Zone.
- 17 (I) On April 26, 2012, the Board reviewed the amendments to the Zone's
18 geographic boundaries, the project and financing plan, appointment of the
19 Directors, and revisions to the term, and found the amendments will benefit
20 the City and the property in the Amended Zone, and voted to recommend the
21 changes for Council approval.
- 22 (J) On April 26, 2012, at Austin City Hall, Austin, Texas, Council held a public
23 hearing to receive public comments on the amendments to the Zone's
24 geographic boundaries, the project and financing plan, appointment of the
25 Board of Directors, and term, and now finds the amendments will benefit the
26 City and the property in the proposed Amended Zone.
- 27 (K) In compliance with the Act, notice of the date, time and location of the
28 public hearing on the proposed amendments to the Amended Zone was
29 published at least seven days before the date of the public hearing in the
30 Austin American-Statesman, a daily paper of general circulation in the City.
- 31 (L) At the hearing, the City Council heard comment from each interested person
32 supporting or opposed to: the amended boundaries of the Amended Zone;
33 the benefit to the property in the Amended Zone; the Amended Plan; the
34 amendment to the composition of the Board of Directors for the proposed
35 Amended Zone; and term of the Amended Zone.
- 36 (M) The owner(s) of property located within the proposed additional territory to
37 the Amended Zone, other taxing units, and other interested persons were

1 given a reasonable opportunity at the public hearing to protest the
2 amendments to the proposed Amended Zone, including the inclusion of
3 additional property in the proposed Amended Zone.

4 (N) The additional property to be added to the geographic boundaries of the
5 Amended Zone meet the criteria for a reinvestment zone as set forth in the
6 Act because:

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

9 (2) It meets the requirements of Section 311.005 (*Criteria for*
10 *Reinvestment Zone*) of the Act, including specifically Subsections
11 311.005(a)(1)(B), (D) and (E) because of the inadequate street layout,
12 unsafe conditions, and the deterioration of the site and improvements;
13 and Subsection 311.005(a)(2), because the area is predominantly open
14 and contains deteriorating structures and site improvements, that
15 substantially impair the sound growth of the City. Because of these
16 conditions, the area is unproductive and underdeveloped.

17 (3) The improvements proposed to be implemented in the amended
18 portion of the Amended Zone will significantly enhance the value of
19 all taxable real property in the Amended Zone.

20 (O) The amendments to the geographic boundaries and Amended Plan for the
21 Amended Zone will benefit the City, its residents and property owners,
22 including the property, residents, and property owners in the Amended Zone.

23 (P) The development or redevelopment of the property in the Amended Zone
24 will not occur solely through private investment in the reasonably
25 foreseeable future.

26 (Q) No more than thirty percent of the property in the Amended Zone is
27 currently used for residential purposes as defined by the Act.

28 (R) According to the most recent appraisal rolls of the Travis Central Appraisal
29 District, the total appraised value of all taxable real property in the proposed
30 Amended Zone together with the total appraised value of taxable real
31 property in all other existing reinvestment zones within the City does not
32 exceed twenty-five percent of the current total appraised value of taxable
33 real property in the City and in the industrial districts created by the City, if
34 any.

- 1 (S) The amendments to the Amended Zone and the expenditure of funds on
2 deposit in the Tax Increment Fund are necessary or convenient for the
3 Amended Zone or to the implementation of the Amended Plan for the
4 Amended Zone, and constitutes a program to promote local economic
5 development and to stimulate business and commercial activity in the City.
- 6 (T) The City Council determines that tax increment generated from municipal
7 sales and use and ad valorem taxes attributable to the Amended Zone, above
8 the sales tax base and tax increment base (as hereinafter defined), shall be
9 deposited into the Tax Increment Fund, to be used for the purposes outlined
10 in the Amended Plan for the proposed Amended Zone, consistent with the
11 provisions of Section 311.0123 of the Act.

12 **PART 2. Amendments.**

- 13 (A) **Geographic Boundary.** The geographic boundaries of Reinvestment Zone
14 Number Eighteen, City of Austin, Texas, designated in Ordinance No.
15 20081211-028 is amended to include the additional territory described and
16 shown in **Exhibit A**, attached and incorporated for all purposes, and the
17 reinvestment zone, including the amended boundary, shall continue to be
18 known as the Reinvestment Zone Number Eighteen, City of Austin, Texas.
19 **Exhibit A** designated in Ordinance No. 20081211-028 is repealed in its
20 entirety by this ordinance and its exhibits.
- 21 (B) **Project and Financing Plan.** Exhibit A, the project and financing plan
22 designated in Ordinance No. 20091119-033 is repealed and replaced in its
23 entirety by **Exhibit B**, attached and incorporated for all purposes to this
24 ordinance. Council finds that the amendments to the Plan are feasible and in
25 conformance with the Comprehensive Plan of the City.
- 26 (C) **Board of Directors.** Part 3. of Ordinance No. 20081211-028, is deleted in
27 its entirety and amended to read as follows:

28 **PART 3. Board of Directors.**

- 29 (A) A Board of Directors for the Zone is established, consisting of seven
30 members (Board) appointed by the City Council.
- 31 (B) A Board member shall serve a two year term. The City Council shall
32 designate a member of the Board to serve as its chair. The Board shall
33 elect from its members a vice chair and other officers as it deems
34 necessary.

- 1 (C) The Board shall make recommendations to the City Council
2 concerning the administration of the Zone. The Board shall possess
3 all powers necessary to prepare, implement and monitor the project
4 plan and financing plan for the Zone as the City Council considers
5 advisable, including the submission of an annual report on the status
6 of the Zone.
- 7 (D) The City Council authorizes the Board to exercise any of the City's
8 powers with respect to the administration, management, or operation
9 of the Zone or the implementation of the project and financing plan
10 for the Zone, except that the Board may not: issue tax increment
11 bonds or notes; impose taxes or fees; exercise the power of eminent
12 domain; or give final approval to the project and financing plan.
- 13 (E) The Board may enter into a contract with a local government
14 corporation created by the City under Chapter 431 (*Texas*
15 *Transportation Corporation Act*) of the Texas Transportation Code, to
16 manage the Zone or implement the approved project plan and
17 financing plan. Funds on deposit in the Tax Increment Fund may be
18 transferred to the local government corporation to secure bonds, notes
19 or other obligations issued by the local government corporation
20 relating to the implementation of the approved project plan and
21 financing plan for the Zone.

22 **PART 3. Tax Increment Base.** The tax increment base for the additional territory
23 added to the Zone is the total appraised value determined as of January 1, 2012, of all
24 taxable real property located in the Zone as provided in Texas Tax Code Section
25 311.012(c).

26 **PART 4. Sales Tax Base.** The sales tax base for the additional territory added to the
27 Zone is the amount of municipal sales and use taxes attributable to that amended portion
28 of the Zone for the year in which the new geographic boundaries of the Zone is
29 designated, as provided in Texas Tax Code Section 311.0123, which the City finds to be
30 zero.

31 **PART 5. Severability.** If any section, paragraph, clause, or provision of this ordinance
32 is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of
33 that section, paragraph, clause, or provision shall not affect any of the remaining
34 provisions of this ordinance.

35 **PART 6. Effective Date and Termination.** The Zone took effect on December 11,
36 2008, and as amended on the effective date of this ordinance, and shall terminate on the
37 following: (1) September 30, 2043, or (2) at an earlier time designated by the City
38 Council by ordinance if the council determines in its sole discretion that the Zone should

1 be terminated due to insufficient private investment, accelerated private investment, or
2 other good cause, or (3) when all project costs and tax increment bonds or notes, contract
3 revenue bonds, or other indebtedness if any, including interest, have been paid in full.

4 **PART 7. Effective Date.** The Council finds that Subsection 311.004(a)(3) of the Act
5 requires that the amendments to the Zone described in this Ordinance shall take effect
6 immediately upon passage of this Ordinance.

7 **PASSED AND APPROVED**

8
9
10
11 _____, 2012 § _____
12
13 Lee Leffingwell
14 Mayor
15

16 **APPROVED:** _____
17 Karen M. Kennard
18 City Attorney
19

ATTEST: _____
Shirley A. Gentry
City Clerk