

ORDINANCE NO. 3327

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DESIGNATING A CERTAIN AREA AS REINVESTMENT ZONE NO. ELEVEN FOR DUKE ENERGY KAUFMAN, L.P., FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT, CITY OF MESQUITE, TEXAS, ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO.

WHEREAS, the City Council of the City of Mesquite, Texas (the City), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Section 312.201 of the Texas Property Tax Code; and

WHEREAS, Duke Energy Kaufman, L.P. ("Duke"), which is an affiliate of Duke Energy North America, desires to invest in the construction of a facility within such area to be used as an electric power generation plant; and

WHEREAS, by Resolution No. 40-99 duly adopted by the City on the 7th day of September, 1999, a public hearing before the City Council was set for 3:00 p.m. on the 20th day of September, 1999, such date being at least seven (7) days after the date of publication of the notice of such public hearing; and

WHEREAS, the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone; and

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such hearing should be included in such proposed reinvestment zone and the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone were able to offer evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents of the reinvestment zone were able to appear to contest creation of the reinvestment zone.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. DEFINITIONS

- (a) Improvements - Improvements shall include, for the purpose of establishing eligibility under subsection 6(b), any activity at the location, including, but not limited to, new construction;
- (b) Taxable Property - Taxable property shall be as defined in the Texas Property Tax Code and shall not include land; and
- (c) Base Year - The base year for determining increased value shall be the taxable property value assessed during the year in which the agreement is executed.

SECTION 2. That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

SECTION 3. That the City, after conducting such hearings and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

- (a) That a public hearing on the adoption of the reinvestment zone has been properly called, held, and conducted and that notice of such hearing has been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone;
- (b) That the boundaries of the reinvestment zone should be the area as described in the metes and bounds description attached hereto as Exhibit "A";
- (c) That creation of the reinvestment zone for commercial/industrial tax abatement with boundaries as described in Exhibit "A" is reasonably likely to result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical;
- (d) That the reinvestment zone as defined in Exhibit "A" meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Texas Property Tax Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City;" and
- (e) That the reinvestment zone as defined in Exhibit "A" meets the criteria for the creation of a reinvestment zone as set forth in the City of Mesquite Guidelines and Criteria for granting tax abatement in reinvestment zones.

SECTION 4. That pursuant to Section 312.201 of the Texas Property Tax Code, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing

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only the area described by the metes and bounds in Exhibit "A" attached hereto, and such reinvestment zone is hereby designated and shall hereafter be designated as Reinvestment Zone No. Eleven for Duke Energy Kaufman, L.P., City of Mesquite, Texas.

SECTION 5. This designation shall be effective for five (5) years from the effective date of this ordinance.

SECTION 6. That to be considered for execution of an agreement for tax abatement the commercial/industrial project shall:

- (a) Be located wholly within the zone as established herein;
- (b) Meet the following criteria:
 - (1) The project must result in a net increase of at least \$2 Million Dollars in taxable value;
 - (2) The project must conform to the Comprehensive Zoning Ordinance; and
 - (3) The project must contribute to the retention or expansion of primary employment or contribute substantially to redevelopment efforts, and must not be expected to have the effect of transferring employment from one part of the City to another.
- (c) Not include property that is owned or leased by a member of the City Council of the City of Mesquite or by a member of the Planning and Zoning Commission.
- (d) Apply no abatement on the land located within the designated zone and, accordingly, shall be assessed property taxes on the fair market value of the land for tax purposes.

SECTION 7. That written agreements for tax abatement as provided for by Section 312.205 of the Texas Property Tax Code shall include provisions for:

- (a) Listing the kind, number and location of all proposed improvements of the property;
- (b) Access to and inspection of property by City municipal employees to ensure that the improvement or repairs are made according to the specification and conditions of the agreements;
- (c) Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the Zone during the period that property tax exemptions are in effect; and

- (d) Recapturing property tax revenue lost as result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.

SECTION 8. That if any portion of this ordinance shall, for any reason, be declared invalid by any court or competent jurisdiction, such invalidity shall not affect the remaining provisions hereof.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of September, 1999.



Mike Anderson
Mayor

ATTEST:

APPROVED:



Ellen Williams
City Secretary



B.J. Smith
City Attorney

BEING a 343.5688 acre tract of land situated in the William Latham Survey, Abstract No. 837, the Swing & Laws Survey, Abstract No. 1404, the Isaac Edwards Survey, Abstract No. 1658, the J.S. Ramsey Survey, Abstract No. 1189, and the Hannah Wicker Survey, Abstract No. 1757, all in Dallas County, Texas, and part of the J.S. Ramsey Survey, Abstract No. 414, the J.C. Robertson Survey, Abstract No. 441, and the Hannah Wicker Survey, Abstract No. 234, all in Kaufman County, Texas, said tract being a part of that tract conveyed to GKD Partnership I, Ltd., by Warranty Deed recorded in Volume 95202, Page 5367, Deed Records of Dallas County, Texas and in Volume 1187, Page 259, Real Property Records of Kaufman County, Texas and being more particularly described as follows:

BEGINNING at a 5/8" iron rod set for corner in the north line of Interstate Highway 20 (450' R.O.W.), said corner being the southeast corner of Tract 2 of the said GKD tract and a corner of the Levi J. King tract as recorded in Volume 427, Page 540, Deed Records, Kaufman County, Texas;

THENCE S 87°05'37" W, along said north line, a distance of 3913.51 feet to a point for corner at the beginning of a curve to the right having a central angle of 02°00'59", a radius of 5504.58 feet and a chord bearing and distance of S 88°06'06" W, 193.71 feet;

THENCE continuing along said north line and with said curve to the right, an arc distance of 193.72 feet to a point for corner in the present centerline of the east fork of the Trinity River;

THENCE departing said north line and along said present centerline the following bearings and distances:

N 34°15'41" E, 207.27 feet to a point for corner;
 N 06°49'00" E, 222.50 feet to a point for corner;
 N 22°34'00" E, 207.00 feet to a point for corner;
 N 11°34'00" E, 170.80 feet to a point for corner;
 N 32°04'00" E, 144.90 feet to a point for corner;
 N 39°39'00" E, 186.30 feet to a point for corner;
 N 23°24'00" E, 196.60 feet to a point for corner;
 N 03°06'00" W, 227.70 feet to a point for corner;
 N 11°24'00" E, 103.50 feet to a point for corner;
 N 24°24'00" E, 227.70 feet to a point for corner;
 N 06°09'00" E, 186.30 feet to a point for corner;
 N 02°39'00" E, 170.80 feet to a point for corner;
 N 31°54'00" E, 56.90 feet to a point for corner;
 N 67°39'00" E, 82.80 feet to a point for corner;
 N 87°24'00" E, 103.50 feet to a point for corner;
 N 66°39'00" E, 129.40 feet to a point for corner;
 N 17°24'00" E, 72.40 feet to a point for corner;
 N 30°51'00" W, 82.80 feet to a point for corner;
 N 72°21'00" W, 191.50 feet to a point for corner;
 N 55°51'00" W, 181.10 feet to a point for corner;
 N 25°06'00" W, 134.60 feet to a point for corner;
 N 08°39'00" E, 191.50 feet to a point for corner;
 N 32°09'00" E, 134.60 feet to a point for corner;
 N 52°24'00" E, 258.80 feet to a point for corner;

THENCE departing the said centerline N 83°06'35" E a distance of 5235.51' feet to a 5/8" iron rod set for corner and also being in the northwest line of a tract conveyed to Jimmy Smith in Volume, 1139, Page 229, Deed Records, Kaufman County, Texas;

THENCE S 44°53'02" W, along the northwest line of said Smith tract and then the northwest line of a tract conveyed to Kieth Brooks in Volume 1337, Page 495, Deed Records, Kaufman County, Texas, a distance of 1230.22' feet to a 5/8" iron rod set for corner at the most westerly corner of said Brooks tract;

THENCE S 44°08'41" E, along the southwest line of said Brooks tract and then the southwest line of the Cason tract a distance of 1071.12 feet to a 5/8" iron rod set for corner at the north corner of the aforementioned Levi J. King tract;

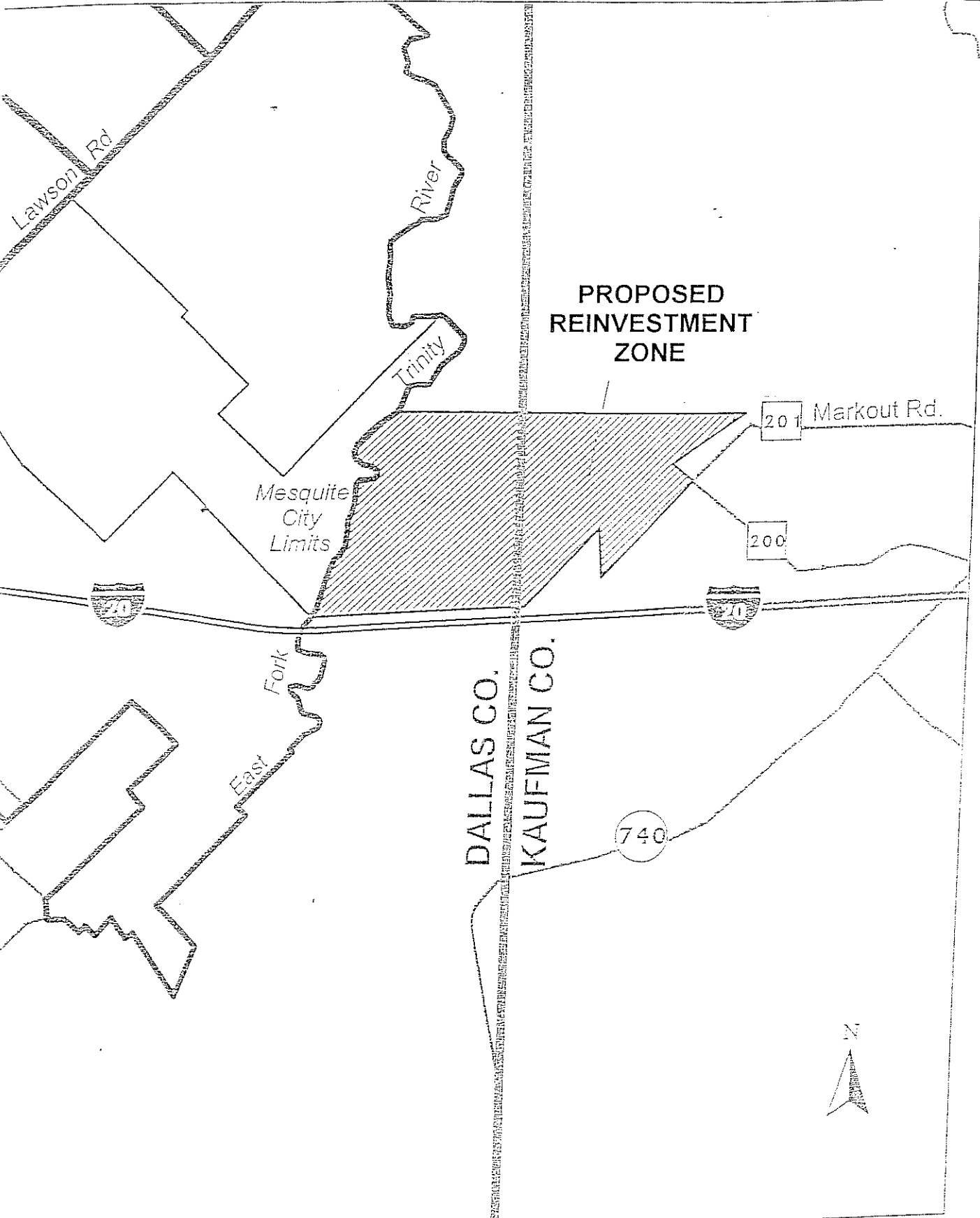
THENCE along said Levi J. King tract the following:

THENCE S 44°08'11" W, a distance of 2085.80 feet to a 5/8" iron rod set for corner;

THENCE N 00°52'07" E, a distance of 828.15 feet to a 5/8" iron rod set for corner;

THENCE S 45°17'32" W, a distance of 1278.63 feet to a 5/8" iron rod set for corner;

THENCE N 88°41'54" E, a distance of 499.94 feet to a 5/8" iron rod set for corner;



**PROPOSED
REINVESTMENT
ZONE**

Lawson Rd

River

Trinity

Mesquite
City
Limits

201 Markout Rd.

200

20

20

Fork

East

DALLAS CO.

KAUFMAN CO.

740

