

ORDINANCE NO. 4532

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA CONSISTING OF APPROXIMATELY 146.746 ACRES OF LAND GENERALLY LOCATED SOUTH OF INTERSTATE HIGHWAY 20, EAST OF FM 741 AND NORTH OF HEARTLAND PARKWAY IN KAUFMAN COUNTY, TEXAS, LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF MESQUITE AS A REINVESTMENT ZONE PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE, TO BE KNOWN AS REINVESTMENT ZONE NUMBER ELEVEN, CITY OF MESQUITE, TEXAS (HEARTLAND TOWN CENTER); DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE; ESTABLISHING A TAX INCREMENT FUND FOR THE ZONE; CONTAINING FINDINGS RELATED TO THE CREATION OF THE ZONE; PROVIDING A DATE FOR THE TERMINATION OF THE ZONE; PROVIDING THAT THE ZONE TAKE EFFECT IMMEDIATELY UPON PASSAGE OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mesquite, Texas (the “City”), pursuant to Chapter 311 of the Texas Tax Code, as amended (the “Act”), may designate a geographic area within the corporate limits of the City or within the extraterritorial jurisdiction (the “ETJ”) of the City, or in both, as a tax increment reinvestment zone if the area satisfies the requirements of the Act; and

WHEREAS, the Act provides that the governing body of a municipality by ordinance may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality or within the ETJ of the municipality to be a reinvestment zone if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future; and

WHEREAS, the City Council of the City (the “City Council”) desires for the City to consider the creation of a tax increment reinvestment zone with the boundaries described in the metes and bounds attached hereto as *Exhibit A* and more generally depicted in *Exhibit B* attached hereto (the “Zone”); and

WHEREAS, pursuant to and as required by the Act, the City has prepared a *Preliminary Project and Financing Plan for Reinvestment Zone Number Eleven, City of Mesquite, Texas (Heartland Town Center)* dated November 2017 (hereinafter referred to as the “Preliminary Project and Finance Plan”) for a proposed tax increment reinvestment zone containing the real property within the Zone; and

WHEREAS, notice of the public hearing on the creation of the proposed zone was published in a newspaper of general circulation in the City and in a newspaper of general

circulation in the ETJ on or before December 11, 2017, which date is the seventh (7th) day before the public hearing held on December 18, 2017; and

WHEREAS, on December 18, 2017, the City Council opened a public hearing in accordance with Section 311.003(c) of the Act and interested persons were allowed to speak for or against the creation of the Zone, the boundaries of the Zone, and the concept of tax increment financing, and owners of property in the proposed Zone were given a reasonable opportunity to protest the inclusion of their property in the Zone; and

WHEREAS, after all comments and evidence, both written and oral, were received by the City Council, the public hearing was closed on December 18, 2017; and

WHEREAS, the public hearing was held in full accordance with Section 311.003(c) of the Act; and

WHEREAS, the City has taken all actions required to create the Zone including, but not limited to, all actions required by the home-rule Charter of the City, the Act, Chapter 551 of the Texas Government Code, commonly referred to as the Texas Open Meetings Act, and all other laws applicable to the creation of the Zone; and

WHEREAS, the percentage of the property in the proposed zone, excluding property that is publicly owned, that is currently used for residential purposes is less than thirty percent (30%); and

WHEREAS, a Preliminary Project and Finance plan has been prepared for the proposed reinvestment zone.

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

SECTION 1. RECITALS INCORPORATED.

That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are incorporated and adopted as part of this Ordinance for all purposes.

SECTION 2. FINDINGS.

That the City Council, after conducting the above described hearing and having heard the evidence and testimony presented at the hearing, has made the following findings and determined based on the evidence and testimony presented to it:

- (a) That the public hearing on the creation of the proposed reinvestment zone has been properly called, held and conducted and that notice of such hearing has been published as required by applicable law, including the Act, and that owners of property within the proposed reinvestment zone were given a reasonable opportunity to protest the inclusion of their property in the proposed reinvestment zone; and

- (b) That creation of the proposed reinvestment zone with boundaries as described and depicted in *Exhibits A* and *B* will result in benefits to the City, its residents and property owners, in general, and to the property, residents and property owners in the reinvestment zone; and
- (c) That the proposed reinvestment zone, as described and depicted in *Exhibits A* and *B*, meets the criteria for the creation of a reinvestment zone set forth in the Act in that:
 1. It is a geographic area located wholly within the ETJ of the City; and
 2. The area is predominately open, unproductive and undeveloped or underdeveloped, and the lack of necessary public improvements and other facilities substantially impairs the sound growth of the City; and
- (d) That thirty percent (30%) or less of the property in the proposed reinvestment zone, excluding property that is publicly owned, is currently used for residential purposes; and
- (e) That the total appraised value of 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, according to the most recent appraisal rolls of the City, does not exceed twenty-five percent (25%) of the current total appraised value of taxable real property in the City and in the industrial districts created by the City, if any; and
- (f) That the improvements in the proposed reinvestment zone will significantly enhance the value of all taxable real property in the proposed reinvestment zone and will be of general benefit to the City; and
- (g) That the development or redevelopment of the property in the proposed reinvestment zone will not occur solely through private investment in the reasonably foreseeable future; and
- (h) That the proposed reinvestment zone will promote development or redevelopment of the economy within the proposed reinvestment zone and develop or expand business and commercial activity within the proposed reinvestment zone; and
- (i) The City Council has prepared the Preliminary Project and Finance Plan prior to the execution of this Ordinance; and
- (j) The City Council finds that the Preliminary Project and Finance Plan is feasible.

SECTION 3. DESIGNATION AND NAME OF THE ZONE.

Pursuant to the authority of, and in accordance with the requirements of the Act, the City Council hereby designates the area described and depicted in *Exhibits A* and *B* hereto as a tax increment reinvestment zone. The name assigned to the zone for identification is **Reinvestment Zone Number Eleven, City of Mesquite, Texas** (Heartland Town Center) (hereinafter referred to as the “Zone”).

SECTION 4. BOARD OF DIRECTORS.

- (a) The City Council hereby creates a board of directors for the Zone (hereinafter referred to as the “Board”) consisting of seven (7) members all appointed by the City Council. Council Members may serve as Board members.
- (b) The Board members appointed to the Board shall be eligible to serve on the Board if that person is at least 18 years of age, and is a resident of the county in which the Zone is located or a county adjacent to that county.
- (c) The Board shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the Zone (hereinafter referred to as the “Project and Finance Plan”) as required by the Act, and shall submit the Project and Finance Plan to the City Council for approval. The Board shall consider amendments to the Project and Finance Plan on its own initiative or upon submission by the City Council, but amendments considered by the Board shall not take effect unless and until adopted by the City Council.
- (d) Directors shall not receive any salary or other compensation for their services as directors.
- (e) Members of the Board shall be appointed for terms of two years. The terms of the Board members may be staggered. The City Council may remove and replace Board members at any time during a term.
- (f) The initial Board shall be seven members and the following shall be members:
 - 1. Stan Pickett
 - 2. Jeff Casper
 - 3. Bruce Archer
 - 4. Dan Aleman
 - 5. Greg Noschese
 - 6. Tandy Boroughs
 - 7. To Be Appointed

The City Council hereby appoints Mayor Stan Pickett to serve as chairman of the Board for the remainder of calendar year 2017 and during calendar year 2018. Before the end of calendar year 2018 and each calendar year thereafter, the City Council shall appoint one member of the Board to serve as chairman for a term of one year that begins on January 1 of the following year. If the City Council does not appoint a chairman during that period, the Mayor of the City is automatically appointed to serve as chairperson for the term that begins on January 1 of the following year. The Board may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The Board may elect other officers as it considers appropriate.

SECTION 5. DURATION OF THE ZONE.

That the Zone shall take effect immediately upon the passage of this Ordinance, consistent with Section 311.004(a)(3) of the Act, and the Zone shall terminate upon the occurrence of any of the following: (i) December 31, 2048; or (ii) an earlier or later termination date designated by an ordinance adopted under Section 311.007(c) of the Act; or (iii) the date on which all project costs, tax increment bonds and interest on those bonds, and other obligations of the Zone have been paid in full, in accordance with Section 311.017 of the Act.

SECTION 6. TAX INCREMENT BASE AND TAX INCREMENT.

Pursuant to Section 311.012(c) of the Act, the tax increment base of the City, or any other taxing unit participating in the Zone, is the total taxable value, as of January 1, 2017, of all real property taxable by the City or other taxing unit participating in the Zone, and located in the Zone for the year in which the Zone was designated as a reinvestment zone (the "Tax Increment Base") or if the City does not levy an ad valorem tax in the year in which the Zone is designated, the Tax Increment Base is determined by the appraisal district in which the Zone is located in accordance with Section 311.012(c) of the Act. Pursuant to Section 311.013(l) of the Act, the amount of the tax increment for a year will be determined in the ordinance adopted under Section 311.011 of the Act approving the reinvestment zone financing plan for the Zone calculated on the amount of real property taxes levied and collected by the City, and all or a portion of property taxes of other taxing units participating in the Zone and located in the Zone (as set forth in an agreement to participate in the Zone) for that year on the Captured Appraised Value (defined below) of real property taxable by the City or other taxing unit participating in the Zone and located in the Zone (the "Tax Increment"). Consistent with Section 311.012(b) of the Texas Tax Code, as amended, the Captured Appraised Value of real property taxable by the City or other taxing unit participating in the Zone for a year is the total taxable value of all real property taxable by the City or other taxing unit participating in the Zone and located in the Zone for that year less the Tax Increment Base of the City or other taxing unit participating in the Zone (the "Captured Appraised Value").

SECTION 7. TAX INCREMENT FUND.

That there is hereby created and established a "Tax Increment Fund" for the Zone, that may be divided into subaccounts as set forth in the Project and Finance Plan, into which the Tax Increment of the City and participating taxing units, if any, as such increments are described in the Project and Finance Plan and includes administration costs, less any of the amounts not required to be paid into the Tax Increment Fund pursuant to the Act, are to be deposited. The Tax Increment Fund and any subaccounts shall be maintained at the affiliated depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. In addition, all revenues to be dedicated to and used in the Zone shall be deposited into the Tax Increment Fund from which money will be disbursed to pay project costs, plus interest, for the Zone. Surplus funds in the Tax Increment Fund shall be disbursed as authorized and provided in the Act.

SECTION 8. SEVERABILITY CLAUSE.

That should any provision, section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City of Mesquite hereby declares that it would have passed this Ordinance, and each provision, section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 9. OPEN MEETINGS.

That it is hereby found, determined, and declared that sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the Municipal Center and at the City Hall of the City for the time required by law preceding its meeting, as required by the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

SECTION 10. EFFECTIVE DATE.

That this Ordinance shall be in full force and effect from and after its passage as required by law.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 18th day of December, 2017.



Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B.J. Smith
City Attorney

Exhibit A

*Metes and Bounds Description of the Zone
146.746 ACRES*

BEING that certain tract of land situated in the Martha Music Survey, Abstract No. 312, in Kaufman County, Texas, and being that certain tract of land described as Tract 1 in deed to CADG Kaufman 146, LLC, recorded in Volume 4363, Page 38, of the Deed Records of Kaufman County, Texas (DRKCT), and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set at the intersection of the southeast right-of-way line of Farm to Market Road No. 741 (called 90 foot R.O.W. at this point), and the northeasterly right-of-way line of Heartland Parkway (called 100 foot R.O.W. at this point), and being the west corner of said CADG Kaufman 146, LLC tract;

THENCE North 46°18'40" East, with said southeast right-of-way line of Farm to Market Road No. 741, said southeast right-of-way line according to Deed to the State of Texas recorded in Volume 454, Page 159, DRKCT, a distance of 428.96 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner at the west corner of that certain tract of land described as Tract 7 in deed to HW Heartland, L.P. recorded in Volume 3119, Page 142, DRKCT;

THENCE leaving said southeast right-of-way line of Farm to Market Road No. 741, and with the southwest and southeast lines of said Tract 7, the following bearings and distances to 1/2 inch iron rods with cap stamped "DAA" found for corner:

South 43°42'15" East, a distance of 207.45 feet;

And North 46°15'02" East, a distance of 146.43 feet;

THENCE North 15°07'57" East, continuing with said southeast line of Tract 7, a distance of 467.14 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE North 83°20'17" East, leaving said southeast line of Tract 7, and with the north line of said CADG Kaufman 146, LLC tract, a distance of 675.66 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE North 88°27'43" East, with a north line of said CADG Kaufman 146, LLC tract, a distance of 474.11 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE South 84°18'07" East, with a north line of said CADG Kaufman 146, LLC tract, a distance of 951.32 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner;

THENCE South 78°58'41" East, with a north line of said CADG Kaufman 146, LLC tract, a distance of 18.88 feet to a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" set for corner at a northeast corner of said CADG Kaufman 146, LLC tract;

THENCE South 45°06'42" East, with the northeasterly line of said CADG Kaufman 146, LLC tract, a distance of 2113.03 feet to a 3/4 inch iron pipe found for corner at the easternmost corner of said CADG Kaufman County 146, LLC tract;

THENCE South 44°46'26" West, with a southeasterly line of said CADG Kaufman 146, LLC tract, a distance of 1898.52 feet to a 1/2 inch iron rod with cap marked "DAA" found for corner;

THENCE South 65°43'36" West, with a southeasterly line of said CADG Kaufman 146, LLC tract, a distance of Heartland Town Center TIRZ #11 Creation

65.81 feet to a 1/2 inch iron rod with cap marked "DAA" found for corner at the southernmost corner of said CADG Kaufman 146, LLC tract, and being located on the northeasterly line of Lot 2X, Block 43, of Heartland Tract A, Phase 1B, an addition to Kaufman County, Texas according to the Amending Plat recorded in Cabinet 3, Slide 20, of the Plat Records of Kaufman County, Texas (PRKCT), said iron rod also being located at the beginning of a non-tangent curve to the left;

THENCE Northwesterly with said northeasterly line of Lot 2X and with said curve to the left which has a central angle of $21^{\circ}32'00''$, a radius of 800.00 feet, a chord which bears North $34^{\circ}55'09''$ West, a chord distance of 298.90 feet, for an arc distance of 300.66 feet to the end of said curve, a 1/2 inch iron rod with cap marked "DAA" found for corner;

THENCE North $45^{\circ}41'09''$ West, continuing with the northeasterly line of Lot 2X, a distance of 397.34 feet to a 1/2 inch iron rod with cap marked "DAA" found for corner at the northernmost corner of said Lot 2X, Block 43, also being the northernmost corner of said Heartland Tract A, Phase 1B;

THENCE South $44^{\circ}18'51''$ West, with the northwest line of said Lot 2X, Block 43, a distance of 10.00 feet to a 1/2 inch iron rod with cap marked "DAA" found for corner at the easternmost corner of Heartland Tract A Phase 2B, an addition to Kaufman County, Texas, according to the Final Plat recorded in Cabinet 3, Slide 100, PRKCT, said iron rod also being located on the northeasterly right-of-way line of Heartland Parkway (called 80 foot right-of-way at this point), according to said Final Plat of Heartland Tract A Phase 2B;

THENCE North $45^{\circ}41'09''$ West, with said northeasterly right-of-way line of Heartland Parkway, a distance of 1324.03 feet to a 1/2 inch iron rod with cap marked "DAA" found for corner at the beginning of a tangent curve to the left;

THENCE Northwesterly, continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of $36^{\circ}41'46''$, a radius of 790.00 feet, a chord which bears North $64^{\circ}02'02''$ West, a chord distance of 497.37 feet, for an arc distance of 505.97 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner;

THENCE North $82^{\circ}23'59''$ West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 23.30 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent curve to the right;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of $10^{\circ}28'32''$, a radius of 300.00 feet, a chord which bears North $77^{\circ}08'39''$ West, a chord distance of 54.77 feet, for an arc distance of 54.85 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent reverse curve to the left;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of $10^{\circ}28'32''$, a radius of 300.00 feet, a chord which bears North $77^{\circ}08'39''$ West, a chord distance of 54.77 feet, for an arc distance of 54.85 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner (called 100 foot R.O.W. at this point);

THENCE North $82^{\circ}22'55''$ West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 172.65 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner, and being the beginning of a tangent curve to the right;

THENCE continuing with said northeasterly right-of-way line of Heartland Parkway, and with said curve having a central angle of $38^{\circ}41'30''$, a radius of 950.00 feet, a chord which bears North $63^{\circ}02'10''$ West, a chord distance of 629.41 feet, for an arc distance of 641.53 feet to the end of said curve, a 1/2 inch iron rod with cap stamped "DAA" found for corner;

THENCE North $43^{\circ}41'26''$ West, continuing with said northeasterly right-of-way line of Heartland Parkway, a distance of 249.59 feet to the POINT OF BEGINNING of herein described tract, containing 146.746 acres of land.

