

ORDINANCE NO. 4632

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, TERMINATING THE FALCON'S LAIR TAX INCREMENT FINANCE REINVESTMENT ZONE NUMBER FOUR, CITY OF MESQUITE, TEXAS (THE "ZONE"); DISSOLVING THE BOARD OF DIRECTORS AND TAX INCREMENT FUND FOR THE ZONE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City of Mesquite, Texas (the "City") established the Falcon's Lair Tax Increment Finance Reinvestment Zone Number Four, City of Mesquite, Texas (the "Zone"), and established a Board of Directors for the Zone (the "Board of Directors") to promote development or redevelopment in the Zone pursuant to Ordinance No. 3303, approved by the City Council of the City (the "City Council") on June 7, 1999, in accordance with the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, as amended (the "Act"); and

WHEREAS, Ordinance No. 3303 further created and established a tax increment fund for the Zone (the "Tax Increment Fund"); and

WHEREAS, Ordinance No. 3033 provided that the termination of the Zone shall occur on December 31, 2025, or at an earlier time designated by subsequent ordinance of the City Council in the event the City determines that the Zone should be terminated due to investment which is insufficient to meet the objectives of the project plan and financial plan, or at such time as all project costs and tax increment bonds, if any, and the interest thereon, have been paid in full; and

WHEREAS, Ordinance No. 3822, approved by the City Council on September 18, 2006, provided that the termination of the Zone shall occur on the earlier of (a) the maximum permitted by law or (b) on December 31, 2035; and

WHEREAS, the Board of Directors prepared and adopted a project plan and reinvestment zone financing plan for the Zone which was subsequently approved by the City Council on August 16, 1999, pursuant to Ordinance No. 3314 (the "Original Project Plan and Financing Plan"); and

WHEREAS, revisions, amendments and/or restatements to the Original Project Plan and Financing Plan for the Zone have previously been adopted by the Board of Directors and approved by the City Council on the following dates pursuant to the following ordinances, to-wit: (i) on August 7, 2000, pursuant to Ordinance No. 3380; (ii) on May 20, 2002, pursuant to Ordinance No. 3503 [amended and restated plan increased the geographic area of the Zone]; (iii) on February 17, 2003, pursuant to Ordinance No. 3558; (iv) on July 21, 2003, pursuant to Ordinance No. 3590; (v) on January 5, 2004, pursuant to Ordinance No. 3627; (vi) on August 1, 2005, pursuant to Ordinance No. 3754; (vii) on July 17, 2006, pursuant to Ordinance No. 3811; and (viii) on December 4, 2006, pursuant to Ordinance No. 3842 (collectively the "Revisions, Amendments and Restatements"); and

WHEREAS, the Original Project Plan and Financing Plan, as revised, amended and restated by the Revisions, Amendments and Restatements, is hereinafter referred to as the "Project Plan and Finance Plan"; and

WHEREAS, on January 4, 2010, pursuant to Ordinance No. 4073, the City Council terminated that certain Master Development Agreement Amended and Restated July 2005 (the "Master Development Agreement") by and among the City, Mesquite Independent School District, Falcon's Lair Utility and Reclamation District, Falcon's Lair, L.P. and Koll Development Company as a result of a default under the terms of the Master Development Agreement; and

WHEREAS, Section 311.017(a) of the Act provides that a reinvestment zone terminates on the earlier of: (1) the termination date designated in the ordinance or order, as applicable, designating the zone or an earlier or later termination date designated by an ordinance or order adopted under Section 311.007(c) of the Act; or (2) the date on which all project costs, tax increment bonds and interest on those bonds, and other obligations have been paid in full; and

WHEREAS, no development has occurred in the Zone and the investment in the Zone is insufficient to meet the objectives of the project plan and financial plan for the Zone; and

WHEREAS, no projects contemplated by the Project Plan and Financing Plan for the Zone have been commenced or constructed and it does not appear that the Zone will be used to finance the construction of any project in the foreseeable future; and

WHEREAS, no tax increment bonds or other indebtedness have been issued by, for, on behalf of, or through the Zone and there are no outstanding project costs or other obligations of the Zone and accordingly, Section 311.017(a)(2) of the Act has been satisfied; and

WHEREAS, no tax increment has been paid into the Tax Increment Fund for the Zone; and

WHEREAS, on December 3, 2018, the City Council held a public hearing in accordance with the Act to consider terminating the Zone and dissolving the Board of Directors and Tax Increment Fund for the Zone; and

WHEREAS, notice of such public hearing was published in a newspaper of general circulation in the City on November 21, 2018, which is more than seven (7) days before the date of the public hearing; and

WHEREAS, at such public hearing interested persons were allowed to speak for or against the termination of the Zone and/or the dissolution of the Board of Directors and Tax Increment Fund for the Zone; and

WHEREAS, this ordinance is being adopted pursuant to the Act including, without limitation, Sections 311.017(a) and 311.007(c) of the Act; and

WHEREAS, the City Council has determined that terminating the Zone and dissolving the Board of Directors and Tax Increment Fund for the Zone is in the best interest of the citizens of the City of Mesquite.

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

SECTION 1. That the statements, facts, findings and recitals set forth above are hereby found and declared to be true and correct and are incorporated into this ordinance and adopted as part of this ordinance for all purposes.

SECTION 2. That the Falcon's Lair Tax Increment Finance Reinvestment Zone Number Four, City of Mesquite, Texas (the "Zone") (which includes the original boundaries of the Zone and the increased geographic area added to the Zone pursuant to City Ordinance No. 3503) shall terminate on December 3, 2018, and accordingly, the Zone is hereby terminated for all purposes.

SECTION 3. That the Board of Directors for the Zone and the Tax Increment Fund for the Zone are hereby dissolved effective December 3, 2018.

SECTION 4. That with the termination of the Zone and the dissolution of the Board of Directors and Tax Increment Fund for the Zone, there is no further need for that certain Reinvestment Zone Participation Agreement dated as of August 30, 1999, between the City, the Board of Directors and the Mesquite Independent School District relating to the Zone and accordingly, such participation agreement is hereby terminated.

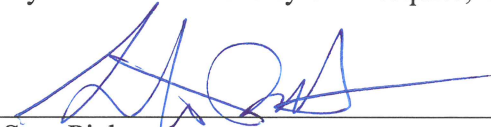
SECTION 5. That the City Manager is hereby authorized to execute such documents as may be necessary or advisable to carry out the intent and purpose of this ordinance.

SECTION 6. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 7. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

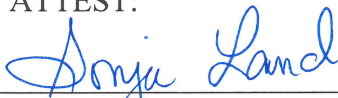
SECTION 8. That this ordinance shall take effect immediately from and after its passage.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 3rd day of December 2018.



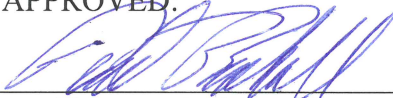
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



David L. Paschall
City Attorney