

RESOLUTION NO. 33-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING AN AGREEMENT WITH REINVESTMENT ZONE NUMBER ELEVEN, CITY OF MESQUITE, TEXAS (HEARTLAND TOWN CENTER), REGARDING THE CONSTRUCTION OF PUBLIC IMPROVEMENTS WITHIN THE HEARTLAND TOWN CENTER PUBLIC IMPROVEMENT DISTRICT (“AGREEMENT”); AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mesquite, Texas (“City”), created Reinvestment Zone Number Eleven, City of Mesquite, Texas (Heartland Town Center) (“TIRZ”), and established a Board of Directors for the TIRZ to promote development or redevelopment in the TIRZ pursuant to Ordinance No. 4532, approved by the City Council of the City (“City Council”) on December 18, 2017, in accordance with the Tax Increment Financing Act, V.T.C.A, Tax Code, Chapter 311 (“Act”); and

WHEREAS, pursuant to Ordinance No. 4532, the City Council appointed a Board of Directors for the TIRZ (“Board”); and

WHEREAS, CADG Kaufman 146, LLC (“Developer”), desires to improve and develop a site consisting of approximately 121.282 acres of real property located within the TIRZ (the “TIRZ Residential Tract”) as a residential development consisting of approximately 450 single-family lots (the “Heartland Town Center Residential Development”), which TIRZ Residential Tract is currently located in the extraterritorial jurisdiction of the City and is depicted on Exhibit “A” and described by metes and bounds on Exhibit “B”; and

WHEREAS, the Developer intends to design, construct and install and/or make financial contributions to certain public improvements for the benefit of the Heartland Town Center Residential Development (“Public Improvements”); and

WHEREAS, the City has also created the Heartland Town Center Public Improvement District pursuant to Chapter 372, Texas Local Government Code, as amended (“District”), the boundaries of which are coterminous with the TIRZ Residential Tract, and will levy special assessments on properties within the District to pay for construction of the Public Improvements (“Assessments”), all as set forth in that certain service and assessment plan to be approved by the City regarding the levy of special assessments (“Service and Assessment Plan”); and

WHEREAS, the City intends to issue special assessment revenue bonds (the “Heartland Town Center Special Assessment Revenue Bonds”) containing a pledge of the Assessments for the purpose of providing funds to construct the Public Improvements; and

WHEREAS, the Board has adopted a project and reinvestment zone financing plan for the TIRZ (the “TIRZ Project Plan”) which includes the Public Improvements for the Heartland Town Center Residential Development; and

WHEREAS, the TIRZ Project Plan provides for the collection of sixty-two and one-half percent (62.5%) of the City's ad valorem tax increment from within the boundaries of the TIRZ Residential Tract in each year (the "TIRZ Revenues"), based on the City's tax rate in effect on the date of the establishment of the TIRZ, to be deposited into a subaccount of the tax increment fund for the TIRZ (the "TIRZ Residential Account"), for a period of up to thirty-one (31) years or until the total tax increment collected in the TIRZ Residential Account equals \$14,827,784, whichever is first; and

WHEREAS, the TIRZ Revenues are intended by the TIRZ and the City to be dedicated to the payment of the costs of construction of the Public Improvements necessary for the Heartland Town Center Residential Development for a period of up to thirty-one (31) years or until the total tax increment collected in the TIRZ Residential Account equals \$14,827,784 or the Heartland Town Center Special Assessment Revenue Bonds are paid in full, whichever is first; and

WHEREAS, the City and the TIRZ intend for the TIRZ Revenues to be transferred to the City and used to off-set or pay a portion of the Assessments levied within the District for the Public Improvements in order to lower the amount of the Assessments on properties within the District in each year for a period of up to thirty-one (31) years or until the amount of TIRZ Revenues total \$14,827,784 or the Heartland Town Center Special Assessment Revenue Bonds are paid in full, whichever comes first; and

WHEREAS, the City finds that the use of TIRZ Revenues in the TIRZ Residential Account for a period of up to thirty-one (31) years or until the amount of the TIRZ Revenues total \$14,827.784 or the Heartland Town Center Special Assessment Revenue Bonds are paid in full, whichever comes first, to pay all or a portion of the Assessments levied for the Public Improvements on properties within the District is necessary for the implementation of the TIRZ Project Plan; and

WHEREAS, the City desires to enter into an agreement with the TIRZ with respect to the matters set forth herein, a true and correct copy of such agreement being attached hereto as Exhibit "C" and made a part hereof for all purposes (the "Agreement"); and

WHEREAS, the Board passed a resolution at its June 18, 2018, meeting recommending approval of the Agreement to the City Council; and

WHEREAS, the City Council hereby finds and determines that the Agreement is in the best interests of the citizens of the City.

NOW, THEREFORE, BE IT RESOLVED 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 Resolution and adopted as part of this Resolution for all purposes.

SECTION 2. That in accordance with the Act, the City Council hereby approves the Agreement and hereby authorizes the Mayor to execute the Agreement, a true and correct copy of said Agreement is attached hereto as Exhibit "C," and incorporated herein for all purposes.

SECTION 3. That it is hereby declared to be the intent of the City Council that the sections, articles, paragraphs, sentences, clauses, phrases and words of this Resolution are severable and if any section, article, paragraph, sentence, clause, phrase or word in this Resolution, or the application thereto to any persons or circumstances, shall be held invalid or unconstitutional by a final judgment or decree of any Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this Resolution; and the City Council hereby declares it would have passed such remaining sections, articles, paragraphs, sentences, clauses, phrases or words of this Resolution, and the City Council hereby declares it would have passed this Resolution without the incorporation of any such invalid or unconstitutional section, article, paragraph, sentence, clause, phrase or word and such remaining sections, articles, paragraphs, sentences, clauses, phrases and words shall remain in full force and effect.

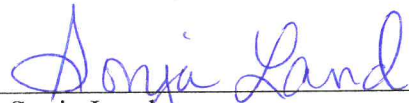
SECTION 4. That this Resolution shall take effect immediately upon passage of this Resolution.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 18th day of June, 2018.




Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



Paula Anderson
Interim City Attorney

EXHIBIT "B"

Metes and Bounds Description of the Property (121.282 Acres)

BEING that certain tract of land situated in the MARTHA MUSIC SURVEY, ABSTRACT NUMBER 312, in Kaufman County, Texas, and being part of that certain called 146.733 acre tract of land described 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 1/2 inch iron rod with cap marked "DAA" found 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 $34^{\circ}32'11''$, a radius of 790.00 feet, a chord which bears North $62^{\circ}57'14''$ West, a chord distance of 469.01 feet, for an arc distance of 476.19 feet to the end of said curve, a 5/8 inch iron rod with cap marked "PETITT-RPLS 4087" found for corner, from which a 1/2 inch iron rod with cap marked "DAA" found is located northwesterly along said curve at an arc distance of 29.78 feet;

THENCE leaving said northeasterly right-of-way line of Heartland Parkway, and over and across said CADG Kaufman 146, LLC tract, the following courses to 5/8 inch iron rods with caps marked "PETITT-RPLS 4087" found for corners:

North 09°46'40" East, a distance of 165.00 feet;

South 78°15'28" East, a distance of 65.47 feet;

North 15°12'36" East, a distance of 235.81 feet;

North 42°35'50" East, a distance of 477.61 feet;

North 07°44'02" West, a distance of 285.71 feet;

South 86°42'10" West, a distance of 198.45 feet;

North 68°43'31" West, a distance of 145.05 feet;

And North 06°39'43" West, a distance of 222.01 feet, said iron rod being located on the north line of said CADG Kaufman 146, LLC tract;

THENCE North 83°20'17" East, with a north line of said CADG Kaufman 146, LLC tract, a distance of 210.14 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 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 65.81 feet to the POINT OF BEGINNING of herein described tract, containing a calculated area of 121.282 acres of land.

**AGREEMENT REGARDING THE CONSTRUCTION OF PUBLIC IMPROVEMENTS
WITHIN THE HEARTLAND TOWN CENTER PUBLIC IMPROVEMENT DISTRICT**

This Agreement Regarding the Construction of Public Improvements within the Heartland Town Center Public Improvement District (the “Agreement”) is entered into as of the 18th day of June, 2018, by and between the City of Mesquite, Texas, a Texas home-rule municipality situated in Dallas and Kaufman Counties, Texas (the “City”), and Reinvestment Zone Number Eleven, City of Mesquite, Texas (Heartland Town Center), hereinafter the “TIRZ,” created pursuant to the provisions of Chapter 311 Texas Tax Code, as amended (the “Act”).

RECITALS

WHEREAS, the TIRZ was created by Ordinance No. 4532 of the City on December 18, 2017, pursuant to the Act, and a project and financing plan for the TIRZ was approved by the City on June 18, 2018 (the “TIRZ Project Plan”); and

WHEREAS, the TIRZ contains approximately 146.746 acres consisting of: (i) an approximately 121.282 acre tract to be developed as a residential development (hereinafter referred to as the “TIRZ Residential Tract” or the “Heartland Town Center Residential Development”); and (ii) an approximately 25.464 acre tract to be developed as a retail development; and

WHEREAS, pursuant to the TIRZ Project Plan, the ad valorem tax increment collected from the TIRZ Residential Tract is deposited into a subaccount of the tax increment fund for the TIRZ (the “TIRZ Residential Account”); and

WHEREAS, the TIRZ Project Plan provides for the collection of sixty-two and one-half percent (62.5%) of the City’s ad valorem tax increment from within the boundaries of the TIRZ Residential Tract in each year (the “TIRZ Revenues”), based on the City’s tax rate in effect on the date of the establishment of the TIRZ, for a period of up to thirty-one (31) years or until the total tax increment collected in the TIRZ Residential Account equals \$14,827,784, whichever is first; and

WHEREAS, the TIRZ Revenues are intended by the TIRZ and the City to be dedicated to the payment of the costs of construction of certain public improvements within the TIRZ Residential Tract (the “Public Improvements”) necessary for the development of the Heartland Town Center Residential Development (the “Development”); and

WHEREAS, the Public Improvements shall be owned and maintained by the City or by another government entity for the benefit of the Development and the TIRZ; and

WHEREAS, the City has also created the Heartland Town Center Public Improvement District pursuant to Chapter 372, Texas Local Government Code, as amended (the “District”), the boundaries of which are coterminous with the TIRZ Residential Tract, and will levy special assessments on properties within the District to pay for construction of the Public Improvements (the “Assessments”), all as set forth in that certain service and assessment plan to be approved by the City regarding the levy of special assessments (the “Service and Assessment Plan”); and

WHEREAS, the City intends to issue bonds (the "Heartland Town Center Special Assessment Revenue Bonds") containing a pledge of the Assessments, for the purpose of providing funds to construct the Public Improvements; and

WHEREAS, the City and the TIRZ intend for the TIRZ Revenues to be transferred to the City and used to off-set or pay a portion of the Assessments levied within the District for the Public Improvements in order to lower the amount of the Assessments on properties within the District in each year for a period of up to thirty-one (31) years or until the amount of TIRZ Revenues total \$14,827,784 or the Heartland Town Center Special Assessment Revenue Bonds are paid in full, whichever comes first.

NOW, THEREFORE, for and in consideration of the mutual covenants of the parties set forth in this Agreement and for other good and valuable consideration the receipt and adequacy of which are acknowledged and agreed by the parties, the parties agree as follows:

ARTICLE I

THE PROJECT

Section 1.01. Completion of the Project. The City agrees to the construction and completion of the Public Improvements within the Development, which construction is authorized and provided for in that certain Heartland Town Center Development Agreement by and between CADG Kaufman 146, LLC, a Texas limited liability company (the "Developer"), Kaufman County Fresh Water Supply District No. 5 and the City.

Section 1.02. Issuance of the Heartland Town Center Special Assessment Revenue Bonds. The City intends to proceed with the sale of the Heartland Town Center Special Assessment Revenue Bonds and to use a portion of the proceeds from the sale of the Heartland Town Center Special Assessment Revenue Bonds to pay for the costs of the Public Improvements as incurred by the Developer.

Section 1.03. Use of TIRZ Revenues. The TIRZ agrees to allocate or dedicate the TIRZ Revenues to the City, and that such TIRZ Revenues shall be used to pay all or a portion of the Assessments levied for the Public Improvements on properties within the District. The TIRZ Revenues shall be paid to or transferred to the City each year on or before July 1 and shall be applied to reduce the Assessments assessed in that year. The application and allocation of the TIRZ Revenues to the properties within the District shall be made on an equitable basis as set forth in the Service and Assessment Plan for the District.

ARTICLE II

MISCELLANEOUS PROVISIONS

Section 2.01. Term. This Agreement shall be in force and effect from the date of execution hereof until the earlier of (i) the date on which the outstanding principal amount of the Heartland Town Center Special Assessment Revenue Bonds are paid in full, or (ii) the total of the TIRZ Revenues collected equals \$14,827,784.

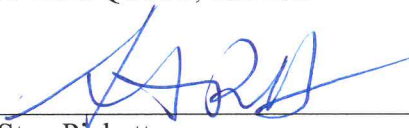
Section 2.02. Amendments and Supplements. This Agreement may be amended, supplemented or extended by mutual written agreement of the parties hereto.

Section 2.03. Merger. This Agreement embodies the entire understanding between the parties hereto, and there are no prior effective representations, warranties or agreements between the parties hereto.

Section 2.04. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application hereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

EXECUTED in multiple counterparts as of the date first written above.

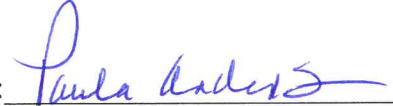
CITY OF MESQUITE, TEXAS

By: 
Stan Pickett
Mayor

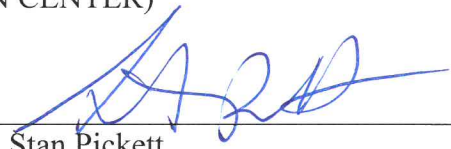
ATTEST:

By: 
Sonja Land
City Secretary

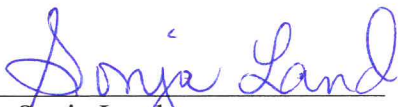
APPROVED FOR FORM:

By: 
Paula Anderson
Interim City Attorney

REINVESTMENT ZONE NUMBER ELEVEN,
CITY OF MESQUITE, TEXAS (HEARTLAND
TOWN CENTER)

By: 
Stan Pickett
Chairman

ATTEST:

By: 
Sonja Land
City Secretary