

ORDINANCE NO. 2012-11-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, DESIGNATING A CERTAIN AREA AS REINVESTMENT ZONE NO. 26 FOR THE CITY OF MCKINNEY, TEXAS; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; APPROVING THE TERMS AND CONDITIONS OF COMMERCIAL-INDUSTRIAL TAX ABATEMENT AGREEMENTS; AUTHORIZING EXECUTION OF SUCH AGREEMENTS BY THE CITY MANAGER; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of McKinney, Texas (hereinafter referred to as the "City") originally designated this area as Reinvestment Zone No. 18, which was created and established by Ordinance No. 98-06-33 after a public hearing was held before the City Council on the 16th day of June, 1998, pursuant to Chapter 312 of the Texas Tax Code; and

WHEREAS, Reinvestment Zone No. 18 was previously established in accordance with the Texas Tax Code and subsequently expired after five (5) years after the date of the designation pursuant to Section 312.203 of the Texas Tax Code; and

WHEREAS, the City now desires to promote the development or redevelopment of this certain contiguous geographic area within its jurisdiction by the designation and creation of a reinvestment zone for commercial-industrial tax abatement, as authorized by chapter 312 of the Texas Tax Code, cited as the Property Redevelopment and Tax Abatement Act; and

WHEREAS, a public hearing before the City Council was set for 5:30 p.m. on the 6th day of November, 2012, such date being at least seven (7) days after the date of publication of the notice of such public hearing, pursuant to Section 312.201(d) of the Texas Tax Code; 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 should be included in such reinvestment zone, the concept of tax abatement; and

WHEREAS, upon full review and consideration of the all matters attendant and related thereto, the City Council is of the opinion that the area described in Exhibit A of this Ordinance, which is attached hereto and incorporated herein, meets the criteria for designating an area as tax abatement reinvestment zone, pursuant to Section 312.202(a)(6) of the Texas Tax Code, because the designation of the area as described in Exhibit A as a reinvestment zone 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 of McKinney, Texas.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. **Definitions.**

- (a) *Improvements* - Improvements shall include any activity at the location, including but not limited to new construction.
- (b) *Taxable Real Property* - Taxable real property shall be as defined in the Texas Tax Code and shall not include personal property as defined in said Code.
- (c) *Base Year* - The base year for determining increased value shall be the taxable real property value assessed the year in which the agreement is executed.
- (d) *Personal Property* - Personal property shall be as defined in the Texas Tax Code and shall include all equipment, office furnishings, and inventory, and other items contained within the confines of the reinvestment zone.

Section 3. **Findings and Determinations.** The City, after conducting such public hearings, and having heard such evidence and testimony, has made the following findings and determinations based upon the testimony presented:

- (a) That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted, and that notices of such hearings have been published at least seven (7) days before the hearing in a newspaper of general circulation within the City, and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone at least seven (7) days prior to the hearing; and
- (b) That the boundaries of the reinvestment zone should be the areas as described and depicted on the attached **Exhibit A**; and
- (c) That creation of the reinvestment zone for commercial-industrial tax abatement with boundaries as described in **Exhibit A** will result in benefits to the City, and to the land included within the zone, and the improvements sought are feasible and practical; and
- (d) That the investment zone as defined in **Exhibit A** meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202(a)(6) of the Texas 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 McKinney Tax Abatement Guidelines and Criteria.

Section 4. **Zone Designation.** Pursuant to Section 312.201 of the Texas Tax Code, the City hereby creates a reinvestment zone for commercial-industrial tax abatement encompassing only the area described and depicted on the attached **Exhibit A**, and such reinvestment zone is hereby designated and shall hereafter be designated as Reinvestment Zone No. 26, City of McKinney, Texas is effective for five (5) years and may be renewed for periods not to exceed five (5) years. The expiration of the designation does not affect an existing tax abatement agreement.

- Section 5. **Effective Date of Zone.** The zone shall take effect immediately upon passage or at an earlier time designated by subsequent ordinance.
- Section 6. **Conditions for Application for Tax Abatement.** 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) Not include property that is owned or leased by a member of the City Council of the City of McKinney, Texas, or by a member of the Planning and Zoning Commission of the City of McKinney.
 - (c) Conform to the requirements of the City's Zoning Ordinance and all other applicable laws and regulations.
 - (d) Have and maintain all land located within the designated zone, appraised at market value for tax purposes.
- Section 7. **Terms of Exemption.** A written agreement with the property owner located within the zone shall provide the terms regarding duration of exemption and share of eligible taxable real and personal property value from taxation.
- Section 8. **Criteria for Written Agreements.** Written agreements under Section 312.205 of the Texas Tax Code must 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 municipal employees to ensure that the improvements 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.
 - (d) Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.
- Section 9. **Severability.** The provisions of this ordinance are severable. If any section, paragraph, sentence, subdivision, clause, or phrase of this ordinance or the application thereof to any person or circumstance is held invalid or held unconstitutional, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.
- Section 10. **Effective Date.** The caption of this ordinance is to be published in a newspaper having general circulation in the City of McKinney and shall be effective upon publication.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS 6TH DAY OF NOVEMBER, 2012.

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

