

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AMENDING AND SUPERSEDING ORDINANCE NUMBER 2010-09-035 AND ORDINANCE NUMBER 2010-10-041 RELATED TO REINVESTMENT ZONE NUMBER TWO, CITY OF MCKINNEY; AMENDING THE COMPOSITION OF THE BOARD OF DIRECTORS FOR REINVESTMENT ZONE NUMBER TWO, CITY OF MCKINNEY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, On September 21, 2010, the City Council of McKinney, Texas ("City"), approved Ordinance Number 2010-09-035 creating the Reinvestment Zone Number Two, City of McKinney and establishing a Board of Directors for such zone (and as amended on October 19, 2010 by Ordinance Number 2010-10-041); and

WHEREAS, each taxing jurisdiction that levies taxes on real property in Reinvestment Zone Number Two, City of McKinney may appoint one member to the Board of Directors for the zone, or may waive its right to do so; and

WHEREAS, Collin County Community College District (CCCCD) and McKinney Independent School District (MISD) both waived their right to appoint members to the Board of Directors for Reinvestment Zone Number Two, City of McKinney; and

WHEREAS, if a taxing jurisdiction waives its right to appoint a member to the Reinvestment Zone Number Two, City of McKinney Board of Directors, the McKinney City Council may appoint such board member or members or amend the composition of the Board of Directors for Reinvestment Zone Number Two, City of McKinney; and

WHEREAS, the McKinney City Council desires to reduce the composition of the Board of Directors for Reinvestment Zone Number Two, City of McKinney from eleven (11) members to nine (9) members; and

WHEREAS, Ordinance Number 2010-10-041 amended Ordinance Number 2010-09-035 to include the City's sales and use taxes generated and collected within Reinvestment Zone Number Two, City of McKinney into the Tax Increment Fund of Reinvestment Zone Number Two, City of McKinney consistent with Section 311.0123 of the Texas Tax Code, as amended, and the previously approved Financing and Project Plans; and

WHEREAS, the McKinney City Council desires to amend and supersede the aforementioned Ordinances for Reinvestment Zone Number Two, City of McKinney (Ordinance No. 2010-09-035 and Ordinance No. 2010-10-041) by the passage of this ordinance.

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

Section 1. FINDINGS

- (a) The findings set forth above are found to be true and correct and are hereby incorporated into the body of this Ordinance for all purposes as if fully set forth herein.
- (b) The City Council of the City of McKinney, Texas ("City Council") further finds and declares that the proposed improvements in the zone will significantly enhance the value of all the taxable real

property in the proposed zone and will be of general benefit to the City.

- (c) The City Council further finds and declares that the proposed zone area meets the criteria and requirements of Section 311.005 of the Texas Tax Code because the proposed zone area: (1) substantially arrests or impairs the sound growth of the City, and constitutes an economic and social liability, and is a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures; the predominance of defective or inadequate sidewalk or street layout; unsanitary or unsafe conditions; and the deterioration of site or other improvements; (2) due to the presence of the above factors, substantially impairs or arrests the sound growth of the City; and (3) the proposed project plan includes the use of land in the zone in connection with the operation of an existing or proposed regional commuter or mass transit rail system, or for a structure or facility that is necessary, useful, or beneficial to such regional rail system.
- (d) The City Council, pursuant to the requirements of Chapter 311 of the Texas Tax Code, further finds and declares that:
 - (1) The proposed zone is a contiguous or noncontiguous geographic area located wholly within the corporate limits, extraterritorial jurisdiction, or both, of the City of McKinney, consistent with Section 311.003(a) of the Texas Tax Code, as amended;
 - (2) Not more than ten percent (10%) of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes, consistent with Section 311.006(a)(1) of the Texas Tax Code, as amended;
 - (3) The total appraised value of taxable real property in the proposed zone, and in the City's existing reinvestment zones, does not exceed fifteen percent (15%) of the total appraised value of taxable real property in the City and in the industrial districts created by the City, consistent with Section 311.006(a)(2) of the Texas Tax Code, as amended;
 - (4) The proposed zone does not contain more than fifteen percent (15%) of the total appraised value of real property taxable by Collin County or the McKinney Independent School District, consistent with Section 311.006(c) of the Texas Tax Code, as amended; and
 - (5) The development or redevelopment of the property in the proposed zone will not occur solely through private investment in the reasonably foreseeable future, consistent with Section 311.003(a) of the Texas Tax Code, as amended.

Section 2. **DESIGNATION AND NAME OF THE ZONE**

The City, acting under the provisions of Chapter 311 of the Texas Tax Code, and Section 311.005(a) of the Texas Tax Code, does hereby create and designate as a tax increment financing reinvestment zone the area specifically described and depicted in **Exhibit A** of this Ordinance, which is attached hereto and incorporated herein for all purpose to promote the redevelopment of the area.

The reinvestment zone shall hereafter be named for identification as the “**Reinvestment Zone Number Two, City of McKinney**” (“TIRZ”), consistent with Section 311.004(a) (5) of the Texas Tax Code, as amended. The City Council specifically declares that the TIRZ is designated pursuant to Section 311.005(a) of the Texas Tax Code, as amended.

Section 3. **BOARD OF DIRECTORS**

- (a) There is hereby created a Board of Directors for the TIRZ, which shall consist of nine (9) members, inclusive of any members appointed by the participating taxing jurisdictions. Not less than eight (8) members shall be appointed by the City Council. City Council members shall be eligible for appointment to the Board of Directors. The City Council shall endeavor to appoint a member from the McKinney Airport Development Corporation (“MADC”) to serve a board term concurrent with such member’s MADC term. One (1) member may be appointed by Collin County, consistent with Section 311.009 of the Texas Tax Code, as amended. The Board of Directors shall be appointed by resolution or ordinance of the City or applicable taxing jurisdiction. All members of the Board of Directors shall meet eligibility requirements as set forth in Chapter 311 of the Texas Tax Code.
- (b) The directors appointed shall serve staggered two (2)-year terms. The City Council shall determine which members shall serve an initial two (2)-year term, and which members shall serve an initial one (1)-year term. All subsequent appointments shall be for staggered two (2)-year terms.
- (c) A vacancy on the Board of Directors is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.
- (d) Each year the City Council shall annually designate one (1) member of the Board of Directors to serve as chairman for a one (1)-year term that begins on January 1 of the following year. The Board of Directors shall elect from its members a vice chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The Board of Directors may elect other officers as it considers appropriate. The Board of Directors shall meet at least quarterly throughout each year.
- (e) The Board of Directors shall make recommendations to the City Council concerning the administration of the TIRZ. The Board of Directors shall prepare, or cause to be prepared, and adopt a project plan and a reinvestment zone financing plan for the TIRZ as described in Section 311.011 and consistent with the preliminary project plan and preliminary financing plan attached hereto as **Exhibits B and C**, Texas Tax Code, and shall submit such plans to the City Council for its approval. The City hereby delegates to the Board of Directors all powers necessary to prepare and implement the project plan and reinvestment zone financing plan, subject to final approval thereof by the City Council, including the power to employ any consultants or enter into any reimbursement agreements payable solely from the Tax Increment Fund established pursuant to Section 6 of this Ordinance, that may be reasonably necessary or convenient to assist the Board of Directors in the preparation of the project plan and reinvestment zone financing plan and in the issuance of tax increment obligations.

Section 4. **DURATION OF THE TIRZ**

The TIRZ became effective on September 21, 2010, consistent with Section 311.004(a)(3) of the Texas Tax Code, as amended, for the deposit of Tax Increments into the Tax Increment Fund established pursuant to Section 7 of this Ordinance, and termination of the operation of the TIRZ shall occur on **December 31, 2040**, or at an earlier time designated by subsequent ordinance, or at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, notes and other obligations of the TIRZ, and the interest thereon, have been paid in full, in accordance with Section 311.017 of the Texas Tax Code, as amended.

Section 5. **TAX INCREMENT BASE; AMOUNT OF TAX INCREMENT**

Pursuant to Section 311.012(c) of the Texas Tax Code, as amended, the Tax Increment Base of the City, or any other taxing unit participating in the TIRZ, for the TIRZ is the total appraised value of all real property taxable by the City or other taxing unit participating in the TIRZ, and located in the TIRZ, determined as of **January 1, 2010**, the year in which the TIRZ was originally designated as a reinvestment zone (the "Tax Increment Base"). Consistent with Section 311.012(a) of the Texas Tax Code, as amended, the amount of the Tax Increment for a year is one hundred percent (100%) of property taxes levied and collected by the City and all or a portion of property taxes of other taxing units participating in the TIRZ and located in the TIRZ (or such other percentage of a taxing unit participating in the TIRZ as set forth in an agreement to participate in the TIRZ) for that year on the Captured Appraised Value of real property taxable by the City or other taxing unit participating in the TIRZ and located in the TIRZ (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 TIRZ for a year is the total appraised value of all real property taxable by the unit and located in the TIRZ for that year less the Tax Increment Base (the "Captured Appraised Value").

Section 6. **TAX INCREMENT BASE; SALES AND USE TAX INCREMENT**

Pursuant to Section 311.0123 of the Texas Tax Code, as amended, the sales and use Tax Increment Base of the City is the total sales and use taxes collected by the City within the TIRZ in **2010**, the year in which the TIRZ was originally designated as a reinvestment zone (the "Tax Increment Base"). Consistent with Section 311.0123 of the Texas Tax Code, as amended, the amount of the sales and use Tax Increment for any year is one hundred percent (100%) of sales and use taxes levied and collected by the City within the TIRZ for that year (the "Tax Increment"). Consistent with Section 311.012(b) of the Texas Tax Code, as amended, the Captured Appraised Value of sales and use taxes by the City is the total sales and use taxes collected by the City within the TIRZ for that year less the Tax Increment Base (the "Captured Appraised Value").

Section 7. **TAX INCREMENT FUND**

There is hereby created and established a Tax Increment Fund for the TIRZ that may be divided into subaccounts as authorized by subsequent ordinances consistent with Chapter 311 of the Texas Tax Code, as amended. All Tax Increments to be contributed by the participating taxing units shall be deposited in the Tax Increment Fund. The Tax Increment Fund and any subaccount shall be maintained at the depository bank of the City and shall be secured in the manner prescribed by law for public funds of Texas cities. The amount of the contribution of each taxing unit will be determined according to an

agreement between the City and the taxing unit. In addition, all revenues from the sale of any tax increment bonds, notes or other obligations hereafter issued for the benefit of the TIRZ by the City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in the TIRZ shall be deposited into the Tax Increment Fund. Prior to the termination of the TIRZ, money shall be disbursed from the Tax Increment Fund only to pay project costs for the TIRZ or to satisfy the claims of holders of tax increments bonds or notes issued for the TIRZ, or to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan, and to achieve their purpose pursuant to Section 311.010(b) of the Texas Tax Code, as amended.

Section 8. PRIOR ORDINANCES

Once effective, this Ordinance shall amend, repeal and supersede Ordinance Number 2010-09-035, approved on September 21, 2010 and Ordinance Number 2010-10-041, approved on October 19, 2010; however the formation date of the TIRZ shall remain effective as of September 21, 2010.

Section 9. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the words, phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional word, phrase, clause, sentence, paragraph or section.

Section 10. REPEALER CLAUSE

Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 11. EFFECTIVE DATE

This Ordinance shall become effective from and after the date of its final passage and publication as provided by law and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE _____ DAY OF APRIL, 2011.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER, City Attorney

EXHIBIT A
“Reinvestment Zone Number Two, City of McKinney”

EXHIBIT B
Preliminary Project Plan

EXHIBIT C
Preliminary Financing Plan