

ORDINANCE NO. 2010-09-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, DESIGNATING AN AREA WITHIN THE CITY OF MCKINNEY, COLLIN COUNTY, TEXAS, AS A TAX INCREMENT FINANCING REINVESTMENT ZONE TO BE KNOWN AS REINVESTMENT ZONE NUMBER TWO, CITY OF MCKINNEY, PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; ESTABLISHING THE BOUNDARIES OF THE REINVESTMENT ZONE NUMBER TWO, CITY OF MCKINNEY; ESTABLISHING A BOARD OF DIRECTORS FOR THE REINVESTMENT ZONE; ESTABLISHING A TAX INCREMENT FUND; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE CREATION OF THE TAX INCREMENT FINANCING REINVESTMENT ZONE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of McKinney, Texas ("City"), pursuant to Chapter 311 of the Texas Tax Code, as amended, may designate a contiguous or noncontiguous geographic area within the City or its extraterritorial jurisdiction, or both, as a reinvestment zone if the area satisfies the requirements of certain sections of Chapter 311 of the Texas Tax Code; and

WHEREAS, the City has prepared a preliminary reinvestment zone financing plan, which provides that City of McKinney ad valorem taxes to be deposited into the tax increment fund consistent with Section 311.003 of the Texas Tax Code, as amended; and

WHEREAS, the City provided written notice of the public hearing on the creation of the proposed zone, complying with the requirements of Chapter 311 of the Texas Tax Code, to the governing body of all taxing units levying taxes on property in the proposed zone and obtained waivers from all taxing units within the boundaries of the proposed zone; and

WHEREAS, a notice of the **September 21, 2010**, public hearing on the creation of the proposed zone was published in the official newspaper of the City not later than the seventh (7th) day before the date of the public hearing in accordance with Section 311.003(c) of the Texas Tax Code, as amended; and

WHEREAS, at the public hearing held on **September 21, 2010**, interested persons were allowed to speak for or against the creation of the proposed zone, its boundaries, or 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 proposed zone; and

WHEREAS, evidence was received and presented at the public hearing in favor of the creation of the proposed zone under the provisions of Chapter 311 of the Texas Tax Code, and [*no one appeared or citizens appeared and*] or presented evidence in opposition to the creation of the proposed zone; and

WHEREAS, the City has provided all information, and made all presentations, given all notices and done all other things required by Chapter 311 of the Texas Tax Code as a condition to the creation of the proposed zone.

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 eleven (11) 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. One (1) member may be appointed by the McKinney Independent School District, consistent with Section 311.009 of the Texas Tax Code, as amended. One (1) member may be appointed by the Collin County Community College District, consistent with Section 311.009 of the Texas Tax Code, as amended. If a taxing jurisdiction waives its right to appoint a member to the Board of Directors, the City Council shall appoint such board member or members in its stead. The initial Board of Directors shall be appointed by resolution or ordinance of the City or applicable taxing jurisdiction within twenty (20) days of the passage of this Ordinance or within a reasonable time thereafter. 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 shall take effect immediately upon the passage and approval of this Ordinance, 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 6 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 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 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 7. 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 8. REPEALER CLAUSE

Any provision of any prior ordinance of the City, whether codified or uncoded, 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 uncoded, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 9. EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 21st DAY OF SEPTEMBER, 2010.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary

DATE: _____

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