

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS DESIGNATING A CERTAIN AREA WITHIN THE TOWN OF PROSPER, TEXAS, AS TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER TWO, TOWN OF PROSPER, TEXAS, TO BE IDENTIFIED AS REINVESTMENT ZONE NUMBER TWO, TOWN OF PROSPER, TEXAS; ESTABLISHING THE BOUNDARIES OF SUCH ZONE; CREATING A BOARD OF DIRECTORS FOR SAID REINVESTMENT ZONE AND OTHER MATTERS RELATED THERETO; CONTAINING FINDINGS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council desires to promote the development or redevelopment of a certain geographic area within its jurisdiction by the designation of a reinvestment zone, as authorized by the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code (the "Act"); and

WHEREAS, in compliance with the Act, the Town called a public hearing to receive comments on the designation of the proposed reinvestment zone and its benefits to the Town and the property in the proposed reinvestment zone; and

WHEREAS, in compliance with the Act, notice of the public hearing was published in a daily newspaper of general circulation in the Town, such publication date being not later than seven (7) days prior to the date of the public hearing; and

WHEREAS, such hearing was convened at the time and place mentioned in the published notice, to-wit, on the 22nd day of January, 2013, at 6:00 p.m., at the Town Municipal Chambers in the Town of Prosper, Texas, which hearing was then closed; and

WHEREAS, the Town, at such hearing, invited any interested person, or the person's representative, to appear and speak for or against the designation of the proposed reinvestment zone, the boundaries of the proposed reinvestment zone, as described in Exhibit "A" attached hereto and as depicted in the map attached hereto as Exhibit "B", whether all or part of the territory described in Exhibit "A" and as depicted in Exhibit "B" should be included in such proposed reinvestment zone, the concept of tax increment financing, and the appointment of a board of directors for the proposed reinvestment zone; and

WHEREAS, all owners of property located within the proposed reinvestment zone and other interested persons were given the opportunity at such public hearing to protest the designation of the proposed reinvestment zone; and

WHEREAS, the Town has prepared a preliminary project and reinvestment zone financing plan attached hereto as Exhibit "C".

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS:

SECTION 1. That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

SECTION 2. That the Town Council, after conducting such public hearing and having heard such evidence and testimony has made the following findings and determinations based on the evidence and testimony presented to it:

- (a) That the public hearing on adoption of the reinvestment zone has been properly called, held and conducted and that notice of such hearing has been published as required by law.
- (b) That designation of the proposed reinvestment zone with boundaries as described in Exhibit "A" and as depicted in Exhibit "B" will result in benefits to the Town, its residents and property owners, in general, and to the property, residents and property owners in the proposed reinvestment zone.
- (c) That the proposed reinvestment zone, as defined in Exhibit "A" and as depicted in Exhibit "B", meets the criteria for the designation of a reinvestment zone as set forth in the Act in that it is located wholly within the corporate limits of the Town and meets the requirements of Tax Code, Section 311.005.
- (d) That the total appraised value of all taxable real property in the proposed reinvestment zone according to the most recent appraisal roll of the Town, together with the total appraised value of taxable real property in all other existing reinvestment zones within the Town, according to the most recent appraisal roll of the Town, does not exceed fifty percent (50%) of the current total taxable value of taxable real property in the Town and in the industrial districts created by the Town, if any.
- (e) That the proposed improvements in the reinvestment zone will significantly enhance the value of all taxable real property in the reinvestment zone and will be of general benefit to the Town.
- (f) That the development or redevelopment of the property in the proposed reinvestment zone will not occur solely through private investment in the reasonably foreseeable future.
- (g) That thirty percent (30%) or less of the property in the proposed reinvestment zone, excluding property dedicated to public use, is currently used for residential purposes.

- (h) That the proposed reinvestment zone is predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county.
- (i) That the proposed reinvestment zone substantially arrests or impairs the sound growth of the Town, retards the provision of housing accommodations, or constitutes an economic or 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:
 - (1) the predominance of defective or inadequate sidewalk or street layout; and
 - (2) faulty lot layout in relation to size, adequacy, accessibility, or usefulness.

SECTION 3. That the Town hereby designates a tax increment financing reinvestment zone over the area described in Exhibit "A" attached hereto and as depicted in the map attached as Exhibit "B", and such tax increment financing reinvestment zone shall hereafter be identified as Reinvestment Zone Number Two, Town of Prosper, Texas (hereinafter sometimes referred to herein as the "Zone").

SECTION 4. That there is hereby established a board of directors for Reinvestment Zone No. Two, Town of Prosper, Texas which shall consist of at least five (5), but not more than fifteen (15), members, unless more members are required to be appointed to satisfy the requirements of Section 311.009, Tax Code. The members of the Board of Directors of the Zone shall be appointed as follows:

- (a) The Town shall be entitled to appoint a minimum of three (3) and a maximum of ten (10) members of the Board of Directors, except that if there are fewer than five (5) directors appointed by taxing units other than the Town, the Town Council may appoint more than ten (10) members as long as the total membership of the Board of Directors does not exceed fifteen (15) members. The Board of Directors shall consist of numbered positions with positions 1-7 reserved for appointment by the Town Council.
- (b) Each taxing unit, other than the Town, that levies taxes on real property in the Zone may appoint one member of the Board of Directors if the taxing unit has approved the payment of all or part of the tax increment produced by such taxing

unit into the tax increment fund for the Zone. A taxing unit eligible to appoint a member to the Board of Directors may waive such right. If a taxing unit waives its right to appoint a member of the board, the Town may appoint a member to the Board of Directors to such position. The governing body of each taxing unit, other than the Town, eligible to appoint a member to the Board of Directors shall appoint such member within sixty (60) days after such taxing unit has entered into an agreement with the Town for payment of all or part of the tax increment produced by such taxing unit into the tax increment fund for the Zone. Failure of such taxing unit to appoint a director within such sixty (60) day period shall be deemed a waiver of the right to appoint a director, and the Town Council shall be entitled to appoint a person to such position.

- (c) The Town Council shall appoint additional member(s) in order to maintain a board of at least five (5) members. A vacancy on the Board of Directors shall be filled as set forth in the Act. Positions one through three on the Board of Directors are reserved for the Town. The remaining positions are reserved for other taxing units that levy real property taxes in the Zone and if the taxing unit has approved the payment of all or part of the tax increment produced by such taxing unit into the tax increment fund for the Zone. The directors appointed by taxing units other than the Town shall be assigned a Board position in the order that the Town receives the appointment. All members appointed to the Board of Directors shall meet eligibility requirements as set forth in the Act.
- (d) The terms of office for members of the Board of Directors shall be for two (2) years. Each year the Town Council shall designate a member of the Board of Directors to serve as Chairperson of the Board of Directors. The Chairperson shall serve a term of office of one year that runs from January 1 through and including December 31 of the calendar year. The Board of Directors shall elect from its members a Vice-Chairperson and other officers, as it deems appropriate.
- (e) The Board of Directors shall make recommendations to the Town Council concerning the administration of the Zone. It shall prepare and adopt a project plan and the reinvestment zone financing plan for the Zone, and must submit such plans to the Town Council for its approval. The Town Council delegates to the Board of Directors all powers necessary to prepare and implement the project and the reinvestment zone financing plans for the Zone, including any required annual reports on the status of the Zone, all subject to the prior approval of the Town Council.
- (f) The Town Council hereby appoints the Mayor and Town Council Members Places 1-6 to Board of Directors positions assigned positions 1-7, respectively. The term of each such Director shall be concurrent with his or her term of office on the Town Council. If the Mayor or a member of the Town Council shall ever be removed, whether voluntarily or involuntarily, that Town Council Member shall cease to serve as a Director of the Zone. The Town Council hereby designates the Mayor as the Chairman of Board of Directors effective immediately, and to serve

as the Chairman of the Board of Directors on annual basis each calendar year thereafter, unless and until the Town Council designates a Town Council Member other than the Mayor to serve as the Chairman of the Board of Directors.

SECTION 5. That the Zone shall take effect on adoption of this Ordinance, and the termination of the Zone shall occur on December 31, 2037, or at an earlier time designated by subsequent ordinance of the Town Council, or at such time, subsequent to the issuance of any tax increment bonds, if any, that all project costs, tax increment bonds, notes or other obligations of the Zone, and the interest thereon, if any, have been paid in full.

SECTION 6. That the tax increment base for the Zone, which is the total taxable value of all taxable real property located in the Zone, is to be determined as of January 1, 2013, the year in which the Zone was designated as a tax increment financing reinvestment zone (the "Tax Increment Base"). Tax Increment Base means the total taxable value of all real property taxable by a taxing unit and located in the Zone for the 2013 year. "Tax Increment" means the total amount of real property taxes by a taxing unit for the year on the Captured Appraised Value of real property taxable by a taxing unit and located in the Zone. The "Captured Appraised Value" means the total taxable value of all real property taxable by a taxing unit and located in the Zone for the year, less the Tax Increment Base of the taxing unit. For purposes of this Ordinance "Sales and Use Tax" shall mean the Town's one percent (1%) sales and use tax imposed pursuant to Chapter 321, Tax Code, on the sale of Taxable Items in the Zone. Sales and Use Tax does not include any additional sales and use tax imposed by the Town for any purpose, including one-half of one percent (0.5%) sales and use tax imposed by the Town pursuant to the Development Corporation Act of 1979, Chapters 501-501, Texas Local Government Code, on behalf of the Prosper Economic Development Corporation, and the one-half of one percent (0.5%) Sales and Use Tax imposed by the Town for property tax reduction. For purposes of this Ordinance "Sales

Tax Base” shall mean the amount of municipal Sales and Use Taxes attributable to the zone for the 2013 year, the year in which the Zone is designated. For purposes of this Ordinance “Sales Tax Increment” shall mean the amount of Sales and Use Taxes collected by the Town above the Sales Tax Base. For purposes of this Ordinance “Taxing Unit” means the Town and any other political subdivision or special district that taxes real property within the Zone that enters into an agreement with the Town for the payment of all or part of the tax increment produced by such other taxing unit into the Tax Increment Fund for the Zone.

SECTION 7. That there is hereby created and established a Tax Increment Fund for the Zone which may be divided into such sub-accounts as may be required, into which all Tax Increments and Sales Tax Increment, less any of the amounts not required to be paid into the Tax Increment Fund pursuant to the Act, are to be deposited. All Tax Increments and Sales Tax Increments as defined herein shall be deposited in the Tax Increment Fund. The Tax Increment Fund and any sub-accounts are to be maintained at the depository bank of the Town and shall be secured in the manner prescribed by law for funds of the Town. In addition, all revenues from the sale of any tax increment bonds, notes or certificates of obligation, hereafter issued by the Town; revenues from the sale of any property acquired as part of the Zone financing plan; and any other revenues to be dedicated to and used in the Zone shall be deposited into the Tax Increment Fund or sub-account from which money will be disbursed to pay project costs for the Zone or to satisfy the claims of holders of tax increment bonds, notes or certificates of obligations issued for the Zone.

SECTION 8. That the Town will participate in the Zone by contributing to the Tax Increment Fund for a period of twenty-five (25) years: (i) seventy percent (70%) of the Town's Tax Increment from real property ad valorem taxes in the Zone (excluding “rollback” taxes

assessed and collected by the Town; (ii) one hundred percent (100%) of the Town's Tax Increment from real property ad valorem taxes in the Zone attributable solely to "rollback" taxes; (iii) twenty-five percent (25%) of the Town's Sales Tax Increment to the Tax Increment Fund. The Town will also contribute fifty percent (50%) of the one-half of one percent (0.5%) sales and use tax imposed pursuant to the Development Corporation Act, Chapters 501-505, Texas Local Government Code, on behalf of the Prosper Economic Development Corporation ("PEDC"), to be paid to the Town by the PEDC pursuant to that certain PEDC Infrastructure Reimbursement Agreement by and between the PEDC and the Town.

SECTION 9. That all ordinances of the Town of Prosper, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby, repealed; provided, however that all other provisions of said ordinances not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 10. That if any section, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 11. That the Town Manager is hereby authorized to execute any contracts or other agreements with any taxing units that elect to enter into an agreement with the Town for payment of all or part of the tax increment produced by such other taxing unit into the Tax Increment Fund for the Zone.

SECTION 12. This Ordinance shall take effect upon its passage as the law and charter in such cases provide.

**DULY PASSED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER,
TEXAS, ON THE 22nd DAY OF JANUARY, 2013.**

APPROVED:

**RAY SMITH
MAYOR**

CORRECTLY ENROLLED:

**AMY PIUKANA, TRMC
TOWN SECRETARY**

APPROVED AS TO FORM:

TOWN ATTORNEY
(PGS:1-1-13:57851)

Exhibit "A"
(Legal Description of the Zone)

LEGAL DESCRIPTION – 127.289 ACRES

BEING a parcel of land located in the Town of Prosper, Collin County, Texas, a part of the Collin County School Land Survey No. 12, Abstract Number 147, and being a part of a tract of land described in a deed to M.A.H.G. Partnership as recorded in Document Number 20100601000545080, Collin County Deed Records, and being further described as follows:

BEGINNING at a one-half inch iron rod found at the southeast corner of said M.A.H.G. Partnership tract of land, said point being the intersection of the west right-of-way line of the Dallas North Tollway (a variable width right-of-way) with the north right-of-way line of U. S. Highway 380 (a variable width right-of-way);

THENCE along the north right-of-way line of U. S. Highway 380 as follows:

South 89 degrees 58 minutes 56 seconds West, 737.62 feet to a highway monument found for corner;

North 87 degrees 12 minutes 21 seconds West, 100.05 feet to a highway monument found for corner;

North 89 degrees 58 minutes 51 seconds West, 577.36 feet to a one-half inch iron rod found at the most southerly southwest corner of said M.A.H.G. Partnership tract of land, said point being the southeast corner of a tract of land described in a deed to F.L. Partners, Ltd. as recorded in Document Number 20111216001360700, Collin County Deed Records;

THENCE North 00 degrees 10 minutes 18 seconds East, 1582.40 feet to a one-inch iron pipe found at the northeast corner of said F.L. Partners, Ltd. tract of land;

THENCE South 89 degrees 43 minutes 30 seconds West, 927.35 feet to a one-inch iron pipe found at the most northerly southwest corner of said M.A.H.G. Partnership tract of land, said point being the northwest corner of a tract of land described in a deed to Y-C Nurseries, Inc. as recorded in Volume 4917, Page 2974, Collin County Deed Records, said point being in the east line of a tract of land described in a deed to 110 Prosper Property, L.P. as recorded in Document Number 20091221001521410, Collin County Deed Records;

THENCE along the west line of said M.A.H.G. Partnership tract of land and along the east line of said 110 Prosper Property, L.P. tract of land as follows:

North 00 degrees 23 minutes 24 seconds East, 638.49 feet to a one inch iron pipe found for corner;

North 00 degrees 27 minutes 38 seconds East, 335.80 feet to a one-half inch iron rod found for corner;

North 89 degrees 28 minutes 46 seconds West, 38.28 feet a one-half inch iron rod found for corner;

North 00 degrees 00 minutes 43 seconds West, 695.33 feet to a one-half inch iron rod set for corner;

Exhibit "A"
(Legal Description of the Zone)

THENCE North 89 degrees 22 minutes 23 seconds East, 1352.30 feet to a one-half inch iron rod set for corner in the east line of said M.A.H.G. Partnership tract of land, said point being in the west line of a tract of land described in a deed to Southern Star Concrete, Inc. as recorded in Volume 5468, Page 5436, Collin County Deed Records;

THENCE along the east line of said M.A.H.G. Partnership tract of land as follows:

South 00 degrees 34 minutes 52 seconds East, 51.73 feet to a one-half inch iron rod found at the southwest corner of said Southern Star Concrete, Inc. tract of land, said point being the northwest corner of a tract of land described in a deed to Lattimore Materials Company, L.P. as recorded in Volume 5380, Page 5848, Collin Deed Records Collin County;

South 00 degrees 31 minutes 42 seconds East, 651.92 feet to a one-half inch iron rod found for the southwest corner of said Lattimore Materials Company, L.P.;

North 89 degrees 39 minutes 24 seconds East, 1117.44 feet along the south line of said Lattimore Materials Company, L.P. to a one-half inch iron rod found in the west right-of-way line of the Dallas North Tollway (a variable width right-of-way);

THENCE along the west right-of-way line of the Dallas North Tollway as follows:

South 04 degrees 37 minutes 34 seconds West, 705.31 feet to a one-half inch iron rod found for corner;

Southwesterly, 507.85 feet a curve to the left having a central angle of 02 degrees 30 minutes 00 seconds, a radius of 11,639.16 feet, a tangent of 253.97 feet, and whose chord bears South 03 degrees 19 minutes 26 seconds West, 507.81 feet to a one-half inch iron rod found for corner;

South 02 degrees 04 minutes 26 seconds West, 587.13 feet to a one-half inch iron rod found for corner;

Southwesterly, 250.65 feet along a curve to the left having a central angle of 02 degrees 30 minutes 00 seconds, a radius of 5744.58 feet, a tangent of 125.34 feet, and whose chord bears South 00 degrees 49 minutes 26 seconds West, 250.63 feet to a one-half inch iron rod set for corner;

South 00 degrees 25 minutes 34 seconds East, 523.30 feet to the POINT OF BEGINNING and containing 5,544,727 square feet or 127.289 acres of land.

Exhibit "A"
(Legal Description of the Zone)

LEGAL DESCRIPTION – 30 ACRES

BEING a tract of land situated in the Collin County School Land Survey, Abstract No. 147, City of Prosper, Collin County, Texas, the subject tract being a portion of a tract of land conveyed to 110 Prosper Property, L.P. according to the deeds recorded in Document Numbers 20091218001516510 (herein referred to as "Tract A") and 20091221001521410 (herein referred to as "Tract B") of the Deed Records, Collin County, Texas (DRCCT), the subject tract being more particularly described as follows;

BEGINNING at 1/2" capped iron rod found on the north line of U.S. Highway 380 for the southwest corner of Tract A, said rod being the southeast corner of that certain tract described in deed to Prosper Partners, LP, recorded in Document Number 20080303000247320 DRCCT;

THENCE N 00°26'20" E, 1144.83 feet along the common line thereof to a 1/2" iron rod with a plastic cap stamped "SPIARSENG" set, from which a 3/4" iron pipe found for the northeast corner of said Prosper Partners tract and an inset corner of Tract A bears N 00°26'20" E, 1414.82 feet;

THENCE N 89°56'56" E, 1140.81 feet departing said line, passing the common line between Tracts A and B, to a 1/2" iron rod with a plastic cap stamped "SPIARSENG" set on the east line of Tract B and being on the west line of that certain tract described in deed to Y-C Nurseries, Inc., recorded in Document Number 20090825001068300 DRCCT, from said rod a 3/4" iron pipe found for the northwest corner of said Y-C Nurseries tract bears N 00°10'04" E, 438.93 feet;

THENCE S 00°10'04" W, 295.15 feet along the common line thereof to the southwest corner of said Y-C Nurseries tract, and for the northwest corner of that certain tract described in deed to Five SAC Self-Storage Corporation, recorded in Volume 4762, Page 1011 DRCCT;

THENCE S 00°10'33" W, 844.65 feet along the common line thereof, to a 1/2" capped iron rod found on the north line of U.S. Highway 380 for the common corner thereof;

THENCE along the north line of U.S. Highway 380, the following courses:

S 89°56'56" W, 395.06 feet

S 87°05'11" W, 100.12 feet

And S 89°56'56" W, 651.07 feet to the PLACE OF BEGINNING with the subject tract containing 1,306,810 square feet or 30.000 acres of land.

Exhibit "B"
(Map Depiction of the Zone)

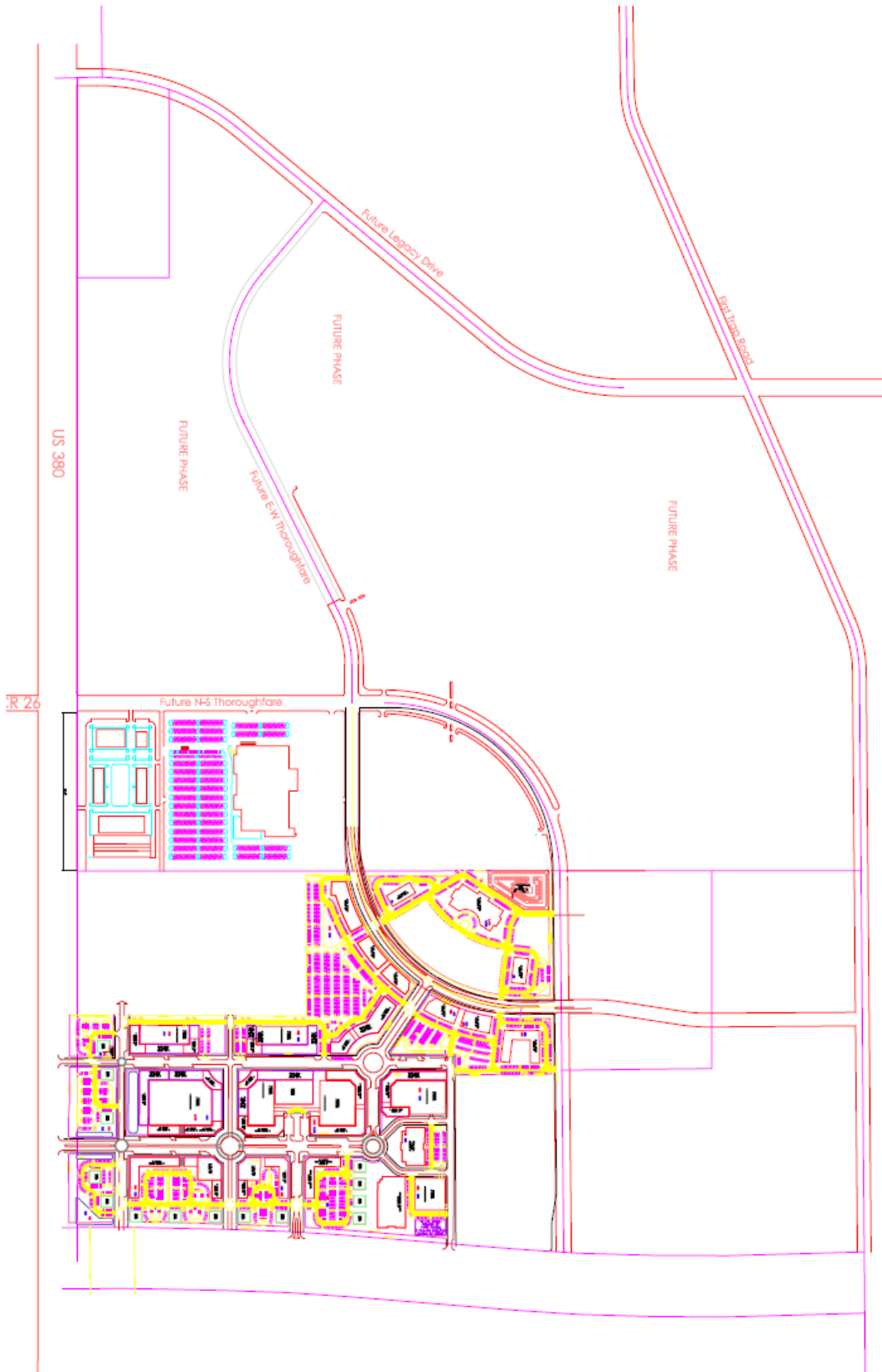


Exhibit “C”
(Preliminary Project and Reinvestment Zone Financing Plan)