

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF BAY CITY, TEXAS, AMENDING ORDINANCE NO. 1557 CONCERNING TAX INCREMENT REINVESTMENT ZONE NUMBER TWO, BAY CITY, TEXAS, ESTABLISHED PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE, BY EXPANDING THE BOUNDARY OF TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER TWO, BAY CITY, TEXAS**

**WHEREAS**, Bay City, Texas (the “City”), pursuant to Chapter 311 of the Texas Tax Code, as amended (the “Act”), may designate a geographic area within the City as a tax increment reinvestment zone if the area satisfies the requirements of the Act; and

**WHEREAS**, the Act provides that the governing body of a municipality by ordinance may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both, to be a reinvestment zone if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future; and

**WHEREAS**, the City Council desires to promote the development of a certain contiguous geographic area in the City, which is more specifically described in *Exhibits "A" and "B"* of this Ordinance (the "Zone"), through the expansion of the boundary of a reinvestment zone as authorized by and in accordance with the Tax Increment Financing Act, codified at Chapter 311 of the Texas Tax Code; and

**WHEREAS**, on November 19, 2015, the City Council of Bay City, Texas, pursuant to Chapter 311 of the Texas Tax Code, approved Ordinance No. 1557 designating a contiguous geographic area within the City as a Reinvestment Zone Number Two, Bay City, Texas (the “Original Boundaries”); and

**WHEREAS**, on March 24, 2016, the City Council of Bay City, Texas, pursuant to Chapter 311 of the Texas Tax Code, approved Ordinance No. 1568 extending the deadline to appoint board members; and

**WHEREAS**, the City Council of Bay City, Texas, now desires to amend Reinvestment Zone Number Two, Bay City, Texas, to expand the boundaries of the Zone (“TIRZ 2A”); and

**WHEREAS**, upon approval of this Ordinance, Reinvestment Zone Number Two, Bay City, Texas, will consist of contiguous land, as described and depicted in *Exhibits "A" and "B"* of this Ordinance, a copy of which is attached hereto and is incorporated herein for all purposes; and

**WHEREAS**, Section 311.011(e) of the Texas Tax Code, in pertinent part provides, “[I]f an amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing unit, increases the total estimated project costs, or designates additional property in the zone to be acquired by the municipality or county, the approval must be by ordinance or order, as applicable, adopted after a public hearing that satisfies the procedural requirements of Sections 311.003(c) and (d);” and

**WHEREAS**, pursuant to and as required by the Act, the City has prepared a *Preliminary Amended Project Plan and Financing Plan for Reinvestment Zone Number Two, Bay City, Texas* attached as **Exhibit “C”** (hereinafter referred to as the “Preliminary Amended Project and Finance Plan”) for the proposed expanded tax increment reinvestment zone containing the real property within the Zone; and

**WHEREAS**, notice of the public hearing on the expansion of the proposed zone was published in a newspaper having general circulation in the City on November 7, 2021 which date is before the seventh (7th) day before the public hearing held on November 16, 2021; and

**WHEREAS**, at the public hearing on November 16, 2021, interested persons were allowed to speak for or against the expansion of the boundaries, and 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 Zone; the public hearing was held in full accordance with Section 311.003(c) of the Act; and

**WHEREAS**, evidence was received and presented at the public hearing on November 16, 2021, and in favor of the amendment of the Zone; and

**WHEREAS**, after all comments and evidence, both written and oral, were received by the City Council, the public hearing was closed on November 16, 2021; and

**WHEREAS**, the City has taken all actions required to amend the Zone including, but not limited to, all actions required by the home-rule Charter of the City, the Act, the Texas Open Meetings Act (defined herein), and all other laws applicable to the creation of the Zone; and

**WHEREAS**, the percentage of the property in the proposed zone, excluding property that is public owned, that is used for residential purposes is less than thirty percent; and

**WHEREAS**, a Preliminary Amended Project and Finance plan has been prepared for the reinvestment zone.

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

**SECTION 1. RECITALS INCORPORATED.**

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

**SECTION 2. FINDINGS.**

That the City Council, after conducting the above described hearing and having heard the evidence and testimony presented at the hearing, has made the following findings and determined based on the evidence and testimony presented to it:

- (a) That the public hearing on the expansion of the boundaries has been properly called, held, and conducted and that notice of such hearing has been published as required by law; and
- (b) That the reinvestment zone with boundaries as described and depicted in *Exhibits "A" and "B"* will result in benefits to the City, its residents and property owners, in general, and to the property, residents, and property owners in the reinvestment zone; and
- (c) That the reinvestment zone, as defined in *Exhibits "A" and "B"*, meets the criteria for the creation of a reinvestment zone set forth in the Act in that:
  - 1. It is a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both; and
  - 2. That the City Council further finds and declares that the proposed zone meets the criteria and requirements of Section 311.005 of the Texas Tax Code because the proposed zone is predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the City or county.
- (d) That 30 percent or less of the property in the proposed reinvestment zone, excluding property dedicated to public use, is currently used for residential purposes; and
- (e) That the total appraised value of all taxable real property in the proposed reinvestment zone according to the most recent appraisal rolls of the City, together with the total appraised value of taxable real property in all other existing reinvestment zones within the City, according to the most recent appraisal rolls of the City, does not exceed 50 percent of the current total appraised value of taxable real property in the City and in the industrial districts created by the City, if any; and

- (f) That the improvements in the proposed reinvestment zone will significantly enhance the value of all taxable real property in the proposed reinvestment zone and will be of general benefit to the City or county; and
- (g) That the development or redevelopment of the property in the proposed reinvestment zone will not occur solely through private investment in the reasonable foreseeable future.

### **SECTION 3. DURATION OF THE ZONE.**

That the expanded Zone shall take effect immediately upon the passage and approval of this Ordinance, consistent with Section 311.004(a)(3) of the Act, and termination of the Zone, to include the Original Boundaries and the subsequent expansion, TIRZ 2A, shall occur upon any of the following: (i) on December 31, 2046; (ii) at an earlier time designated by subsequent ordinance; (iii) 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 Zone, and the interest thereon, have been paid in full, in accordance with Section 311.017 of the Act.

### **SECTION 4. TAX INCREMENT BASE AND TAX INCREMENT**

That the Tax Increment Base for the Original Boundaries of the TIRZ is the total taxable value of all real property taxable by the City and located in the TIRZ, determined as of January 1, 2016, the year in which both the Original Boundaries were designated. That the Tax Increment Base for the boundaries expanded in 2021, TIRZ 2A, is the total taxable value of all real property taxable by the City and located in the TIRZ, determined as of January 1, 2021, the year in which TIRZ 2A was designated.

For the Original Boundaries and TIRZ 2A the TIF Fund shall consist of (i) the percentage of the tax increment, as defined by Section 311.012(a) of the Texas Tax Code, that each taxing unit which levies real property taxes in the Zone, other than the City, has elected to dedicate to the TIF Fund under an agreement with the City authorized by Section 311.013(f) of the Texas Tax Code, and (ii) one hundred percent (100%) of the City's tax increment, as defined by section 311.012(a) of the Texas Tax Code, subject to any binding agreement executed at any time by the City that pledges a portion of such tax increment or an amount of other legally available funds whose calculation is based on receipt of any portion of such tax increment.

### **SECTION 5. SEVERABILITY CLAUSE.**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or

more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 6. OPEN MEETINGS.**

It is hereby found, determined, and declared that sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding its meeting, as required by Chapter 551 of the Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**SECTION 7. EFFECTIVE DATE.**

This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the City Charter.

PASSED AND APPROVED ON this \_\_\_\_\_day of November 2021.

Council Member:	Voted Aye	Voted No	Absent
Robert K. Nelson, Mayor	_____	_____	_____
Floyce Brown	_____	_____	_____
James Folse	_____	_____	_____
Jason Childers	_____	_____	_____
Becca Sitz	_____	_____	_____
Brad Westmoreland	_____	_____	_____

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Robert Nelson, Mayor  
**City of Bay City**

**ATTEST:**

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Jeanna Thompson  
City Secretary

**APPROVED AS TO FORM:**

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Anne Marie Odefey  
City Attorney

**APPROVED AS TO CONTENT:**

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Shawna Burkhart  
City Manager

***EXHIBIT A***  
**BOUNDARY DESCRIPTION**

**Legal Description TIRZ #2**

Beginning at the point of intersection of the eastern Right-of-Way (ROW) line of McCrosky Road and the southern ROW line of Old van Vleck Road, thence

South along the eastern ROW line of McCrosky Road to a point where said line intersects with the southern ROW line of TX-35, thence

West along the southern ROW line of TX-35 to a point where said line intersects with the western property line of AB 0339, I & G N RR CO, ACRES 1.3774, 75% UND INT, thence

Southeast along the western property line of AB 0339, I & G N RR CO, ACRES 1.3774, 75% UND INT to a point where said line intersects with the western property line of SHOWBOAT ADDITION, LOT RESERVE A (PT), LOCATED INSIDE CITY LIMITS, ACRES 2.5137, thence

Southeast along the western property line of SHOWBOAT ADDITION, LOT RESERVE A (PT), LOCATED INSIDE CITY LIMITS, ACRES 2.5137 to a point where said line intersects with the western property line of SHOWBOAT ADDITION, LOT RESERVE A (PT), LOCATED OUTSIDE THE CITY LIMITS, ACRES 16.6963, thence

Southeast along the western property line of SHOWBOAT ADDITION, LOT RESERVE A (PT), LOCATED OUTSIDE THE CITY LIMITS, ACRES 16.6963 to a point where said line intersects with the southeastern property line of SHOWBOAT ADDITION, LOT RESERVE A (PT), LOCATED OUTSIDE THE CITY LIMITS, ACRES 16.6963, thence

Northeast along the southeastern property line of SHOWBOAT ADDITION, LOT RESERVE A (PT), LOCATED OUTSIDE THE CITY LIMITS, ACRES 16.6963 to a point where the projection of said line intersects with the western ROW line of Me Crosky Road, thence

South along the western ROW line of Me Crosky Road to a point where said line intersects with the southern property line of I & G N AB 339 15.44 ACRES (15.90 AC LESS .46 = 15.44AC), thence

East along the southern property line of I & G N AB 339 15.44 ACRES (15.90 AC LESS .46 = 15.44AC) to a point where said line intersects with the southern property line of I & G N AB 339 5.66 ACRES, thence

East along the southern ROW line of I & G N AB 339 5.66 ACRES to a point where said line intersects with the eastern property line of I & G N AB 339 5.66 ACRES, thence

North along the eastern ROW line of I & G N AB 339 5.66 ACRES to a point where said line intersects with the southern ROW line of TX-35, thence

East along the southern ROW line of TX-35 to a point where said line intersects with the projection of the eastern property line of AB 0150, JOHN DUNCAN, ACRES 19.66, thence

North along the eastern property line of AB 0150, JOHN DUNCAN, ACRES 19.66 to a point where said line intersects with the eastern property line of AB 0150, JOHN DUNCAN, ACRES 117.893, 1/3 UND INT (OUTSIDE CITY LIMITS), thence

North along the eastern property line of AB 0150, JOHN DUNCAN, ACRES 117.893, 1/3 UND INT (OUTSIDE CITY LIMITS) to a point where said line intersects with the southern ROW line of Old van Vleck Road, thence

West along the southern ROW line of Old van Vleck Road to the point there said line intersects the eastern ROW line of McCrosky Road, which is the point of beginning.

### **Legal Description TIRZ #2A**

Beginning at the point where the eastern right of way boundary of McCrosky Road meets the northern right of way boundary of TX-35, thence

West along the northern right of way boundary of TX-35 to the point it meets the southwest corner of Property ID 20961, thence

North to Property ID 20118, continuing north along the western boundary of Property ID 20118 to the point it meets an easement, thence

North across the easement to the southwest corner of Property ID 20111, thence

East along the southern boundary of Property ID 20111 to the point it meets the southwest corner of Property ID 20953, thence

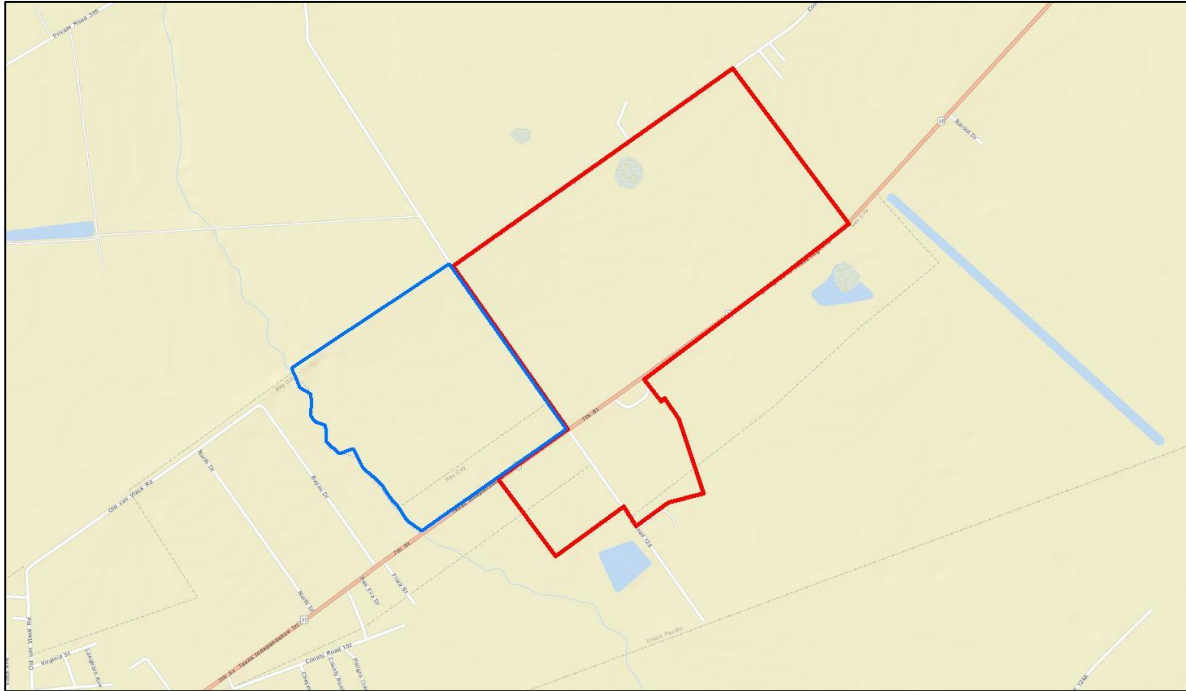
East along the southern boundary of Property ID 20953 to the point it meets the western right of way boundary of McCrosky Road, thence



East across McCrosky road to the point the eastern right of way boundary of McCrosky Road meets the southwest corner of Property ID 23012, thence

South along the eastern right of way boundary of McCrosky Road to the point it meets the northern right of way boundary of TX-35, which is the point of beginning.



***EXHIBIT B***  
**BOUNDARY MAP**



-  - TIRZ #2 Boundary
-  - TIRZ #2A Boundary

***EXHIBIT C***  
**PRELIMINARY PROJECT PLAN AND FINANCE PLAN**