

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF BAY CITY, TEXAS, AMENDING ORDINANCE NO. 1567 CONCERNING TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, BAY CITY, TEXAS, ESTABLISHED PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE, BY EXPANDING THE BOUNDARY OF TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE, 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. 1556 designating a contiguous geographic area within the City as a Reinvestment Zone Number One, Bay City, Texas (the “Original Boundaries”); and

WHEREAS, pursuant to Ordinance No. 1567, the City amended Ordinance No. 1556 to extend the time to appoint the Board of Directors; and

WHEREAS, on January 26, 2017, the City Council of Bay City, Texas, pursuant to Chapter 311 of the Texas Tax Code, approved Ordinance No. 1588 approving the Project and Financing Plan for Reinvestment Zone Number One, Bay City, Texas which details the project costs eligible for reimbursement; and

WHEREAS, the City Council of the City of Bay City, Texas, now desires to amend Reinvestment Zone Number One, Bay City, Texas, to expand the boundaries of the Zone (“TIRZ 1A”); and

WHEREAS, upon approval of this Ordinance, Reinvestment Zone Number One, Bay City, Texas, will consist of contiguous and non-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 One, 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 February 13, 2022, which date is before the seventh (7th) day before the public hearing held on February 22, 2022; and

WHEREAS, at the public hearing on February 22, 2022, 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 February 22, 2022, 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 February 22, 2022; 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 1A, 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, 2015, the year in which both the Original Boundaries were designated. That the Tax Increment Base for the boundaries expanded in 2022, TIRZ 1A, is the total taxable value of all real property taxable by the City and located in the TIRZ, determined as of January 1, 2022, the year in which TIRZ 1A was designated.

For the Original Boundaries and TIRZ 1A 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 February 2022.

BAY CITY

Robert K. Nelson, Mayor

ATTEST:

Jeanna Thompson
City Secretary

APPROVED AS TO FORM:

Anne Marie Odefey
City Attorney

APPROVED AS TO CONTENT:

Shawna Burkhart
City Manager

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Robert K. Nelson Mayor	<hr/>	<hr/>	<hr/>
Floyce Brown	<hr/>	<hr/>	<hr/>
James Folse	<hr/>	<hr/>	<hr/>
Bradley Westmoreland	<hr/>	<hr/>	<hr/>
Becca Sitz	<hr/>	<hr/>	<hr/>
Jason Childers, Mayor Pro Tem	<hr/>	<hr/>	<hr/>

EXHIBIT A

Legal Description TIRZ #1, Original Boundary

Beginning at the point of intersection of the western Right-of-Way (ROW) line of Avenue E and the southern ROW line of 5th Street, thence

North along the western ROW line of Avenue E to a point where said line intersects with the northern ROW line of 11th Avenue, thence

East along the northern ROW line of 11th Avenue to a point where said line intersects with the eastern ROW line of Avenue M, thence

South along the eastern ROW line Avenue M to a point where said line intersects with the southern ROW line of 5th Street, thence

West along the southern ROW line of 5th Street to a point where said line intersects with the western ROW line of Avenue E, which is the point of beginning.

Legal Description TIRZ #1A, Expanded Boundary

BEING a 54.441-acre tract of land in the I&GNRR Co. Survey 4, Block 4, Abstract 268 in Matagorda County, Texas and said tract being comprised of {1) a portion of that called 18.325-acre tract conveyed by the Board of Trustees of the Bay City Independent School District to SAL Holdings, LLC by deed recorded as Document No. 2021-7649 of the Matagorda County Official Records, {2) all of that called 33.85-acre tract of land conveyed to SAL Holdings, LLC by deed recorded as Document No. 2020-974 of the Matagorda County Official Records and {3) all of that called 4.0-acre tract conveyed to SAL Holdings, LLC by deed recorded as Document No. 2019-3959 of the Matagorda County Official Records and this 54.441-acre tract being more particularly described by metes and bounds as follows;

BEGINNING at a found ½-inch iron rod in the north right-of-way line of Carey Smith Boulevard (formally Skelly Road) a public street right-of-way having a width of 60-feet, more or less, said iron rod having Texas State Plane South Central Zone Coordinates of North 13557143.251 and East 2940307.688, and said iron rod marking the southwest corner of the aforementioned called 33.85-acre tract and the southeast corner of the aforementioned called 18.325-acre tract and said iron rod being located North 3° 16' 56" West a distance of 59.79-feet and North 86° 43' 04" East a distance of 37.35-feet from a found 1-inch iron rod marking the intersection of the south right-of-way line of Carey Smith Boulevard with the west right-of-way line of Live Oak Avenue, a 60-foot wide public street right-of-way;

THENCE South 86° 43' 04" West (called West in Document No. 2021-7649) with the south line of the aforementioned called 18.325-acre tract and with the north right-of-way line of Carey Smith Boulevard for a distance of 710.38-feet to a found spindle in

the pavement at the intersection of said north right-of-way line with the east right-of-way line of Avenue M, a public street right-of-way of varying width, for the southwest corner of the herein described tract;

THENCE North 3° 15' 55" West with the east right-of-way line of Avenue M and the west line of the herein described tract for a distance of 1,020.17-feet to a found 5/8-inch iron rod with cap marked "G&W ENG." marking the northwest corner of the herein described tract and the approximate southwest corner of the Robert V. Bell Rentals called 1.42-acre tract;

THENCE North 86° 52' 03" East {called East in Document No. 2021-7649) with the south line of said 1.42- acre tract, at a distance of 585.15-feet, more or less, pass the southeast corner of said 1.42-acre tract, same being the most southerly southwest corner of the William M. Bell called 1.419-acre tract as described in deed recorded at Volume 629, Page 210 of the Matagorda County Deed Records; at a distance of 659.15- feet, more or less, pass the southeast corner of said 1.419-acre tract, same being the southwest corner of a 20-foot by 20-foot City of Bay City lift station site, at a distance of 679.15-feet pass a point for the southeast corner of said Lift Station site, same being the southwest corner of a 30-foot wide public street right-of- way and continuing for a total distance of 709.15-feet to a found 5/8-inch iron rod with cap marked "G&W ENG." in the west line of the aforementioned 33.85-acre tract that marks the southeast corner of said 30- foot wide street right-of-way and the northeast corner of the aforementioned called 18.325-acre tract for an interior corner of the herein described tract;

THENCE North 3° 20' 05" West with the east line of said 30-foot wide street right-of-way and the west line of the aforementioned called 33.85-acre tract to a found 1/2-inch iron rod marking the northwest corner of said called 33.85-acre tract;

THENCE North 73° 53' 12" East {called N 75° 20' 42" E in Document No. 2020-974) at a distance of 40.8-feet, more or less, pass the southwest corner of Lot 21, Block 1 of the Del Norte Subdivision, Section 1 to the City of Bay City as shown on plat recorded at Volume 4, Page 3 of the Matagorda County Plat Records, same being a point in the east line of the 70-foot wide Live Oak Avenue right-of-way and continuing with the south line of Lots 21-20, Block 1 of said subdivision and with the north line of the aforementioned called 33.85-acre tract for a total distance of 206.91-feet (called 206.84-feet in Document No. 2020-974) to a found 1/2-inch iron rod at an angle point;

THENCE with the north line of the aforementioned called 33.85-acre tract and the south line of Lots 20-18, Block 1 of said Del Norte Subdivision North 74° 01' 52" East for a distance of 111.33-feet (called N 75° 33' 37" E, 111.60-feet in Document No. 2020-974) to a found 1/2-inch iron rod at an angle point;

THENCE continuing with the north line of the aforementioned 33.85-acre tract and with the south line of Lots 18-17 of said subdivision North 73° 10' 49" East for a distance of 106.15-feet (called N 74° 37' 21" E, 105.80-feet in Document No. 2020-974) to a found 1/2-inch iron rod for an angle point;

THENCE continuing with the north line of the aforementioned called 33.85-acre tract and the south line of Lots 17-14 of said Del Norte Subdivision North 72° 34' 17" East for a distance of 298.58-feet (called N 74° 07' 26" E, 298.70-feet in Document No. 2020-974) to a found ½-inch iron rod for an angle point;

THENCE continuing with the north line of the aforementioned called 33.85-acre tract and with the south line of Lots 14-12 of said Del Norte Subdivision North 72° 50' 52" East for a distance of 124.94-feet (called N 74° 10' 26" E, 125.00-feet in Document No. 2020-974) to a found ½-inch iron rod at an angle point;

THENCE continuing with the north line of the aforementioned called 33.85-acre tract and with the south line of lots 12-11 of said Del Norte Subdivision North 74° 59' 32" East for a distance of 83.94-feet (called N 76° 42' 21" E, 84.20-feet in Document No. 2020-974) to a found ½-inch iron rod at an angle point;

THENCE continuing with the north line of the aforementioned called 33.85-acre tract and with the south line of Lots 11-9 of said Del Norte Subdivision North 76° 29' 53" East for a distance of 183.73-feet (called N 78° 01' 21" E, 183.45-feet in Document No. 2020-974) to a found ½-inch iron rod for the northeast corner of said 33.85-acre tract and the most northerly northeast corner of the herein described tract;

THENCE with the east line of the aforementioned called 33.85-acre tract and the west line of the Michael K. and Leslie K. Kohnen called 3.415-acre tract as described in deed recorded at Volume 533, Page 406 of the Official Records of Matagorda County and the west line of the Irving M. Chase and Margaret O. Chase called 3.917-acre tract as described in deed recorded at Document No. 2019-6786 of the Official Records of Matagorda County, South 3° 13' 47" East (called S 1° 50' 00" E, in Document No. 2020-974) at a distance of 193.70-feet, more or less, pass the common westerly corner of said Kohnen tract and said Chase tract and continuing for a total distance of 372.20-feet to a found ½-inch iron rod in the east line of the aforementioned 33.85-acre tract that marks the northwest corner of that SAL Holdings, LLC called 4.00-acre tract as described in Document No. 2019-3959 of the Matagorda County Official Records;

THENCE with the common line between the said Chase called 3.917-acre tract and said SAL Holdings, LLC called 4.00-acre tract North 86° 48' 17" East for a distance of 781.45-feet to a found 5/8" iron rod with cap marked "G&W Eng." in the curved west right-of-way line of Nichols Avenue, a 60-foot wide public street right-of-way, that marks the northeast corner of said called 4.00-acre tract;

THENCE in a southerly direction with said curve to the right which has a radius of 1402.25-feet, a delta angle of 6° 53' 38", a chord of 168.62-feet which bears South 6° 27' 34" East for a total course and arc length of 168.72-feet to a found 5/8-inch iron rod with cap marked "G&W Eng.";

THENCE continuing with the west right-of-way line of Nichols Avenue South 3° 14' 12" East for a distance of 52.85-feet to a found ½-inch iron rod that marks the southeast

corner of the aforementioned called 4.00- acre tract, said iron rod also marking the northeast corner of the Church of the Living Water Ministry, Inc. called 4.4093-acre tract as described in Volume 51, Page 747 of the Official Records of Matagorda County;

THENCE with the common line between said called 4.4093-acre tract and the aforementioned called 4.00- acre tract South $86^{\circ} 46' 25''$ West for a distance of 790.91-feet to a found $\frac{1}{2}$ -inch iron rod in the east line of the aforementioned called 33.85-acre tract that marks the common westerly corner of said called 4.4093- acre tract and said called 4.00-acre tract;

THENCE in a southerly direction with the common line between the aforementioned called 33.85-acre tract and the aforementioned called 4.4093-acre tract and with the common line between said 33.85-acre tract and the Lane H. Hollister, et ux called 60-foot by 720-foot Tract Two as recorded in deed recorded at Volume 601, Page 120 of the Matagorda County Official Records, South $3^{\circ} 26' 22''$ East (called S $51^{\circ} 50' 00''$ E in Document No. 2020-974) for a distance of 1020.37-feet to a found $\frac{1}{2}$ -inch iron rod in the north right-of- way line of Carey Smith Boulevard (formerly Skelly Road) for the most southerly southeast corner of the herein described tract;

THENCE South $86^{\circ} 39' 40''$ West with said north right-of-way line for a distance of 30.00-feet to a $\frac{5}{8}$ -inch iron rod with cap marked "John D. Mercer RPLS 1924" set for a corner of the herein described tract, same being the southeast corner of the Church of Jesus Christ of Latter Day Saints called 2.50-acre tract as described at Volume 429, Page 164 of the Official Records of Matagorda County;

THENCE with the east line of said called 2.50-acre tract North $3^{\circ} 25' 17''$ West for a distance of 395.66-feet to a found $\frac{1}{2}$ -inch iron rod marking the northeast corner of said called 2.50-acre tract and an interior corner of the herein described tract;

THENCE with the north line of the aforementioned called 2.50-acre tract South $86^{\circ} 37' 25''$ West for a distance of 272.78-feet to a found $\frac{1}{2}$ -inch iron rod marking the northwest corner of said called 2.50-acre tract and an interior corner of the herein described tract;

THENCE in a southerly direction with the west line of the aforementioned called 2.50-acre tract South $3^{\circ} 32' 40''$ East for a distance of 177.46-feet to a found $\frac{1}{2}$ -inch iron rod marking the northeast corner of the Church of God of Prophecy called 1.00-acre tract as described in Volume 485, Page 338 of the Official Records of Matagorda County;

THENCE in a westerly direction with the north line of said called 1.00-acre tract South $86^{\circ} 41' 40''$ West for a distance of 200.07-feet to a found $\frac{1}{2}$ -inch iron rod marking the northwest corner of said called 1.00-acre tract;

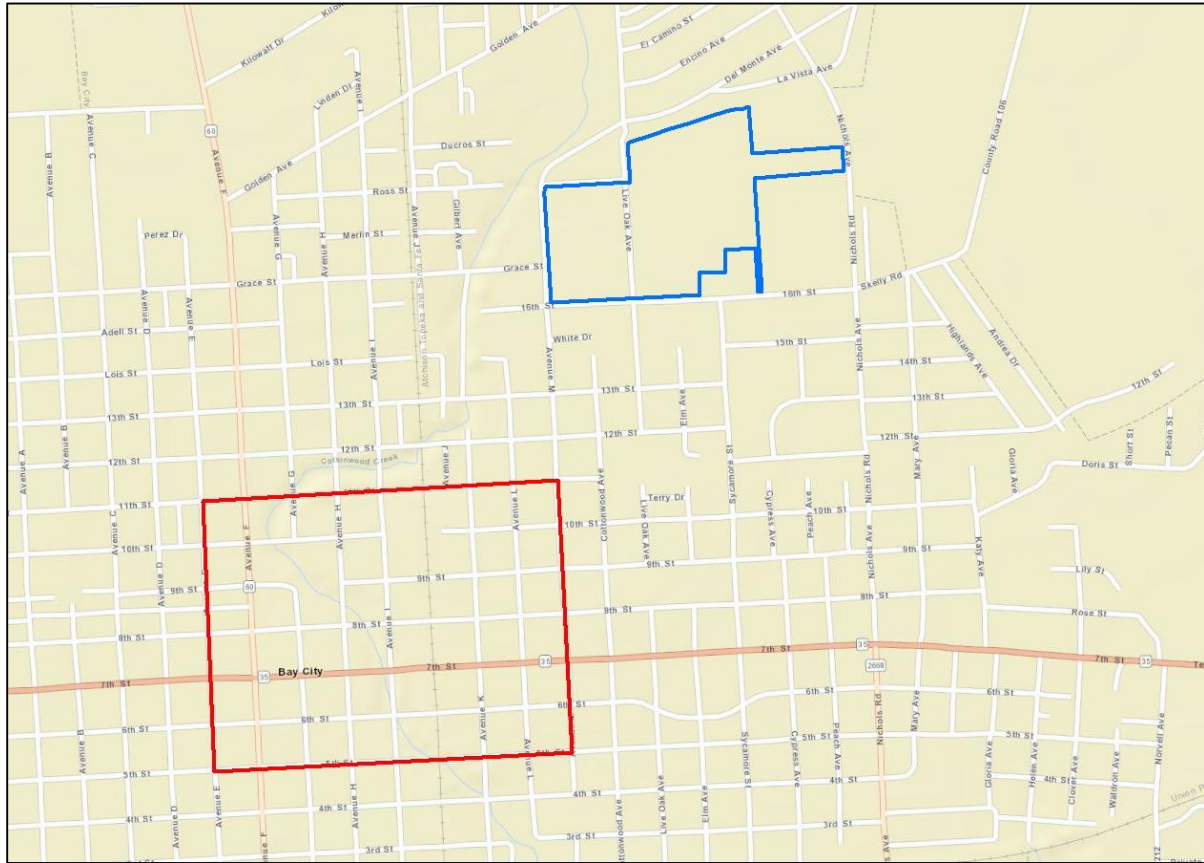
THENCE in a southerly direction with the west line of said called 1.00-acre tract South $3^{\circ} 15' 58''$ East for a distance of 218.02-feet to a found $\frac{1}{2}$ -inch iron rod in the north

right-of-way line of Carey Smith Boulevard (formerly Skelly Road) marking the southwest corner of said called 1.00-acre tract;

THENCE in a westerly direction with the north right-of-way line of Carey Smith Boulevard South $86^{\circ} 39' 06''$ West for a distance of 585.37-feet to the POINT OF BEGINNING, continuing in area 54.441-acres of land, more or less.

Bearings herein called are based on the Texas State Plane Coordinate System South Central Zone, NAD83.

EXHIBIT B
BOUNDARY MAP



- TIRZ #1 Boundary
- TIRZ #1A Boundary

EXHIBIT C
PRELIMINARY PROJECT PLAN AND FINANCE PLAN