

**ORDINANCE NO. O-2017-99**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, RENEWING THE DESIGNATION OF A CERTAIN AREA AS REINVESTMENT ZONE NO. TWO (HOOD PACKAGING (FORMERLY BONAR PACKAGING) FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT, CITY OF TYLER, TEXAS; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, on May 6, 1988, and as amended thereafter, and currently found in City Code Sections 2-30 through 2-32, the Tyler City Council adopted a Tax Abatement Policy; and

**WHEREAS**, the City Council (the "City") desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Texas Property Tax Code Section 312.201; and

**WHEREAS**, on September 7, 1990, in Ordinance No. O-90-44, the City Council originally created this Reinvestment Zone and renewed it on August 23, 1995; and

**WHEREAS**, this property was subsequently included in the State-designated East Texas Center Enterprise Zone and according to State law, all land in an Enterprise Zone is automatically a reinvestment zone; and

**WHEREAS**, the East Texas Center Enterprise Zone designation has now ended; and

**WHEREAS**, state law (currently Texas Property Tax Code Sec. 312.203) provides that reinvestment zone designations expire after five years, but may be renewed for periods not to exceed five (5) years; and

**WHEREAS**, on September 12, 2007, the City Council renewed this reinvestment designation by the adoption of Ordinance No. O-2007-102 for five years; and

**WHEREAS**, on October 10, 2012, the City Council renewed this reinvestment designation by the adoption of Ordinance No. O-2012-82 for five years; and

**WHEREAS**, the City Council authorized staff to set a public hearing before the City Council concerning this matter; and

**WHEREAS**, on 10/25/17 the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone at least seven (7) days prior to such hearing; and

**WHEREAS**, the City at such hearing invited any interested person, or person's attorney, to appear and contend for or against the renewal of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such hearing should be included in such proposed reinvestment zone, and the concept of tax abatement;

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

**PART 1. Definitions.**

- a) Improvements - Improvements shall include, for the purpose of establishing eligibility under the Tax Abatement Policy, any activity at the location, including but not limited to new construction.
- b) Taxable Real Property - The term "taxable real property" shall be defined in the Texas Property Tax Code and said definition shall not include personal property as defined in said Code, nor shall the definition include land.
- c) Base Year - The base year for determining increased value shall be the taxable real property value assessed the year in which the agreement is executed.

**PART 2.** That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

**PART 3.** That the City, after conducting such hearings and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

- a) That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone; and
- b) That the boundaries of the reinvestment zone should be the area as described in the legal description attached hereto as Exhibit "A" and incorporated herein, and depicted on the map attached hereto as Exhibit "B" and incorporated herein; and
- c) That creation of the reinvestment zone for commercial/industrial tax abatement with boundaries as described in Exhibits "A" and "B" will result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical; and
- d) That the reinvestment zone as defined in Exhibits "A" and "B" meets the criteria for the creation of a reinvestment zone as set forth in Texas Property Tax Code Section 312.202 in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City"; and
- e) That the reinvestment zone as defined in Exhibits "A" and "B" meets the criteria for the creation of a reinvestment zone as set forth in the City of Tyler guidelines and criteria for granting tax abatement in reinvestment zones.

**PART 4.** That pursuant to Texas Property Tax Code Section 312.201, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing only the area

described by the legal description in Exhibit "A" attached hereto and depicted on the map attached hereto as Exhibit "B", and such reinvestment zone is hereby designated and shall hereafter be designated as Reinvestment Zone No. Two, City of Tyler, Texas.

**PART 5.** That written agreements with property owner(s) located within the zone shall provide the terms regarding duration of exemption and share of taxable real property value from taxation as shown below:

a) Duration of Exemption - \_\_\_\_\_ ( ) consecutive tax years beginning with and including the January 1, 2\_\_\_\_\_, assessment date.

b) Share of taxes abated:

\_\_\_\_\_ % of taxes on total value of appraised improvements which are added.

**PART 6.** That written agreements for tax abatement as provided for by Texas Property Tax Code Section 312.205 shall include provisions for:

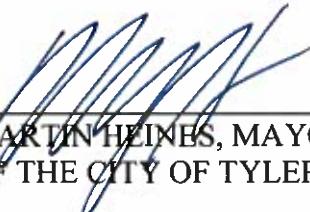
- a) Listing the kind, number, and location of all proposed improvements of the property;
- b) Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreements;
- c) Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect;
- d) Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement;
- e) Containing terms agreed to by the owner of the property;
- f) Requiring the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement; and
- g) Providing that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

**PART 7.** If any portion of this ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof.

**PART 8.** That the zone shall take effect immediately upon its adoption.

**PART 9.** That this ordinance shall be effective on and after its date of adoption.

PASSED AND APPROVED this 25<sup>th</sup> day of October, A. D., 2017.

  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK

APPROVED:

  
DEBORAH G. PULLUM,  
CITY ATTORNEY



# ORDINANCE NO. O-2017-99

## EXHIBIT "A"

Page 1 of 3

Exhibit A

### SURVEY CERTIFICATION

This survey is made for the benefit of:

BONAR PACKAGING, INC.  
FIRST AMERICAN TITLE COMPANY OF TEXAS

I, Robert Matush, a Registered Professional Land Surveyor in the State of Texas, do hereby certify to the aforesaid parties, as of the date set forth above that I have made a careful survey of a tract of land described as follows:

#### Tract #: 29.148 Acres

All that certain tract or parcel of land situated in the Hugh Wall Survey, Abstract 1062, and the F D. Bodenheimer Survey, Abstract 95, Smith County, Texas, being all of that certain Tract No. One, called 7.925 acres, being all of Tract No. Two, called 8.176 acres, and being a part of Tract No. Three, called 13.2502 acres, described in a General Warranty Deed from National Distillers and Chemical Corporation to Bonar Packaging, Inc., dated May 9, 1986, and recorded in Volume 2559, Page 704 of the Land Records of Smith County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1" iron rod found for the southeast corner of said called 8.176 acre tract, same being the southwest corner of Lot 5, Block 2, New City Block 778-A, of Industrial Heights, a subdivision of record in Volume 1, Page 391 of the Plot Records of Smith County, same being in the north right-of-way line of May Street;

THENCE, North 89° 52'00" West, with the south line of said 8.176 acre tract (and the bearing basis of this survey as related to the record bearing), a distance of 870.67 feet to a 1/2" iron rod set for the southwest corner of said 8.176 acres, same being the eastern southeast corner of said called 7.925 acre tract, same being in the east right-of-way line of North Lyndon Avenue;

THENCE, North 89° 24'00" West, with the north line of the terminus of said North Lyndon Avenue, a distance of 60.55 feet to a 1/2" iron rod set for the northern interior corner of said 7.925 acre tract;

THENCE, South 07° 35'00" West, with the west right-of-way line of said North Lyndon Avenue, a distance of 413.10 feet to a 1/2" iron rod set for the southern interior corner of said 7.925 acre tract;

THENCE, South 00° 33'00" West, continuing with said west right-of-way line of said North Lyndon Avenue, a distance of 208.24 feet to a 1/2" iron rod set for the western southeast corner of said 7.925 acre tract;

THENCE, North 82° 25'00" West, a distance of 337.16 feet to a 1/2" iron rod set for the southwest corner of said 7.925 acre tract, same being in the east right-of-way line of the St. Louis and Southwestern Railway;

THENCE, North 07° 36'01" East, with said east right-of-way line of said St. Louis and Southwestern Railway, a distance of 996.66 feet to a 1/2" iron rod set for the northwest corner of said 7.925 acre tract;

THENCE, North 89° 49'00" East, with the north line of said 7.925 acre tract, a distance of 100.11 feet to a 1/2" iron rod set for the southwest corner of said called 13.2502 acre tract, same being a corner of said east right-of-way line of said St. Louis and Southwestern Railway;

THENCE, North 07° 34'07" East, continuing with said east right-of-way line of said St. Louis and Southwestern Railway, same being the west line of said 13.2502 acre tract, a distance of 503.79 feet to a 1/2" iron rod set for the southwest corner of that certain called 0.2155 acre tract described in a Warranty Deed from Bonar Packaging, Inc., to the City of Tyler, of record in Volume 3518, Page 376 of said Land Records;

THENCE, North 86° 09'07" East, a distance of 110.13 feet to a 1/2" iron rod set for the western southeast corner of said 0.2155 acre tract;

THENCE, North 01° 12'03" East, a distance of 8.00 feet to a 1/2" iron rod set for the interior corner of said 0.2155 acre tract;

THENCE, North 89° 20'38" East, a distance of 154.08 feet to a 1/2" iron rod set for the eastern southeast corner of said 0.2155 acre tract;

THENCE, North 01° 12'03" East, a distance of 27.06 feet to a 1/2" iron rod set for the northeast corner of said 0.2155 acre tract, same being in the north line of said 13.2502 acre tract, same being in the south right-of-way line of Morningside Drive;

ORDINANCE NO. O-2017-99

EXHIBIT "A"

Page 2 of 3

THENCE, South 89° 05' 18" East, with said north line of said 13.2502 acre tract, same being said south right-of-way line of Morningside Drive, a distance of 787.39 feet to a 1/2" iron rod found for the northeast corner of said 13.2502 acre tract, same being in the west right-of-way line of Industrial Avenue;

THENCE, South 01° 35' 54" West, with said west right-of-way line of Industrial Avenue, a distance of 527.78 feet to a 1/2" iron rod found for the southeast corner of said 13.2502 acre tract, same being the northeast corner of said 8.176 acre tract, same being the northeast corner of Lot 1, Block 2, New City Block 778-A of said Industrial Heights subdivision;

THENCE, South 01° 51' 00" West, with the east line of said 8.176 acre tract, same being the west line of said Industrial Heights subdivision, a distance of 421.41 feet to the POINT OF BEGINNING and containing 29.148 acres of land.

TRACT 2: 12.154 Acres

All that certain tract or parcel of land situated in the Hugh Wall Survey, Abstract 1062, Smith County, Texas, being a part of that certain Tract No. Four, called 12.372 acres, described in a General Warranty Deed from National Distillers and Chemical Corporation to Bonar Packaging, Inc., dated May 9, 1986, and recorded in Volume 2559, Page 704 of the Land Records of Smith County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found for the northeast corner of said called 12.372 acre tract, same being in the west right-of-way line of Industrial Avenue;

THENCE, South 00° 20' 06" West, with said west right-of-way line of Industrial Avenue, a distance of 542.43 feet to a 1/2" iron rod found for the southeast corner of said 12.372 acre tract, same being in the north right-of-way line of Morningside Drive;

THENCE, North 89° 05' 18" West, with the south line of said 12.372 acre tract, same being said north right-of-way line of Morningside Drive, a distance of 785.03 feet to a 1/2" iron rod set for the southeast corner of that certain called 0.2026 acre tract described in a Warranty Deed from Bonar Packaging, Inc., to the City of Tyler, of record in Volume 3539, Page 833, of said Land Records;

THENCE, North 01° 43' 55" East, a distance of 34.97 feet to a 1/2" iron rod set for the northeast corner of said 0.2026 acre tract;

THENCE, North 89° 05' 18" West, a distance of 250.24 feet to a 1/2" iron rod set for the northwest corner of said 0.2026 acre tract, same being in the west line of said 12.372 acre tract, same being in the east right-of-way line of the St. Louis and Southwestern Railway;

THENCE, North 07° 34' 07" East, with said east right-of-way line of the St. Louis and Southwestern Railway, same being said west line of said 12.372 acre tract, a distance of 497.18 feet to a 1/2" iron rod set for the northwest corner of said 12.372 acre tract; a 1/2" iron rod found for reference bears North 89° 53' 28" West, 6.51 feet;

THENCE, South 89° 53' 28" East, with the north line of said 12.372 acre tract, a distance of 971.77 feet to the POINT OF BEGINNING and containing 12.154 acres of land.

# ORDINANCE NO. O-2017-99

## EXHIBIT "A"

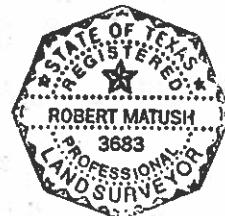
Page 3 of 3

I further certify that:

1. The survey reflected by this plat was actually made upon the ground, that the attached plat of survey is made at least in accordance with the minimum standards established by the State of Texas for surveyors and with the "Minimum Standard Detail Requirements for ALTA/ASCM Land Title Surveys" jointly established and adopted by ALTA and ACSM in 1992 and meets the Accuracy Standards (as adopted by ALTA and ACSM and in effect on the date of this certification) of an Urban Survey, with accuracy and precision requirements modified to meet current minimum angular and linear tolerance requirements of the state in which the subject property is located, and contains items 1, 2, 3, 4, 6, 7(a), 7(b)(1), 8, 9, 10, 11 of Table A thereto.
2. The survey correctly shows the location of all buildings, structures and other improvements situated on (the, "Premises").
3. Except as shown, all utilities serving the Premises enter through adjoining public streets and/or easements of record; that, except as shown, there are no visible easements or rights of way across said Premises; that the property described hereon is the same as the property described in First American Title Company Commitment CF No. 22627 with an effective date of October 26, 1999, and that all easements, covenants and restrictions referenced in said title commitment, or evidence of visible easements which the undersigned has been advised or has knowledge, have been plotted hereon or otherwise noted as to their effect on the subject property.
4. Except as shown, there are no encroachments onto adjoining premises, streets or alleys by any buildings, structures or other improvements, and no encroachments onto said Premises by buildings, structures or other improvements situated on adjoining premises, and except as shown, there are no party walls.
5. Said described property is located within an area having a Zone Designation 'X' by the Federal Emergency Management Agency (FEMA), on Flood Insurance Rate Map No. 0004 B, with a date of identification of February 19, 1992, for Community No. 480571, in Smith County, State of Texas, which is the current Flood Insurance Rate Map for the community in which said premises is situated.
6. The property has direct physical access to North Lyndon Avenue, Industrial Avenue, and Morningside Drive, a public street or highway.

*Robert Matush*

Robert Matush  
Registered Professional Land Surveyor No. 3683



NOTE:

1. Easements granted to National Distillers and Chemical Corporation, of record in Vol. 1048, Pg. 393; and in Vol. 1659, Pg. 371, S.C.D.R., do not affect the subject property.
2. Easements granted to The Tyler Industrial Foundation, Inc., of record in Vol. 1047, Pg. 52, S.C.D.R., do not affect the subject property.
3. Easements granted to E.D. Story, of record in Vol. 180, Pg. 8, S.C.D.R., do not affect the subject property.
4. Easements granted to A.T. & T. Co., of record in Vol. 2278, Pg. 660, S.C.L.R., do not affect the subject property. A blanket easement granted to A.T. & T. Company, of record in Vol. 507, Pg. 394, S.C.D.R., does affect the 29.148 acre tract.
5. Easements granted to Texas Power and Light Co., of record in Vol. 253, Pg. 524; Vol. 347, Pg. 451; Vol. 433, Pg. 177; Vol. 621, Pg. 85; and in Vol. 794, Pg. 453, S.C.D.R., do not affect the subject property. Easements granted to Texas Power and Light Co., of record in Vol. 268, Pg. 101; Vol. 269, Pg. 132; Vol. 362, Pg. 514; Vol. 621, Pg. 85; and in Vol. 756, Pg. 344, do affect the 29.148 acre tract.
6. Easements granted to St. Louis and Southwestern Railway, of record in Vol. 212, Pg. 110, do affect the 29.148 acre tract.
7. The property surveyed is zoned M-2 (General Industrial) and is subject to a 25.0-ft. front building line, a 25.0-ft. rear building line, and a 0.0-ft. side building line.
8. Property address: 2410 North Lyndon Avenue, Tyler, Texas 75702

**ORDINANCE NO. O-2017-99  
EXHIBIT "B"**

## Exhibit B

