

**ORDINANCE NO.O-2016-90**

**AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN CITY OF TYLER AS REINVESTMENT ZONE NUMBER FOUR, CITY OF TYLER, TEXAS, FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; ESTABLISHING A TAX INCREMENT FUND FOR THE ZONE; PROVIDING A DATE FOR THE TERMINATION OF THE ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Chapter 311 of the Texas Tax Code, the City may designate a contiguous geographic area within the City 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 Tyler City ad valorem taxes are to be deposited into the tax increment fund, and that taxes of other taxing units may be utilized in the financing of the proposed zone; and

**WHEREAS**, a notice of the public hearing on the creation of the proposed zone was published on September 15, 2016, in the Tyler Morning Telegraph, a newspaper of general circulation in the City; and

**WHEREAS**, at the public hearing on September 28, 2016, 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**, after all comments and evidence were received by the Tyler City Council the public hearing was closed on September 28, 2016; and

**WHEREAS**, the public hearing was held in full accordance with Section 311.003(c) of the Act, and all interested persons were allowed to speak for or against the creation of the Zone prior to the conclusion of the public hearing and the adoption of this Ordinance; and

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

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

**PART 1: Findings.**

- (a) That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.
- (b) That the 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) 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 contains areas whose conditions substantially impair and arrest the sound growth of the City, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use.
- (d) That the City Council, pursuant to the requirements of Chapter 311, Texas Tax Code, further finds and declares:
  - 1) That less than 30 percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; and
  - 2) That the total appraised value of taxable real property in the proposed zone does not exceed 25 percent of the total appraised value of taxable real property in the City and in the industrial districts created by the City;
  - 3) That the development or redevelopment of the property in the proposed zone will not occur solely through private investment in the reasonably foreseeable future.

#### **PART 2: Designation of the Zone**

That the City, acting under the provisions of Chapter 311, Texas Tax Code, including Section 311.005(a), does hereby designate as a reinvestment zone the area described in Exhibit "A" and depicted in the map attached hereto as Exhibit "B" to promote the redevelopment of the area. The reinvestment zone shall hereafter be named for identification as Reinvestment Zone Number Four, City of Tyler, Texas, (the "Zone"). The City Council specifically declares that the Zone is designated pursuant to Section 311.005(a)(1) and (2) of the Texas Tax Code.

#### **PART 3. Board of Directors**

That there is hereby created a Board of Directors for the Zone, which shall consist of nine (9) members. Positions One through Seven on the Board of Directors shall be reserved for the City. Positions Eight and Nine shall be reserved for other taxing units levying taxes within the Zone, each of whom may appoint one director. Any taxing unit that appoints a director shall be assigned a Board position number in the order the City receives the appointment. Failure of a taxing unit to appoint a director by November 15, 2016, shall be deemed a waiver of the right to appoint a director, and the City shall be entitled to appoint persons to the position, which shall be filled as provided below. If more than two taxing units levying taxes within the Zone appoint a director, the number of directors on the Board of Directors shall be increased by one for each taxing unit above two that appoints a director to the board; provided, that the maximum number of directors shall not exceed fifteen (15).

The Mayor is hereby authorized to nominate and appoint, subject to City Council approval, the directors to Positions One through Seven of the Board of Directors, any position unfilled on November 15, 2016, and any City position created by the appointment of a director by more than two taxing units levying taxes within the Zone, subject to the consent and approval of the City Council.

The directors appointed to odd-numbered positions shall be appointed for two year terms, beginning on the effective date of this Ordinance, while the directors appointed to even-

numbered positions shall be appointed to a one year term, beginning on the effective date of this Ordinance. All subsequent appointments shall be for two-year terms. The member of the Board of Directors appointed to Position One is hereby designated to serve as the chair of the Board of Directors for a one-year term beginning on the effective date of this Ordinance. Thereafter the Mayor shall annually nominate and appoint, subject to City Council approval, a member to serve as chair for a term of one year beginning on the anniversary of the effective date of this Ordinance. The City Council authorizes the Board of Directors to elect from its members a vice-chairman and such other officers as the Board of Directors sees fit.

The Board of Directors shall make recommendations to the City Council concerning the administration of the Zone. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the Zone as described in Section 311.011, 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 approval 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 7 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.

#### **PART 4. Duration of the Zone**

That the Zone shall take effect immediately upon the passage and approval of this Ordinance, consisted with Section 311.004(a)(3) of the Act, and termination of the operation of the Zone shall occur upon the following: (i) on December 31, 2047; (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.

#### **PART 5. Tax Increment Base**

That the Tax Increment Base of the City or any other taxing unit participating in the Zone for the Zone is the total appraised value of all real property taxable by the City or other taxing unit participating in the Zone and located in the Zone, as defined by Section 311.012 (c) of the Tax Code, determined as of January 1, 2016, the year in which the Zone was designated as a reinvestment zone (the "Tax Increment Base").

#### **PART 6. Tax Increment Fund**

That a tax increment fund for the Zone (the "TIF Fund") is hereby established. The TIF Fund may be divided into additional accounts and sub-accounts authorized by resolution or ordinance of the City Council. The TIF Fund shall consist of (i) the percentage of the tax increment, as defined by Section 311.012(a), 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), Texas Tax Code, plus (ii) one-hundred percent (100%) of the City's portion of the tax increment, as defined by section 311.012(a), 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. The TIF Fund shall be maintained in an account at the depository bank of the City and shall be secured in the manner prescribed by law for Texas cities. In addition, all revenues from (i) the sale of any obligations hereafter issued by the City and secured in whole or in part from the tax increments; (ii) the sale of any property acquired as part of a tax increment financing plan adopted by the Board; and (iii) other revenues dedicated to and used in the Zone shall be deposited into the TIF Fund. Prior to the termination of the Zone,

money shall be disbursed from the Tax Increment Fund only to pay project costs, as defined by the Texas Tax Code, for the Zone, to satisfy the claims of holders of tax increments bonds or notes issued for the Zone, or to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010(b), Texas Tax Code.

#### **PART 7. Severability**

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person to set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

#### **PART 8. 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 the Texas Open Meetings Act, 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.

#### **PART 9. Effective Date**

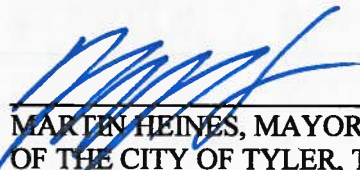
This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the City Charter.

**PASSED AND ADOPTED** this 28th day of September, 2016

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK



  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

APPROVED:

  
DEBORAH G. PULLUM,  
CITY ATTORNEY

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**Exhibit A**

**Legal Description**

Beginning at the point of intersection of the western Right-of-Way (ROW) line of Palace Avenue and the northern ROW line of W. Queen Street, thence

South along the western ROW line of Palace Avenue to a point where said line intersects with the southern ROW line of Front Street, thence

East along the southern ROW line of Front Street to a point where said line intersects with the eastern ROW line of Beckham Avenue, thence

North along the eastern ROW line Beckham Avenue to a point where said line intersects with the northern ROW line of Gentry Parkway, thence

West along the northern ROW line of Gentry Parkway to a point where said line intersects with the eastern ROW line of Broadway Avenue, thence

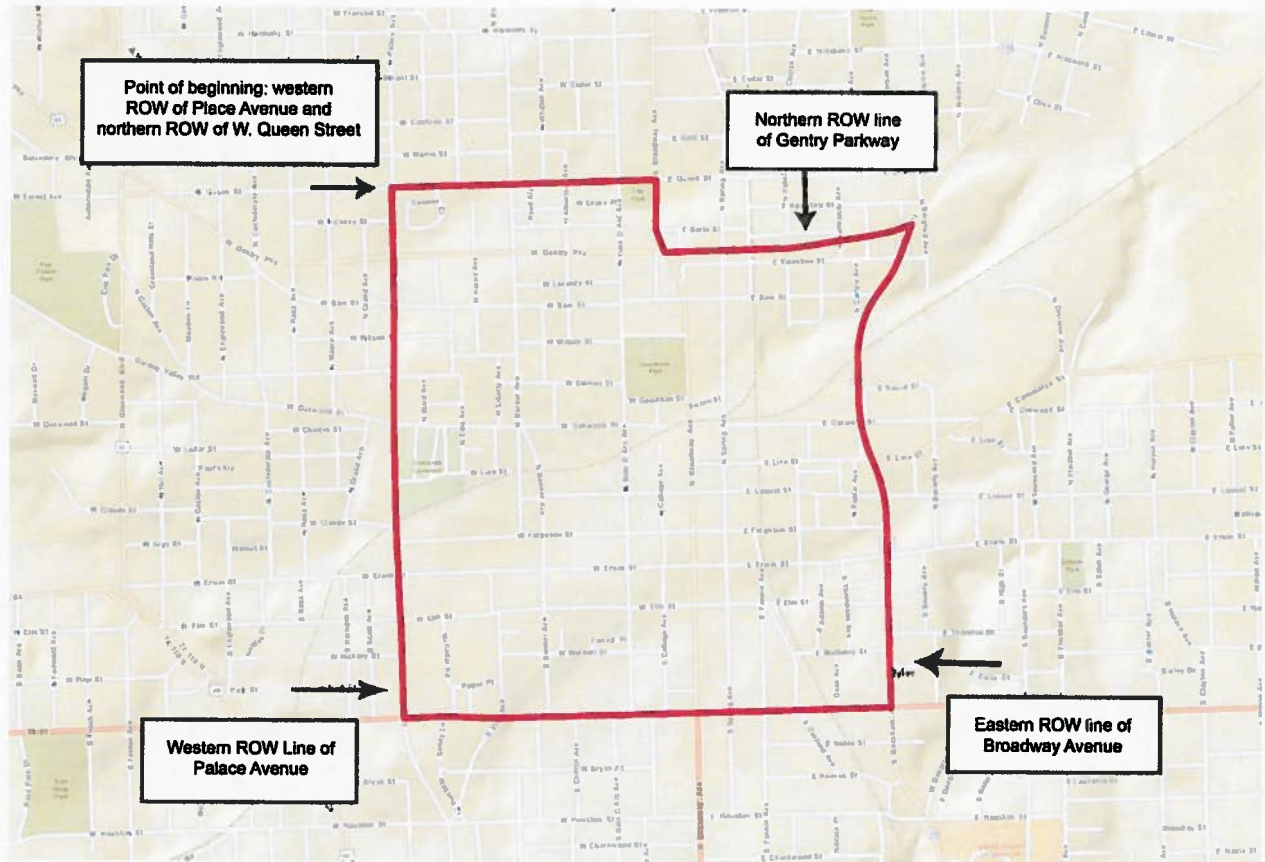
North along the eastern ROW line of Broadway Avenue to a point where said line intersects with the northern ROW line of W. Queen Street, thence

East along the northern ROW line of W. Queen Street to a point where said line intersects with the western ROW line of Palace Avenue, which is the point of beginning.



# ORDINANCE NO.O-2016-90

## Exhibit B Boundary Map



**ORDINANCE NO.O-2016-90**  
**EXHIBIT "C"**

**Public Hearing Notice**

**NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF TYLER TO CONSIDER THE ADVISABILITY OF THE CREATION OF TAX INCREMENT REINVESTMENT ZONE NUMBER 2-A, CITY OF TYLER, TEXAS FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311, TEXAS TAX CODE**

NOTICE IS HEREBY GIVEN THAT the City Council of the City of Tyler, Texas (the "City"), pursuant to Chapter 311.003 Texas Tax Code, as amended, (the "Act"), will hold a public hearing at 9:00 a.m. on Wednesday, September 28, 2016, at City Hall, 212 N. Bonner Avenue, Tyler, Texas 75702, for the purpose of considering the establishment of Tax Increment Reinvestment Zone Number 2-A located within the boundaries of the City.

All persons are invited to attend the hearing and speak for or against the creation of Tax Increment Reinvestment Zone Number 2-A, the proposed boundaries, or the concept of tax increment financing. Written or oral statements will be considered. The legal description and boundary map of proposed Tax Increment Reinvestment Zone Number 2-A are on file and open for public inspection in the office of the City Secretary at City Hall, 212 N. Bonner Avenue, Tyler, Texas 75702. Questions or requests for additional information may be directed to David Pettit, David Pettit Economic Development, LLC, [dpettit@dpedllc.com](mailto:dpettit@dpedllc.com); 817-439-9515.

Tyler Morning Telegraph  
September 15, 2016