

**ORDINANCE NO. 02019-47**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, TEXAS DESIGNATING A GEOGRAPHIC AREA WITHIN THE CITY AS A TAX INCREMENT REINVESTMENT ZONE PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE TO BE KNOWN AS TAX INCREMENT REINVESTMENT ZONE NUMBER TWO (2) – DOWNTOWN DAYTON (TIRZ 2); DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE; ESTABLISHING A TAX INCREMENT FUND FOR THE ZONE; CONTAINING FINDINGS RELATED TO THE CREATION OF THE ZONE; PROVIDING A DATE FOR THE TERMINATION OF THE ZONE; PROVIDING THAT THE ZONE TAKE EFFECT IMMEDIATELY UPON PASSAGE OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Dayton, 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 geographic area that is in the corporate limits or extra-territorial jurisdiction of the municipality 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 geographic area in the City described as Downtown Dayton, which is more specifically described in *Exhibit “A”*, shown on the map attached as *Exhibit “B”*, and including the properties listed in *Exhibit “C”* of this Ordinance (the “Zone”), through the creation of a new tax increment reinvestment zone as authorized by and in accordance with the Tax Increment Financing Act, codified in Chapter 311 of the Texas Tax Code; and

**WHEREAS**, pursuant to and required by the Act, the City has prepared a *Preliminary Reinvestment Zone Project and Financing Plan for Tax Increment Reinvestment Zone Number Two – Downtown Dayton (TIRZ #2)*, attached as *Exhibit D* (hereinafter referred to as the “Preliminary Project and Finance Plan”) for a proposed tax increment reinvestment zone containing the real property within the Zone; and

**WHEREAS**, notice of the public hearing on the creation of the proposed zone was published in a newspaper having general circulation in the City on December 5, 2019, which date is before the seventh (7<sup>th</sup>) day before the public hearing held on December 16, 2019; and

**WHEREAS**, at the public hearing on December 16, 2019, interested persons were allowed to speak for or against the creation of the Zone, the boundaries of the Zone, 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 December 16, 2019, and in favor of the creation 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 December 16, 2019; and

**WHEREAS**, the City has taken all actions required to create 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, 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 publicly owned, that is currently used for residential purposes is less than thirty (30) percent; and

**WHEREAS**, the total appraised value of taxable real property in the proposed reinvestment zone and in the existing reinvestment zones located within the City of Dayton do not exceed fifty percent (50%) of the total appraised value of taxable real property within the city and its industrial districts.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAYTON, 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 creation of the proposed tax increment reinvestment zone has been properly called, held, and conducted and that notice of such hearing has been published as required by law; and
- (b) That the creation of the proposed tax increment reinvestment zone with boundaries as described in Exhibit "A", shown on the map in Exhibit "B", and including the properties listed in Exhibit "C" will result in benefits to the City, its residents and property owners, in general, and to the property, residents, and property owners in the tax increment reinvestment zone; and
- (c) That the proposed tax increment reinvestment zone, as defined in Exhibits "A" and "B", meets the criteria for the creation of a tax increment reinvestment zone set forth in the Act in that:

- a. It is a geographic area located wholly within Dayton's city limits and ETJ; and
- b. 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 present condition of the area within the reinvestment zone substantially impairs the city's growth because of a substantial number of substandard or deteriorating structures.
- (d) That thirty (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 fifty (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; and
- (g) That the development or redevelopment of the property in the proposed tax increment reinvestment zone will not occur solely through private investment in the reasonably foreseeable future.

### **SECTION 3. DESIGNATION AND NAME OF THE ZONE.**

Pursuant to the authority of, and in accordance with the requirements of the Act, the City Council hereby designates the area described and depicted in Exhibits "A" and "B" hereto as a tax increment reinvestment zone. The name assigned to the zone for identification is Tax Increment Reinvestment Zone Number Two – Downtown Dayton (hereinafter referred to as the "Zone").

### **SECTION 4. BOARD OF DIRECTORS**

- (a) There is hereby created a Board of Directors for the TIRZ, which shall consist of nine (9) members, including any members appointed by the participating taxing jurisdictions. Eight (8) members shall be appointed by the City Council. One (1) member may be appointed by Liberty County, should they choose to participate in the TIRZ, consistent with Section 311.009 of the Texas Tax Code, as amended. If a taxing jurisdiction waives its right to appoint a member to the Board of Directors, the City Council shall appoint such board member or members in its stead. The initial Board of Directors shall be appointed by resolution or ordinance of the City or applicable taxing jurisdiction within ninety (90) days of the passage of this Ordinance or within a reasonable time thereafter. All members of

the Board of Directors shall meet eligibility requirements as set forth in Chapter 311 of the Texas Tax Code.

- (b) The directors appointed shall serve staggered two (2) year terms. During the initial meeting of the Board of Directors, the directors shall select, by lottery, which five (5) directors shall serve an initial two (2) year term, and which (4) shall serve an initial one (1) year term. All subsequent appointments shall be for staggered two (2) year terms.
- (c) A vacancy on the Board of Directors is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.
- (d) Each year the City Council shall annually designate one (1) member of the Board of Directors to serve as chairman for a one (1) year term that begins on January 1<sup>st</sup> of the following year. The Board of Directors shall elect from its members a vice chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The Board of Directors may elect other officers as it considers appropriate.
- (e) The Board of Directors shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board shall prepare and adopt a project plan and a reinvestment zone financing plan for the Zone and submit such plans to the City Council for its approval.
- (f) The Board of Directors shall perform all duties imposed upon it by Chapter 311 of the Texas Tax Code and all other applicable laws. The Board shall not be authorized to do any of the following without the consent of the City Council: (i) issue bonds; (ii) impose taxes or fees; (iii) exercise the power of eminent domain; (iv) give final approval to the Zone's project plan and financing plan; (v) give final approval for any project or reimbursement; or (v) spend TIRZ funds in excess of TEN THOUSAND DOLLARS (\$10,000.00).

## **SECTION 5. DURATION OF THE ZONE**

That the 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 shall occur upon any of the following: (i) On December 31, 2044; (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 6. TAX INCREMENT BASE, TAX INCREMENT AND 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, plus (ii) fifty (50%) percent of the City's portion of the tax increment on real property 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, 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.

#### **SECTION 7. 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 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 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 of posting thereof.

#### **SECTION 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's Charter.

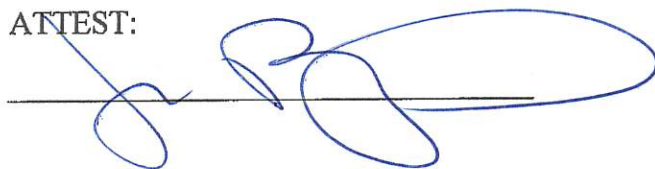
PASSED AND ADOPTED ON THIS 16th day of December 2019.

CITY OF DAYTON

A handwritten signature in black ink, appearing to read "Caroline Wadzeck", written over a horizontal line.

Caroline Wadzeck, Mayor

ATTEST:

A handwritten signature in blue ink, consisting of several loops, written over a horizontal line.

# EXHIBIT

## A

STATE OF TEXAS)  
COUNTY OF LIBERTY)  
CITY OF DAYTON DOWNTOWN TIRZ)

DESCRIPTION of a 184.2090 acre tract of land situated in the Liberty Town Tract South League, Abstract 385, Liberty County, Texas and being out of and a part of "Unnamed Lot", Lots 1 and 4, Block 12, Lots 1, 2, 3 and 4, Block 4 and Lots 1, 2, 3 and 4, Block 13, and the "Styles Block", all in the City of Dayton, as per map recorded in Volume "N" at Page 421 of the Deed Records of Liberty County, Texas; also being part of Block 22 of the Mays Addition to the Town of Dayton as per map recorded in Volume "N" at Page 616 and Maysville Addition to the Town of Dayton as per map recorded in Volume 27 at Page 262, both of the Deed Records of Liberty County, Texas; also being all of the Moore & McLeod Subdivision as recorded in Volume "Y" at Page 332 of the Deed Records of Liberty County, Texas; also being all of the T. T. & L. Subdivision as recorded in Volume 3 at Page 68 of the Deed Records of Liberty County, Texas; all of Chicken Express Addition as recorded under County Clerk's File #2017005533 of the Map Records of Liberty County, Texas; all of Jack in the Box as recorded under County Clerk's File #2003000199 of the Map Records of Liberty County, Texas; all of Malik Subdivision as recorded under County Clerk's File #2009011044 of the Map Records of Liberty County, Texas; all of the Ed Simmons Subdivision as recorded in Volume 14 at Page 12 of the Deed Records of Liberty County, Texas; all of the Minor Plat of Arnold as recorded under County Clerk's File #2004013077 of the Map Records of Liberty County, Texas; together with all other properties, streets, alleys and railroad rights of way located with the hereinafter described boundary. This 184.2090 acres is more particularly described by the following metes and bounds, to-wit:

NOTE: BEARINGS ARE LAMBERT GRID BEARINGS AND ALL COORDINATES REFER TO THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83. ALL DISTANCES ARE ACTUAL DISTANCES. SCALE FACTOR = 1.0000000. REFERENCE IS MADE TO THE PLATS OF EVEN DATE ACCOMPANYING THIS METES AND BOUNDS DESCRIPTION.

BEGINNING at a point in the South right-of-way line of F. M. Highway 1960 (100 feet wide right-of-way) at the Northeast corner of West Acres Subdivision as recorded in Volume 2 at Page 5 of the Map Records of Liberty County, Texas and the Northwest corner of that certain 5.035 acres conveyed to Sam Skipper Companies, Inc. by Deed recorded under County Clerk's File #2018016187 of the Official Public Records of Liberty County, Texas. Said point being the Westernmost Northwest corner and POINT OF BEGINNING of this tract and has a State Plane Coordinate Value of Y=10,022,599.83 and X=4,017,050.75.

THENCE: North 87°22'44" East along the North or Northwest line of this tract, the South right-of-way line of F. M. Highway 1960, the North line of said 5.035 acres and the North line of that certain property conveyed to TownProp Limited Partnership by Deeds recorded under County Clerk's File #2005013449 and County Clerk's File #2005013452 of the Official Public Records of Liberty County, Texas, for a distance of 334.80 feet to an angle point in said line.



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THENCE: North 87°24'16" East along the North or Northwest line of this tract, the South right-of-way line of F. M. Highway 1960 and the North line of said TownProp tracts a distance of 237.29 feet to a point for the BEGINNING POINT of a curve to the left, concave Northerly.

THENCE: Along and around said curve to the left, in an Easterly direction, along the North or Northwest line of this tract, the South right-of-way line of F. M. Highway 1960 and the North line of said TownProp tracts, said curve having a radius of 231.45 feet, a central angle of 26°04'17" and a chord bearing and distance of North 71°38'14" East 104.41 feet, for a distance of 105.32 feet to a point for the TERMINATION POINT of said curve. Said point being within the right-of-way of State Highway 321 (right-of-way width varies).

THENCE: North 48°24'31" East along the North or Northwest line of this tract, over and across said State Highway 321, for a distance of 83.19 feet to an angle point in said line at the cutback intersection of the East right-of-way line of said State Highway 321 with the South right-of-way line of West Clayton Street. Said point being the Northwest corner of that certain 2.016 acres conveyed to DBLR, LLC by Deed recorded under County Clerk's File #2010010768 of the Official Public Records of Liberty County, Texas.

THENCE: North 12°55'33" East along the North or Northwest line of this tract, the South right-of-way line of said West Clayton Street and the North line of said 2.016 acres for a distance of 14.97 feet to an angle point in said line.

THENCE: North 56°47'44" East along the North or Northwest line of this tract, the South right-of-way line of said West Clayton Street, the North line of said 2.016 acres, the North line of the American Rice Growers Cooperative Association Dayton Division property and the North line of that certain tract conveyed to Cory Ripkowski, et al, by Deed recorded under County Clerk's File #2013009937 of the Official Public Records of Liberty County, Texas, for a distance of 664.97 feet to an angle point in said line at the intersection of said line with the West right-of-way line of Main Street (as occupied, right-of-way width varies).

THENCE: North 54°56'53" East along the North or Northwest line of this tract and the South right-of-way line of West and East Clayton Street, over and across said Main Street, for a distance of 59.20 feet to a point at the intersection of same with the East line of Main Street for an angle point in the North or Northwest line of this tract. Said point being the Northwest or West corner of that certain 0.9730 of an acre tract conveyed to Scents of Joy by Deed recorded under County Clerk's File #2018026090 of the Official Public Records of Liberty County, Texas. Said point has a State Plane Coordinate Value of Y=10,023,126.75 and X=4,018,391.76.

THENCE: North  $57^{\circ}56'30''$  East along the North or Northwest line of this tract, the South line of said East Clayton Street, the North line of said 0.9730 of an acre, the North line of that certain tract conveyed to Paul Tatum, et ux, by Deed recorded in Volume 1838 at Page 322 of the Official Public Records of Liberty County, Texas and the North line of that certain 0.368 of an acre tract conveyed to Weldon Bradley Hatcher in Volume 878 at Page 837 and Volume 879 at Page 798, both of the Deed Records of Liberty County, Texas for a distance of 684.86 feet to a point for the North or Northeast corner of said 0.368 of an acre, an angle point in the North or Northwest line of this tract and being at the intersection of same with the West right-of-way line of North Winfree Street (55.55 feet wide right-of-way).

THENCE: North  $64^{\circ}55'27''$  East along the North or Northwest line of this tract and the South line of said East Clayton Street, over and across said North Winfree Street, for a distance of 56.05 feet to a point at the intersection of same with the East right-of-way line of said North Winfree Street and the BEGINNING POINT of a curve to the left, concave Northwesterly. Said point being the Northwest corner of a tract of land owned by the T. & N. O. Railroad.

THENCE: Along and around said curve to the left, in a Northeasterly direction, along the North or Northwest line of this tract, the North or Northwesterly right-of-way line of said Railroad and the East or Southeast right-of-way line of F. M. Highway 1008, said curve having a radius of 2844.96 feet, a central angle of  $02^{\circ}28'12''$  and a chord bearing and distance of North  $54^{\circ}36'38''$  East 122.64 feet, for an arc length of 122.65 feet to a point for the TERMINATION POINT of said curve.

THENCE: North  $41^{\circ}23'07''$  East along the North or Northwest line of this tract, the North or Northwest line of said Railroad and the East or Southeast right-of-way line of said East Clayton Street/ F. M. Highway 1008, for a distance of 77.03 feet to an angle point in said line at the BEGINNING POINT of a curve to the left, concave Northwesterly.

THENCE: Along and around said curve to the left, in a Northeasterly direction, along the North or Northwest line of this tract, the North or Northwesterly right-of-way line of said Railroad and the East or Southeast right-of-way line of F. M. Highway 1008, said curve having a radius of 2800.09 feet, a central angle of  $27^{\circ}13'06''$  and a chord bearing and distance of North  $39^{\circ}10'43''$  East 1317.71 feet, for an arc length of 1330.18 feet to a point for the TERMINATION POINT of said curve and the BEGINNING POINT of another curve to the left, concave Northwesterly.

THENCE: Along and around said curve to the left, in a Northeasterly direction, along the North or Northwest line of this tract, the North or Northwesterly right-of-way line of said Railroad and the East or Southeast right-of-way line of F. M. Highway 1008, said curve having a radius of 2814.93 feet, a central angle of  $17^{\circ}15'15''$  and a chord bearing and distance of North  $18^{\circ}37'25''$  East 844.49 feet, for an arc length of 847.69 feet to a point for the TERMINATION POINT of said curve.

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THENCE: North  $12^{\circ}50'52''$  East along the North or Northwest line of this tract, the North or Northwesterly right-of-way line of said Railroad and the East or Southeast right-of-way line of said F. M. Highway 1008, for a distance of 91.32 feet to a point for the Northernmost Northwest corner of this tract.

THENCE: North  $86^{\circ}58'43''$  East along the Easternmost North line of this tract, over and across said Railroad and continuing along the South line of that certain 31.75 acres (Tract One) conveyed by Charles Wiggins to E. W. Jansen by Deed dated September 30, 1976 and recorded in Volume 784 at Page 812 of the Deed Records of Liberty County, Texas and the North line of that certain called 17.55 acres conveyed to Gayla S. Jansen by Deed recorded under County Clerk's File #2013013345 of the Official Public Records of Liberty County, Texas, for a distance of 1447.73 feet to a point in the West line of that certain 10.258 acres conveyed by Yale Investment Corporation Trust to Yale Investment Corporation by Deed dated March 14, 2006 and recorded under County Clerk's File #2006003501 of the Official Public Records of Liberty County, Texas, for the Northeast corner of this tract, the Northeast corner of said 17.55 acres and the Southeast corner of said 31.75 acres.

THENCE: South  $03^{\circ}01'17''$  East along the East line of this tract, the East line of said 17.55 acres and the West line of said 10.258 acres for a distance of 256.44 feet to an angle point in said line.

THENCE: South  $02^{\circ}54'05''$  East along the East line of this tract, the East line of said 17.55 acres and the West line of said 10.258 acres for a distance of 396.07 feet to a point for the Southeast corner of said 17.55 acres and the Northeast corner of that certain 8.3672 acres conveyed to Dayton Community Development Corporation by Deed recorded under County Clerk's File #2019025792 of the Official Public Records of Liberty County, Texas. Said point has a State Plane Coordinate Value of  $Y=10,024,978.57$  and  $X=4,021,774.30$ .

THENCE: Continue South  $02^{\circ}54'05''$  East along the East line of this tract, the East line of said 8.3672 acres and the West line of said 10.258 acres for a distance of 564.27 feet to a point in the North right-of-way line of U. S. Highway 90 (right-of-way width varies) for the Easternmost Southeast corner of this tract and the Southeast corner of said 8.3672 acres. Said point has a State Plane Coordinate Value of  $Y=10,024,415.02$  and  $X=4,021,802.86$ .

THENCE: South  $77^{\circ}35'25''$  West along the Easternmost South line of this tract, the South line of said 8.3672 acres and the North right-of-way line of said U. S. Highway 90 for a distance of 308.65 feet to an angle point in said line. Said point has a State Plane Coordinate Value of  $Y=10,024,348.69$  and  $X=4,021,501.42$ .

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THENCE: North 79°59'23" West along the Easternmost South line of this tract, the South line of said 8.3672 acres and the North right-of-way line of said U. S. Highway 90 for a distance of 383.49 feet to a point for the Southwest corner of said 8.3672 acres and the Southeast corner of that certain 7.77 acres conveyed to Richard Lee Skarpa, et ux, by Deed recorded under County Clerk's File #2013010699 of the Official Public Records of Liberty County, Texas.

THENCE: Continue North 79°59'23" West along the Easternmost South line of this tract, the South line of said 7.77 acres and the North right-of-way line of said U. S. Highway 90 for a distance of 167.23 feet to an angle point in said line.

THENCE: South 63°57'33" West along the Easternmost South line of this tract, the South line of said 7.77 acres and the North right-of-way line of said U. S. Highway 90 for a distance of 221.31 feet to an angle point in the centerline of Green's Gully for the Southernmost corner of said 7.77 acres and the East or Southeast corner of that certain 5.654 acres (Tract I) conveyed to SD Cubed, L.L.C. by Deed recorded under County Clerk's File #2005008464 of the Official Public Records of Liberty County, Texas.

THENCE: South 60°06'05" West along the Easternmost South line of this tract, the North right-of-way line of said U. S. Highway 90 and the East or Southeast line of said 5.654 acres for a distance of 20.78 feet to an angle point in said line.

THENCE: South 12°20'38" West along the Easternmost South line of this tract, the North right-of-way line of said U. S. Highway 90, the East or Southeast line of said 5.654 acres and the East line of that certain tract of land conveyed to the City of Dayton by Deed recorded under County Clerk's File #2005008462 of the Official Public Records of Liberty County, Texas, for a distance of 207.81 feet to an angle point in said line at the Southeast corner of said City of Dayton Tract.

THENCE: South 48°11'16" West along the Easternmost South line of this tract, the South line of said City of Dayton Tract and the North right-of-way line of said U. S. Highway 90 for a distance of 59.84 feet to an angle point in said line at the Southwest corner of said City of Dayton Tract and an exterior corner of said 5.654 acres.

THENCE: South 48°09'19" West along the Easternmost South line of this tract, the East or Southeast line of said 5.654 acres and the North right-of-way line of said U. S. Highway 90 for a distance of 242.18 feet to a point for an interior corner of this tract.

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THENCE: South 32°48'32" East along an exterior East line of this tract, over and across said U. S. Highway 90, and continuing along the East line of that certain called 0.885 of an acre tract conveyed to Dayton Farm & Ranch by Deed recorded in Volume 1813 at Page 89 of the Official Public Records of Liberty County, Texas, the East line of that certain 2.410 acres conveyed to Dayton Trading, Inc. by Deed recorded under County Clerk's File #2016020949 of the Official Public Records of Liberty County, Texas and the West right-of-way line of Colbert Street (27.78 feet wide right-of-way), for a distance of 327.81 feet to an angle point in said line.

THENCE: South 32°48'32" East along an exterior East line of this tract, the East line of said 2.410 acres, the West right-of-way line of said Colbert Street and the East line of those certain tracts conveyed to James Charles Brown by Deed recorded under County Clerk's File #2017018898 of the Official Public Records of Liberty County, Texas, for a distance of 535.00 feet to a point for an exterior corner of this tract and the Southeast corner of said Brown Tracts.

THENCE: South 57°11'28" West along a South line of this tract, the South line of said Brown Tracts and the North line of Colbert Terrace Subdivision as recorded in Volume 4 at Page 23 of the Map Records of Liberty County, Texas, for a distance of 722.66 feet to a point in the East line of that certain tract conveyed to Daren Williams (called 2.0 acres) in Volume 759 at Page 421 of the Deed Records of Liberty County, Texas, for an interior corner of this tract, the Southwest corner of said Brown Tracts and the Northwest corner of said Colbert Terrace Subdivision.

THENCE: South 32°48'32" East along and exterior East line of this tract, the East line of said Williams Tract and the West line of said Colbert Terrace Subdivision for a distance of 125.03 feet to a point in the North right-of-way line of East Houston Avenue (27.78 feet wide dedicated right-of-way) for an exterior Southeast corner of this tract, the Southeast corner of said Williams Tract and the Southwest corner of said Colbert Terrace Subdivision.

THENCE: South 57°10'54" West along the Southernmost South line of this tract, the North right-of-way line of East Houston Avenue, the North right-of-way line of West Houston Avenue, the Easternmost South line of said Williams Tract, the South line of that certain tract conveyed to Ernie Rollins, Jr. by Deed recorded under County Clerk's File #2019021902 of the Official Public Records of Liberty County, Texas, the South line of that certain tract conveyed to Brookshire Investment Company by Deed recorded in Volume 1020 at Page 183 of the Deed Records of Liberty County, Texas, the South line of that certain tract conveyed to Phil Wolber by Probate, over and across South Winfree, the South line of the First Baptist Church property, the South line of the Moore & McLeod Subdivision, over and across Church Street, over and across South Main Street, the South line that certain tract conveyed to U. S. Postal Service by Deed recorded in Volume 1287 at Page 85 of the Official Public Records of Liberty County, Texas, the South line of that certain tract conveyed to Trafalgar Square, Inc. by Deed recorded under County Clerk's File #2019001877 of the Official Public Records of Liberty County, Texas, and at 2251.22 feet

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pass a 5/8 inch iron rod in concrete found for the Southeast corner of said Styles Block, and continuing along the North line of West Houston Street, the South line of said Styles Block, the South line of that certain tract conveyed to First United Methodist Church by Deed recorded in Volume 870 at Page 57 of the Deed Records of Liberty County, Texas, the Westernmost South line of that certain tract conveyed to Dayton Houston Street LLC by Deed recorded under County Clerk's File #2019018579 of the Official Public Records of Liberty County, Texas, the South line of that certain tract conveyed to Envision Partners, LLC by Deed recorded under County Clerk's File #2019020169 of the Official Public Records of Liberty County, Texas, the South line of that certain tract conveyed to Southern Cornerstone, Inc. by Deed recorded in Volume 1577 at Pages 27 and 47 of the Official Public Records of Liberty County, Texas and the South line of that certain tract conveyed to Kate Davis Holdings by Deed recorded under County Clerk's File #2011021164 of the Official Public Records of Liberty County, Texas; in all, a total distance of 3234.19 feet to a point for the Southernmost Southwest corner of this tract, the Southwest corner of said Kate Davis Holdings Tract and the Southeast corner of another tract conveyed to said Kate Davis Holdings described in said County Clerk's File #2011021164.

THENCE: North 32°54'54" West along the Southernmost West line of this tract, the West line of said Kate Davis Holdings Tract first above-mentioned and the Northernmost West line of another tract conveyed to Southern Cornerstone, Inc., over and across said U. S. Highway 90, for a distance of 430.02 feet to a point in the North right-of-way line of U. S. Highway 90 and the South line of that certain tract of land conveyed to Twila D. Strickland by Deed recorded under County Clerk's File #2005013182 of the Official Public Records of Liberty County, Texas, for an interior corner of this tract.

THENCE: South 53°38'47" West along the Westernmost South line of this tract, the South line of said Strickland Tract and the North right-of-way line of said U. S. Highway 90 for a distance of 64.79 feet to a point for the Southwest corner of said Strickland Tract and the Southeast corner of that certain 0.830 of an acre conveyed to Nanak Investments LLC by Deed recorded under County Clerk's File #2011006031 of the Official Public Records of Liberty County, Texas, said point has a State Plane Coordinate Value of Y=10,021,280.21 and X=4,017,396.71.

THENCE: Continue South 53°38'47" West along the Westernmost South line of this tract, the North right-of-way line of said U. S. Highway 90 and the South line of said 0.830 of an acre for a distance 127.03 feet to a point for the Westernmost Southwest corner of this tract, the Southwest corner of said 0.830 of an acre and the Southeast corner of that certain 2.679 acres conveyed by Aaron Chester Holbrook, Jr., et al, to Weldon W. Alders by Deeds dated September 6, 1994 and recorded in Volume 1539 at Pages 786 and 814 of the Official Public Records of Liberty County, Texas. Said point has a State Plane Coordinate Value of Y=10,021,205.04 and X=4,017,294.50.

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THENCE: North 21°30'57" West along the Northernmost West line of this tract, the West line of said 0.830 of an acre and the East line of said 2.679 acres for a distance of 304.05 feet to a point in the South right-of-way line of the Union Pacific Railroad (also known as Southern Pacific Railroad) for the Northwest corner of said 0.830 of an acre and the Northeast corner of said 2.679 acres.

THENCE: North 31°03'27" West along the Northernmost West line of this tract, over and across said Railroad, for a distance of 178.71 feet to an angle point in said line at the Southeast corner of that certain 22.57 acres conveyed to M. & M. Sisters, LLC by Deed recorded under County Clerk's File #2009010684 of the Official Public Records of Liberty County, Texas and the Southwest corner of the heretofore mentioned 5.035 acres conveyed to Sam Skipper Companies, Inc..

THENCE: North 02°23'32" West along the Northernmost West line of this tract, the East line of said West Acres Subdivision and the West line of said 5.035 acres for a distance of 959.67 feet to the PLACE OF BEGINNING and containing within these boundaries 184.2090 acres of land or 8,024,142 square feet, more or less.

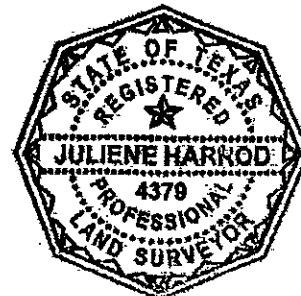
#### SURVEYOR'S CERTIFICATE

I, Juliene Harrod, Registered Professional Land Surveyor No. 4379, do hereby certify that this document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

WITNESS my hand and seal at Baytown, Texas, this the 11th day of December, A. D., 2019.

*Juliene Harrod*

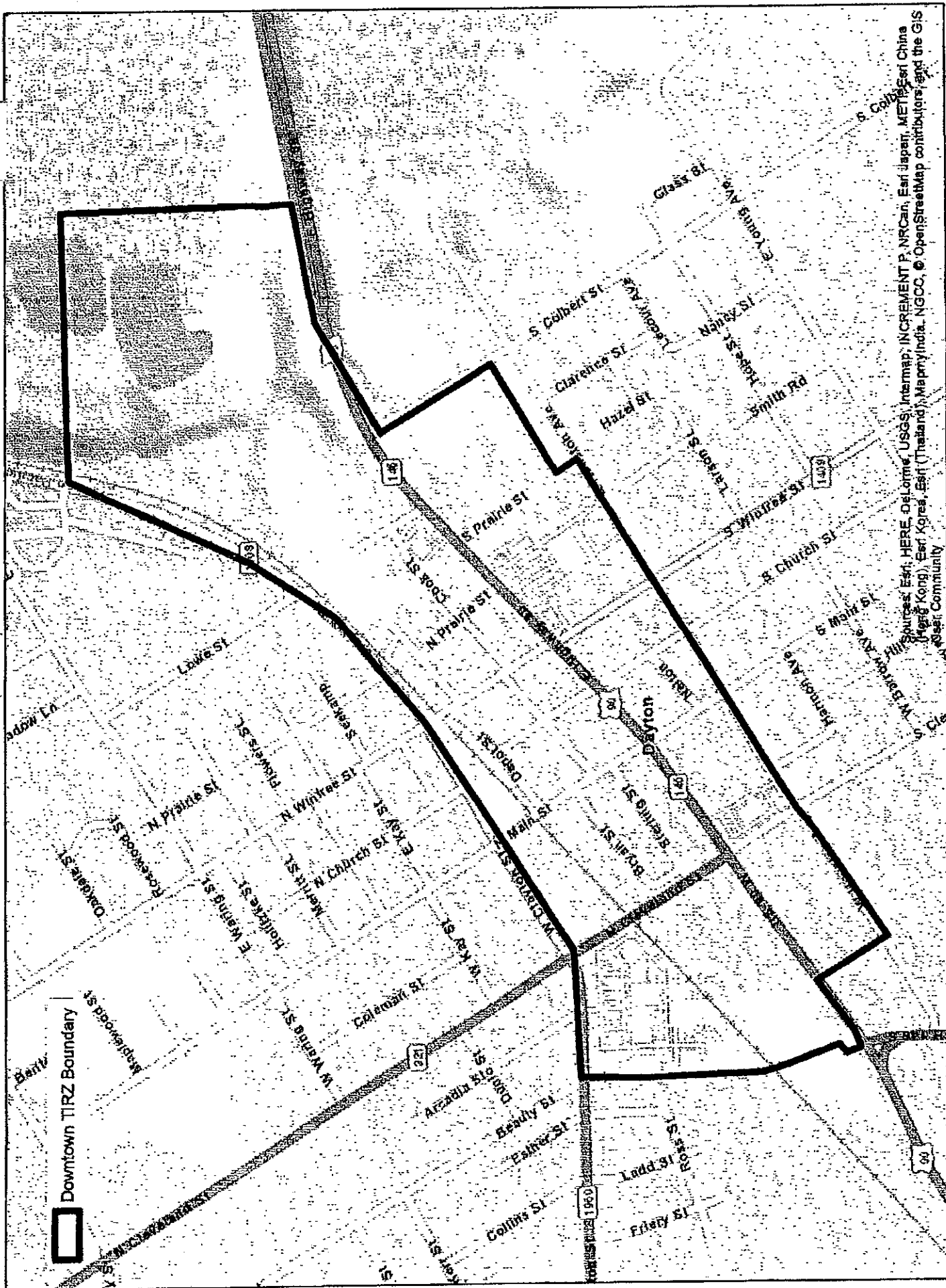
Juliene Harrod  
Registered Professional Land Surveyor No. 4379  
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Hutchison & Associates, Inc.  
1209 Decker Drive  
Baytown, TX 77520  
Engineering Firm #F-267  
Surveying Firm #100293-00



EXHIBIT

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Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, OpenStreetMap contributors, and the GIS User Community

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# **DRAFT**

## **Downtown Tax Increment Reinvestment Zone Preliminary Project & Financing Plan**

City of Dayton, Texas

October 14, 2019



# **DAYTON TEXAS**

Prepared by



**TXP, Inc.**

1310 South 1st Street, Suite 105

Austin, Texas 78704

(512) 328-8300 phone

[www.txp.com](http://www.txp.com)



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## Section 1 – Project Plan

### Overview

The City of Dayton, Texas is considering implementing a tax increment reinvestment zone (TIRZ) to fund a portion of the infrastructure and maintenance costs associated with redeveloping Downtown Dayton. Many of the opportunities, challenges, and required improvements are outlined in the *Downtown Dayton Revitalization Plan* (2018) by Kendig Keast Collaborative. The proposed new zone would be named the TIRZ #2 – Downtown Dayton (TIRZ 2).

This document is designed to meet the legal requirements of designating a TIRZ. The statutes governing tax increment financing are located in Chapter 311 of the State of Texas Tax Code.

This preliminary feasibility study and project plan is required by state law. However, to assist Dayton and other taxing entities in understanding the overall financing plan, TXP has included preliminary revenue projections assuming other entities participate in the TIRZ.

### Existing Tax Increment Financing Districts in the City of Dayton

There is one existing City of Dayton TIRZ. According to state law, cities with less than 100,000 residents may not create a new TIRZ if the total appraised value of taxable real property in the proposed reinvestment zone and in the existing reinvestment zones would exceed 50.0 percent of the total appraised value of taxable real property within the city and its industrial districts. In addition, a TIRZ may not be created if more than 30.0 percent of the property in the proposed new reinvestment zone is used for residential purposes at the time of designation. The proposed TIRZ 2 complies with these state rules.

### Description of the Tax Increment Reinvestment Zone 2

The proposed TIRZ 2 will cover approximately 194.3 acres (including roads and right of way). The 2019 baseline taxable property value of the TIRZ is approximately \$44.8 million.

**Table 1: Existing Land Use of Proposed TIRZ 2 (2019)**

| Land Use               | Parcel Count | Acres        | City of Dayton Taxable Value |
|------------------------|--------------|--------------|------------------------------|
| Residential            | 25           | 22.9         | \$2,219,005                  |
| Vacant Lots & Tracts   | 30           | 44.3         | \$2,125,512                  |
| Commercial Real Estate | 83           | 68.3         | \$39,883,905                 |
| Industrial Real Estate | 1            | 2.1          | \$201,540                    |
| Telephone Property     | 1            | 0.7          | \$404,560                    |
| Exempt Property        | 21           | 13.2         | \$0                          |
| Public Right of Way    | 4            | 4.5          | \$0                          |
| <b>Total</b>           | <b>165</b>   | <b>155.5</b> | <b>\$44,834,522</b>          |

Source: Liberty County Central Appraisal District

Figure 1: Proposed Downtown TIRZ Geographic Boundary

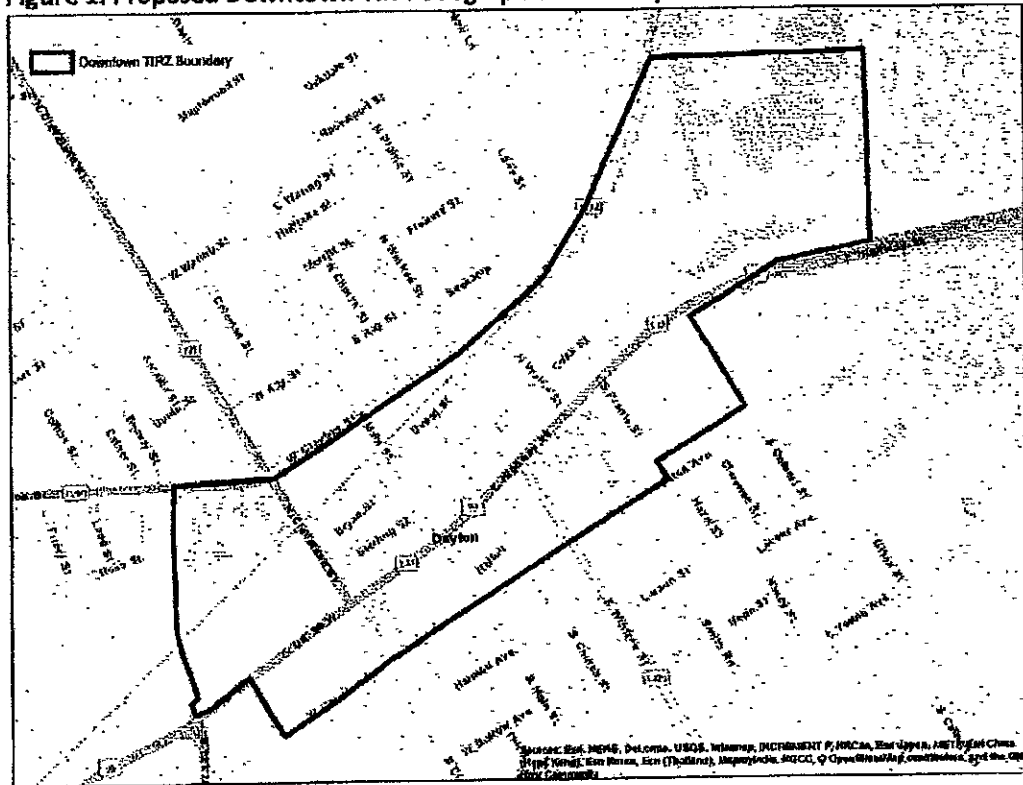


Figure 2: Existing Land Use within the Downtown TIRZ



Figure 3: Catalytic Projects Located within the Downtown TIRZ

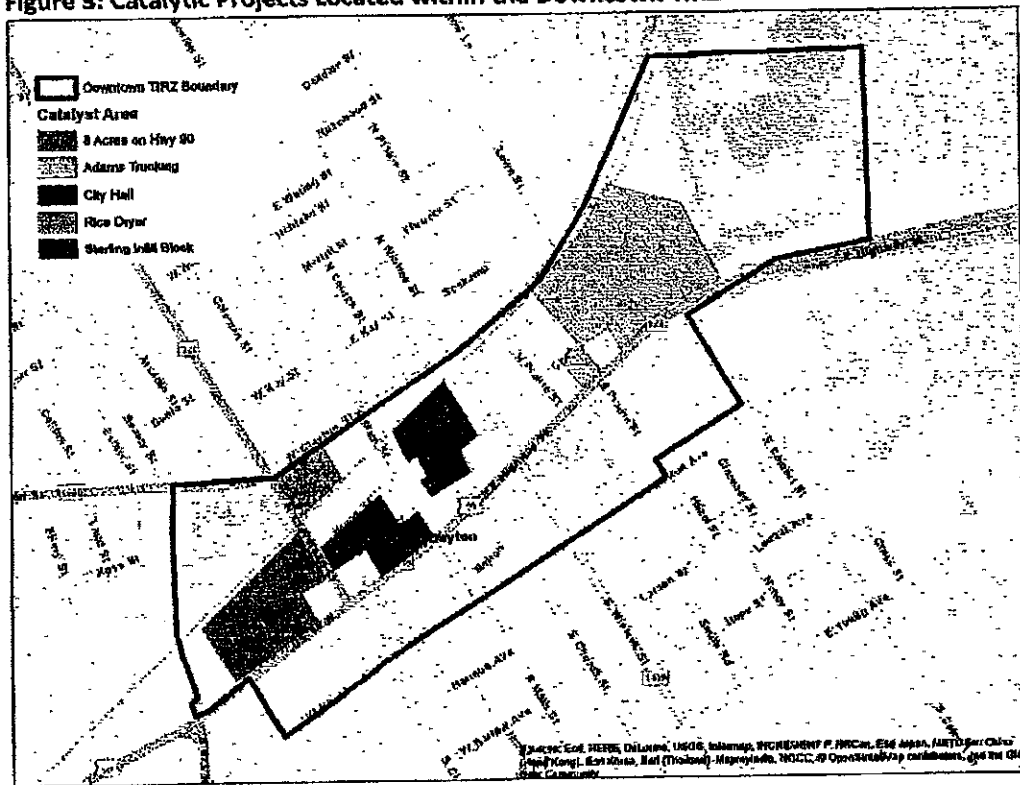
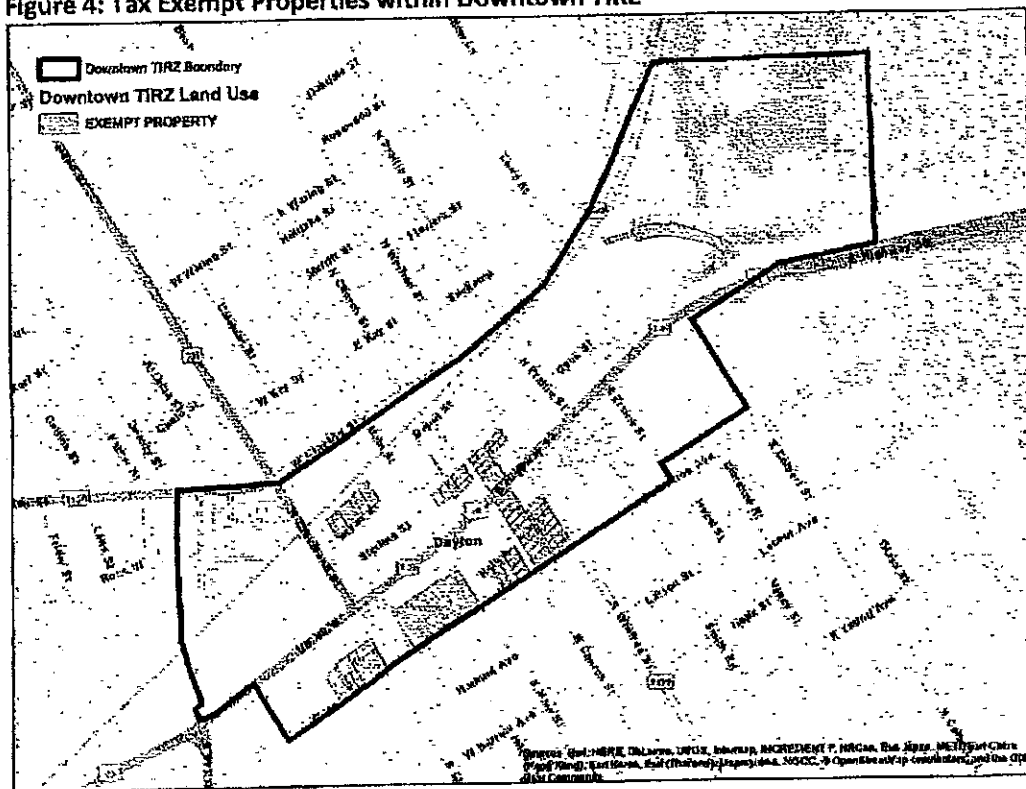


Figure 4: Tax Exempt Properties within Downtown TIRZ



**Existing Zoning and Land Use Guidelines Applicable to TIRZ 2**

Existing City of Dayton land use, zoning guidelines, and policies would apply to all properties within the city limits.

**Taxing Jurisdictions Applicable to TIRZ**

The proposed TIRZ 2 is located within the following taxing jurisdictions:

- City of Dayton
- Liberty County
- Dayton ISD
- Drainage District #1
- Water District #1

**Proposed Changes in Master Plans, Zoning Ordinances, and Building Codes**

There are no anticipated changes to the master development and zoning ordinances.

**Relocation of Displaced Persons**

This plan currently does not call for nor anticipate the displacement and relocation of persons for the proposed projects.

## Section 2 – Project Plan Improvements

TIRZ 2 will provide support for catalytic infrastructure and economic development projects that will facilitate the redevelopment of properties within Downtown Dayton. The vision and justification for transforming the downtown area are outlined in the *Downtown Dayton Revitalization Plan* (2018) by Kendig Keast Collaborative.

**Table 2: Dayton Downtown Catalyst Projects**

| Land Use Type                | Rice Dryer         | Adams Trucking      | Highway 90          | City Hall           | Sterling Infill     |
|------------------------------|--------------------|---------------------|---------------------|---------------------|---------------------|
| <b>Residential (Units):</b>  |                    |                     |                     |                     |                     |
| Single Family Attached       | 20                 | 0                   | 0                   | 0                   | 0                   |
| Rental Apartments            | 0                  | 0                   | 60                  | 50                  | 50                  |
| <b>Residential Total</b>     | <b>20</b>          | <b>0</b>            | <b>60</b>           | <b>50</b>           | <b>50</b>           |
| <b>Non-Residential (SF):</b> |                    |                     |                     |                     |                     |
| Retail/Restaurant            | 15,000             | 25,000              | 25,000              | 20,000              | 10,000              |
| Office/Employment            | 0                  | 25,000              | 20,000              | 20,000              | 20,000              |
| <b>Non-Residential Total</b> | <b>15,000</b>      | <b>50,000</b>       | <b>45,000</b>       | <b>40,000</b>       | <b>30,000</b>       |
| <b>Total Project Costs</b>   | <b>\$9,219,794</b> | <b>\$11,939,624</b> | <b>\$18,587,545</b> | <b>\$20,401,485</b> | <b>\$16,611,500</b> |

Source: Kendig Keast Collaborative

Public infrastructure investment is required to redevelop the Downtown area. This is the priority area of TIRZ 2. Additional infrastructure and enhancement projects are included in the project plan if the resources are available. In addition, other projects might be added to the list as future development projects and related opportunities present themselves. The anticipated project costs are divided into five major categories.

### Eligible Project Costs

#### **1. Parks & Streetscape Enhancements**

This category includes gateway features, linear parks, corridor landscaping, public plazas, etc.

#### **2. Infrastructure Improvements**

This category includes water, sanitary sewer and storm water improvements, roadway and street intersection enhancements, public transportation, relocation of aboveground utilities, public sidewalks, etc.

#### **3. Economic Development Grants**

It is anticipated that economic development loans or grants might be made to assist in creating the tax base that facilitates implementing the project plan. The City, with

advisement from the TIRZ Board shall have the authority to establish and administer economic development programs, including but not limited to grants and loans, authorized under Chapter 380 of the Texas Local Government Code. Should such loans or grants be made, it will be done with the intent to fulfill the public purposes of developing and diversifying the economy, eliminating unemployment or underemployment, and developing or expanding transportation, business, and commercial activity in the TIRZ.

#### **4. Non-Project Costs**

It is not possible to quantify other non-project costs at this time, other than to say that they are anticipated.

#### **5. Administration & Implementation**

Administration costs, including reasonable charges for time spent by City of Dayton employees, will be eligible for reimbursement as project costs. Administration costs are estimated at \$10,000 per year.

#### **Summary of Project Costs**

The total estimated cost of TIRZ 2 public infrastructure investment in the district is in excess of \$5.0 million. These costs will be refined in the final project and finance plan that will need to be adopted by the TIRZ 2 Board and Dayton City Council.



### Section 3 – Financing Plan

Tax increment financing is a tool used by local governments to publicly finance needed infrastructure and other improvements within a defined area. These improvements are usually undertaken to promote the viability of existing businesses and to attract new commercial enterprises to the area. The statutes governing tax increment financing are located in Chapter 311 of the State of Texas Tax Code.

The costs of improvements in the defined zone are repaid by the contribution of future property tax revenues by each taxing unit that levies taxes against the property. Specifically, each taxing unit can choose to dedicate all, a portion, or none of the tax revenue that is attributable to the increase in property values due to the improvements within the reinvestment zone. The additional tax revenue that is received from the affected properties is referred to as the tax increment. Each taxing unit determines what percentage of its tax increment, if any, it will commit to repayment of the cost of financing the public improvements.

#### Compliance & Reporting

The TIRZ Board policies shall comply with all federal, state, and local laws, rules and regulations. The TIRZ Board will submit project status reports and financial reports as required by state law.

#### Public Sector Entities Participating in TIRZ 2

All project costs will be paid through the contribution of incremental property taxes collections. This preliminary plan assumes that the City of Dayton and Liberty County will contribute a portion of their total tax rate (maintenance and operations (M&O) and interest and sinking (I&S) ad valorem tax rate for 25 years.

**Table 3: Taxing Jurisdictions within the Downtown TIRZ 2**

| Entity         | Property Tax Rate<br>per \$100 (2019) | 2019 Baseline<br>Taxable value |
|----------------|---------------------------------------|--------------------------------|
| City of Dayton | \$0.6645000                           | \$44,834,522                   |
| Liberty County | \$0.5788000                           | \$45,110,281                   |

Source: Liberty County Central Appraisal District

#### Financial Forecast Assumptions

- **TIRZ Duration** – TXP has assumed the TIRZ will have a 25-year lifespan.
- **TIRZ Allocation** – TXP has assumed the City of Dayton and Liberty County will contribute a portion of their total incremental tax collections.
- **Tax Rate** – While tax rates do change over time, the 2019 tax rates were held constant for the duration of the TIRZ.
- **Existing Properties** – The 2019 baseline property value of the TIRZ is approximately \$44.8 million but varies slightly by taxing jurisdiction based on exemptions offered.
- **Real Property** – Only taxable real property values are included in the tax increment calculations. By law, business personal property values are excluded from TIRZ.
- **Inflation & Appreciation Rate** – The inflation rate used for construction costs and the value of improvements is 2.5 percent per year.
- **Net Present Value** – The net present values of the tax increment were calculated at a discount rate of 5.0 percent.
- **Future Development Patterns** – To provide an order of magnitude estimate, TXP has assumed the following downtown catalytic project will be built. The total cost of the five projects is \$76.8 million. TXP has assumed these projects will occur gradually over the next 25 years of \$3.0 million in new taxable value per year.

**Table 4: Dayton Downtown Catalyst Projects Cost**

|                            | Rice Drive  | Adams<br>Stocking | Highway 90   | City Hall    | Streeding Infill |
|----------------------------|-------------|-------------------|--------------|--------------|------------------|
| <b>Total Project Costs</b> | \$9,219,794 | \$11,939,624      | \$18,587,545 | \$20,401,485 | \$16,611,500     |

Source: Kendig Keast Collaborative, TXP Inc.

## Conclusion

Based on the preliminary development plans for this area, anticipated tax revenue, and market demand projections, a TIRZ is economically and financially feasible. The TIRZ should generate significant revenue to pay for infrastructure and redevelopment costs. Over the next 25 years, the TIRZ could generate \$10.4 million in nominal TIRZ revenue. Using a 5.0 percent discount rate, the anticipated TIRZ could generate \$4.5 million.

These projections are based on the best available datasets and information related to market conditions in the region. Given the high visibility of this area, for example, the substantial commitment of a few large developers could have a significantly positive impact on both the level and timing of future growth. Moreover, the financial projections make no allowance for positive spillover to the value of other properties in area as a result of new development (beyond inflation), which easily could occur. At the same time, a slowdown in development as a result of a weaker national economy, negative changes in key drivers of regional economy, or other unforeseen issues could materially reduce the volume of construction put in place, and resulting tax revenue, over the next 25 years.

### **Legal Disclaimer**

TXP, Inc. (TXP) reserves the right to make changes, corrections, and/or improvements at any time and without notice. In addition, TXP disclaims any and all liability for damages incurred directly or indirectly as a result of errors, omissions, or discrepancies. TXP disclaims any liability due to errors, omissions, or discrepancies made by third parties whose material TXP relied on in good faith to produce the report.

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