

THE STATE OF TEXAS §
 §
COUNTY OF BELL §

**Interlocal Agreement
Regarding the City of Killeen Tax Increment Reinvestment Zone Number Two**

THIS INTERLOCAL AGREEMENT regarding the City of Killeen Tax Increment Reinvestment Zone Number Two (“Agreement”) is made and entered into by and between the CITY OF KILLEEN, a home-rule municipality (the “City”), and BELL COUNTY, a political subdivision of the State of Texas (the “County”), collectively referred to as “the Parties”, under the authority of Texas Government Code Chapter 791 and Chapter 311 of the Texas Tax Code for the participation of the City and the County in TAX INCREMENT REINVESTMENT ZONE NUMBER TWO (“TIRZ 2”), City of Killeen , Texas.

RECITALS

WHEREAS, in accordance with the provision of the Tax Increment Financing Act, Chapter 311, Texas Tax Code, as amended (the “Act”), the City Council of the City, pursuant to Ordinance Number 08-089 (the “Ordinance”) adopted on November 4, 2008, created, established, and designated TIRZ 2 under the Act, attached as Exhibit “A”; and

WHEREAS, in the Ordinance, the City found that the designation of TIRZ 2 would enhance the value of the real property in the Zone and would benefit the City; and

WHEREAS, in the Ordinance, the City contributed one hundred percent (100%) of its Tax Increments for TIRZ 2 to the Tax Increment Fund (the “Fund”); and

WHEREAS, in accordance with Ordinance Number 09-014R, attached as Exhibit “B”, the City and the County entered into an interlocal agreement in which the County agreed to contribute one hundred percent (100%) of its M&O and debt service tax rate on the annually calculated tax increment produced in the Zone, attributable to the County to the Fund during the term of this agreement, excluding the road district tax rate; and

WHEREAS, in accordance with the Act, the City enlarged the term and size of TIRZ 2 by adopting Ordinance Number 22-097 on December 13, 2022, attached as Exhibit “C”; and

WHEREAS, the interlocal agreement between the City and the County requires that the County approve its participation in any enlargement of TIRZ 2; and

WHEREAS, both the City and the County will benefit from the development and improvements paid with the Fund in accordance with the Ordinance and the enlargement of TIRZ 2; and

WHEREAS, pursuant to Texas Government Code Chapter 791, the City and the County are entering into this Agreement to set forth the conditions governing the contribution of the Tax Increment by the City and current, annually appropriated funds by the County to TIRZ 2; and

WHEREAS, the City finds that this Agreement is necessary for implementation of the Project Plans for TIRZ 2 as amended in Ordinance Number 22-097.

NOW THEREFORE, the City and the County, in consideration of the terms, Conditions, and covenants contained herein, hereby agree as follows:

I. Incorporation of Recitals

The Parties hereby agree that the recitals set forth above form the basis upon which they have entered into this Agreement.

II. Definitions.

In addition to any terms defined in the body of this Agreement, the following terms shall have the meanings set out below:

- A. Act** means the Tax Increment Financing Act, as amended and as codified as Chapter 311 of the Texas Tax Code.
- B. Captured Appraised Value** means the total appraised value in a given year, less any applicable exemptions, of all TIRZ 2 real property taxable by the City or the County for that tax year less the Tax Increment defined in Section H below.
- C. City Tax Increment** means the amount paid by the City into the Fund.
- D. County Tax Increment** means the amount of current, annually appropriated funds paid by the County into the Fund.
- E. Fund** means the tax increment fund created by the City pursuant to Section 311.014 of the Act and the Ordinance, which will be maintained by the City, and into which all revenues of TIRZ 2 will be deposited, including tax increments by the City and by such other taxing units with jurisdictions over real property in TIRZ 2 that may enter into agreements for such contributions, including the County TIRZ Payment.
- F. Project** means those described in the City's Ordinance Number 22-097 encompassed within the boundaries of the Zone.
- G. Project Plan** means the Project Plan and the Financing Plan for TIRZ 2 adopted by the TIRZ Board and approved by the City Council of the City pursuant to Ordinance Number 22-097 on December 13, 2022.

- H. Tax Increment** means the amount of property taxes levied and collected by the City or County for that year on the captured appraised value of real property taxable by the City or the County and located in TIRZ 2.
- I. TIRZ Board** means the Tax Increment Reinvestment Zone Board of Directors appointed in accordance with Section 311.009 of the Act, the Ordinance, and this Agreement.
- J. Zone** means Tax Increment Reinvestment Zone Number 2, City of Killeen, Texas, created by Ordinance Number 08-089 and amended by Ordinance Number 22-097.
- K.** Terms other than those described above shall: (1) have their meanings as given in Chapter 311, Texas Tax Code; or (2) if not so defined, their usual and ordinary meanings.

III. Obligations of Bell County

- A. Tax Increment Participation.** The County agrees to participate in the Zone by contributing one hundred percent (100%) of its M&O and debt service tax rate on the annually calculated tax increment produced in the Zone attributable to the County to the Tax Increment Fund during the term of this Agreement, and exclusive of the road district tax rate in its entirety.
- B. Tax Increment Limitation.** Subject to the limitations set out in this Agreement, the County agrees to pay the County Tax Increment to the Fund during the term of this Agreement. The County shall not be required to pay tax increment into the Fund after December 31, 2048, unless:
1. Bonds have been issued from the Zone under Section 311.015 of the Texas Tax Code to finance a portion of the Project Plan;
 2. The City has acquired property in the Zone pursuant to the Project Plan; or
 3. Construction of a project or projects pursuant to the Project Plan has begun in the Zone.

The County's Tax Increment shall be based on and limited to taxes actually collected on the Captured Appraised Value of the Zone. The County shall not be obligated to pay the County Tax Increment from other County taxes and revenues. The obligation to pay the County Tax Increment shall accrue as taxes collected by the County on the Captured Appraised Value, and payment shall be due no later than the 90th day after the delinquency date, and in no instance later than May 1st of each calendar year. The City agrees that any interest or penalties collected by the County with respect to taxes included in the County Tax Increment Participation shall be retained by the County.

- C. Use of County Tax Increment Participation Funds.** Money may be disbursed from the Fund only after adoption of, and in accordance with, the Project Plan by the TIRZ Board and approval by the City pursuant to Sections 311.001 and 311.014 of the Texas Tax Code.

- D. Expansion of the Zone.** The obligation of the County to participate in the Zone is limited to the area described in Ordinance Number 22-097. County participation shall not extend to the tax increment on any additional property added to the Zone by the City unless the County approves such participation.
- E. Board of Directors.** Notwithstanding anything to the contrary, pursuant to the City's Ordinance Number 08-089, which created the Zone, the County shall have unequivocal right to appoint to and maintain two (2) members on the TIRZ Board. The County's failure to appoint such member(s) to the TIRZ Board shall not be deemed a waiver of the County's right to amend an appointment by a later date.

IV. Obligations of the City

- A. Project Plan.** Approval by both the TIRZ Board and the City Council shall be required prior to the adoption and amendment of the Project Plan. The TIRZ Board at any time may adopt an amendment to the Project Plan consistent with the requirements and limitations of Chapter 311 of the Texas Tax Code. The amendment takes effect on approval by the City Council. That approval must be by ordinance. If 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 City, the approval must be by ordinance adopted after a public hearing at which an interested person may speak for or against the proposed amendment. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the City. Additionally, the City must provide a reasonable opportunity for the owner of property to protest any amendments to the Project Plan. Project costs may be revised upward/downward within the total budget, thereby not increasing, or decreasing the total budget, without amending the Project Plan.
- B. Disposition of Tax Increments.** Upon termination of TIRZ 2, and after all obligations of the Zone have been paid, the City agrees to pay the County, within a reasonable time, all monies remaining in the Fund that represent the County's pro rata amount of participation authorized under this Agreement.

V. Term and Termination

This Agreement shall become effective on the date that the last required signature is affixed to this Agreement and shall automatically terminate on December 31, 2048. The first payment of increment taxes by the County under this Agreement shall be for those taxes levied by the County in the year 2022 and the last payment by the County under this Agreement is for those taxes levied by the County in the year 2048.

The City may terminate the Zone pursuant to the provisions of Section 311.0174, Texas Tax Code.

VI. Miscellaneous

- A. Severability.** In the event any term, covenant or condition herein contained shall be held to the invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice either the County or the City, in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.

In the event any term, covenant, or condition shall be held invalid and affects in any manner the limitations of the County contributions or participation, then this Agreement shall be void as to the County, and the County shall have no liability for any incremental or other payments as may otherwise be provided for in this Agreement.

- B. Entire Agreement.** This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and the County as to the matters contained herein. This Agreement merges the prior negotiations and understanding of the parties hereto and embodies the entire agreement of the parties. There are no other agreements, assurances, conditions, covenants, (express or implied) or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

The attachments enumerated below are hereby made a part of this Agreement:

1. **Exhibit "A"** City of Killeen Ordinance Number 08-089
2. **Exhibit "B"** City of Killeen Ordinance Number 09-14R
3. **Exhibit "C"** City of Killeen Ordinance Number 22-097

Unless otherwise provided herein, this Agreement may be amended only by written instrument duly approved and executed on behalf of each party.

- C. Notice.** All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third (3rd) day following the deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified and return receipt requested) and addressed to the respective other party at the address prescribed below (or at such other address as the receiving party may request).

If intended for the City, to:

City Manager
City of Killeen
City Hall
101 North College Street
Killeen, Texas 76541

If intended for the County, to:

County Judge
Bell County
County Court House
101 East Central Avenue
Belton, Texas 76513

- D. Assignability.** No party shall assign this Agreement at law or otherwise without the prior written consent of the other party. No party shall delegate any portion of its performance under this Agreement without the prior written consent of the other party.

E. Non-Waiver. Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, students, and agents as a result of its execution of this Agreement and performance of the covenants contained herein

F. Successors. This Agreement shall bind and benefit the parties and their legal successors. This Agreement does not create any personal liability on the part of any officer, agent, or employee of the City or of any trustee, officer, agent, or employee of the County

EXECUTED and **EFFECTIVE** on the last date signed by the duly authorized officials below.

CITY OF KILLEEN

BELL COUNTY

Kent Cagle
City Manager

Date

David Blackburn	Date
County Judge	

ATTEST/SEAL

Laura Calcote
City Secretary

Date

Shelly Coston County Clerk	Date
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COUNTERSIGNED

Judith Tangalin
Executive Director of Finance

APPROVED AS TO FORM

Holli C. Clements City Attorney	Date
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