

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN
BELL COUNTY, TEXAS
AND
THE CITY OF KILLEEN, TEXAS**

THIS AGREEMENT is made and entered into this _____ day of _____, 2017, and effective October 1, 2016, (the "Effective Date") by and between Bell County, Texas, a political subdivision of the State of Texas, acting by and through its Commissioners Court (the "County") and the City of Killeen, Texas, a Texas municipality located entirely within the geographical boundaries of the County, acting by and through its City Council (the "City"), in accordance with the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act") and Chapter 352, Texas Tax Code.

WHEREAS, the County imposes a hotel occupancy tax, as permitted under Chapter 352, Texas Tax Code, (the "County Tax") upon the cost of occupancy of any room or space furnished by any hotel within the geographical boundaries of the County; and

WHEREAS, the revenue from the County Tax must be expended in a manner that directly enhances and promotes tourism and the convention and hotel industry in the County; and

WHEREAS, the City imposes a hotel occupancy tax as permitted under Chapter 351, Texas Tax Code (the "City Tax") upon the cost of occupancy of any room or space furnished by any hotel within the geographical boundaries of the City; and

WHEREAS, under section 352.1015, Texas Tax Code, the County may, by contract, delegate to another governmental entity, the management of the programs and activities funded with revenue from the County Tax; and

WHEREAS, the City has ongoing programs and activities to promote tourism and the hotel industry within the City (the "City Programs") and the County desires to dedicate a portion of the County Tax revenue to the City for the further promotion of the City Programs; and

WHEREAS, both the City and the County have determined that it is in the best interests of both entities and the most efficient use of the hotel tax revenues generated by both entities within the City for the City to manage and supervise a portion of the County Tax proceeds to continue the City Programs.

NOW THEREFORE, IT IS MUTUALLY AGREED by and between the County and the City as follows:

1.0 DUTIES AND OBLIGATIONS OF THE COUNTY

- 1.1 The County will assess and collect the County Tax on all eligible occupancy revenues from hotels in the geographical boundaries of the City at the rate adopted by the County Commissioners Court.

- 1.2 On an annual basis, beginning at the expiration of the first four (4) calendar quarters following the Effective Date, the County will pay to the City 17% of the net County Tax receipts collected from hotels in the geographical boundaries of the City for management by the City in providing the City Programs.
- 1.3 For the purposes of this Agreement, “Net County Tax Receipts” shall mean 2% of the eligible occupancy revenue collected from hotels within the geographical boundaries of the City less any statutory exemptions and less any discounts permitted by the County for timely payments of the County Tax to the County.
- 1.4 The County will coordinate with the City to review the City’s budget and will timely approve said budget in writing as required under Section 352.1015, Texas Tax Code.

2.0 DUTIES AND OBLIGATIONS OF THE CITY

- 2.1 City shall expend County Tax revenue only in a manner that directly enhances and promotes tourism and the convention and hotel industry in the City. The City may expend County Tax revenue for day-to-day operations, supplies, salaries, office rental, travel expenses and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures that directly enhance and promote tourism and the convention and hotel industry in the City.
- 2.2 The City shall present its annual budget, inclusive of the budgeted expenditures of County Tax revenue provided hereunder, to the County Commissioners Court prior to adoption by the City for approval by the County as required under Section 352.1015, Texas Tax Code. The County’s approval shall not be unreasonably withheld.
- 2.3 The City shall maintain complete and accurate financial records of each expenditure of County Tax revenue dedicated to the City under this Agreement and shall make such records available upon request of the County or other interested person. No later than thirty (30) days after the end of each calendar quarter, the City shall provide a report to the County listing the expenditures made with County Tax revenue dedicated to the City under this Agreement as required under Section 352.1015, Texas Tax Code.
- 2.4 The City shall maintain the County Tax revenue dedicated to the City under this Agreement in a separate account established for that purpose and may not commingle that revenue with other City revenues as required under Section 352.1015, Texas Tax Code.

3.0 TERM AND TERMINATION OF THIS AGREEMENT

- 3.1 This Agreement shall be effective upon the date specified above. The term of this agreement shall be for a period of one (1) year ending on September 30, 2017 (the “Initial Term”). This Agreement will automatically renew for successive one (1) year terms (the “Renewal Term”) unless either party provides notice to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Term thereafter of the party’s intention to terminate this agreement.
- 3.2 Upon termination of this Agreement at the end of the Initial Term or subsequent Renewal Term, the City shall return to the County any unexpended County Tax funds within thirty (30) days after the effective date of termination.
- 3.3 If the County determines that the City has ceased using County Tax revenues for the purposes set forth in section 2.2 of this Agreement, the County shall so notify the City in writing of such determination. In the event the City is unable to demonstrate within fifteen (15) days of such notification that County Tax revenue is being used for the purposes authorized in section 2.2, the County may terminate this Agreement and the City will return all County Tax revenue remaining in the account established under section 2.5.

4.0 NON-WAIVER OF DEFAULT OR IMMUNITY

- 4.1 No payment, act or omission by a party may constitute or be construed as a waiver of any breach or default of such party which then exists or which may subsequently exist. All rights of the parties under this Agreement are reserved, and any payment, act or omission shall not impair or prejudice any right or remedy of a party hereto. The pursuit of any right or remedy under this Agreement or by law shall not preclude the exercise of any other right or remedy under this Agreement or pursuant to law, nor shall any action taken in the exercise of any or remedy be deemed a waiver of any other right or remedy.
- 4.2 By entering into this Agreement neither party intends to waive nor does waive any immunity enjoyed by either party under state, federal or common law.

5.0 AMENDMENTS

Any amendment to any term of this Agreement shall be effective only if it shall be in writing and signed by each of the parties hereto.

6.0 ASSIGNMENT

Neither party may assign any of the rights nor obligations under this Agreement without the written consent of the other party hereto. This Agreement shall be binding upon the successors, permitted assigns and legal representatives of the parties hereto.

7.0 ENTIRE AGREEMENT

This Agreement supersedes any prior agreements between the parties concerning the subject matter hereof. All oral and written agreements between the parties hereto concerning the subject matter hereof that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

8.0 TEXAS LAW

This Agreement is governed by the internal laws of the State of Texas.

9.0 NOTICES

All notices, requests and other communications to any party hereunder shall be in writing (including e-mail) and shall be given to each party at the following addresses:

Bell County, Texas
P.O. Box 454, Belton, TX 76513
FAX (254) 933-5918
E-mail: Donna.Eakin@bellcounty.texas.gov
Attn: County Auditor

City of Killeen, Texas
P.O. Box 1329, Killeen, Texas 76540
254-501-8984
E-mail: jlocke@killeentexas.gov
Attn: Jonathan Locke, Executive Director of Finance

10.0 SEVERABILITY

If any portion of this Agreement is ruled invalid by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

11.0 AUTHORITY

By their respective signatures below, the designated representatives of each party warrant that this Agreement has been considered and approved at a lawfully called meeting of the party's governing board and that the individuals signing this Agreement have the authority to bind the respective party hereunder.

12.0 COUNTERPARTS; ELECTRONIC SIGNATURES.

This Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com), or other

transmission method and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

13.0 CURRENT REVENUES.

Pursuant to Section 791.011, Texas Government Code, each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

[Signature page follows.]

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof as of Effective Date.

BELL COUNTY, TEXAS

By: _____
Name: _____
Its: County Judge

ATTEST:

By: _____
Name: _____
Its: _____

CITY OF KILLEEN, TEXAS

By: _____
Name: _____
Its: Interim City Manager

ATTEST:

By: _____
Name: _____
Its: _____