

STATE OF TEXAS
COUNTY OF CAMERON

CITY OF BROWNSVILLE, of
CAMERON COUNTY, TEXAS

2021C03071

INTERLOCAL AGREEMENT
TAX INCREMENT REINVESTMENT ZONE #4

I. PARTIES

A. Address

1. This Interlocal Agreement (the "Agreement") is made by and between the City of Brownsville ("City"), Tax Increment Reinvestment Zone Number Four, *Madeira Espiritu Santo Reinvestment Zone*, City of Brownsville, Texas (COB-TIRZ#4), on behalf of the TAX INCREMENT REINVESTMENT ZONE #4, CITY OF BROWNSVILLE, TEXAS, a separate reinvestment zone created by the CITY pursuant to Chapter 311 of the Texas Tax Code ("ZONE"), and Cameron County, a political subdivision of the State of Texas ("County") for participation in the Brownsville Tax Increment Reinvestment Zone Number Four, Madeira Espiritu Santo Reinvestment Zone, City of Brownsville (COB TIRZ#4). Collectively, the City, County, and Zone may be referred to as the "Parties" or singularly as a "Party". This Agreement is made pursuant to Chapter 791, Texas Government Code and Chapter 311 of the Texas Tax Code for the participation of CAMERON COUNTY in the COB TIRZ#4 (sometimes the "Project").

2. The initial addresses of the Parties are listed below. Each Party may designate a different address by giving the other at least ten (10) days prior written notice.

CITY

City Manager
City of Brownsville
City Hall (2nd Floor)
1001 E. Elizabeth Street
Brownsville, TX 78522-0911

CAMERON COUNTY

County Judge
Cameron County
1100 E. Monroe
Brownsville, Texas 78520

With Copy to:

COB TIRZ #4

Chairman(s)

City of Brownsville, Tax Increment Reinvestment Zone #4r, *Madeira Espiritu Santo Reinvestment Zone*, (COB-TIRZ#4)
City of Brownsville, Texas

1001 E. Elizabeth Street
Brownsville, TX 78522-0911

B. Index

In consideration of the covenants set forth in this Agreement, and subject to its terms and conditions as authorized by Chapter 311 of the Texas Tax Code, the COB-TIRZ#4, the City and the County hereby agree to the terms and conditions of this Agreement. This Agreement consists of the following sections:

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C. Parts Incorporated

All of the above-described exhibits are hereby incorporated into this Agreement by this reference for all purposes.

II. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set out below:

"Administrative Costs" means reasonable costs directly incurred by a Participating Taxing Entity (as hereinafter defined) related to its agreement to participate in the development of the ZONE, as described in this Agreement. These costs include, but are not limited to, costs and expenses for legal review and financial analysis related to the ZONE incurred prior to entering into this Agreement, as well as any such costs and expenses incurred after this Agreement becomes effective. The

Administrative Costs for all Participating Taxing Entities are estimated to be Sixty Thousand Dollars (60,000) over the life of the zone or no more than \$2,000 per year, in addition to, actual costs.

1. **"Agreement"** means this Interlocal Agreement between the City, COB-TIRZ#4 and the County for the County's participation in the COB-TIRZ #4 Zone.
2. **"Captured Appraised Value"** for a year means the total taxable value of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit, as defined by Section 311.012(b), Texas Tax Code (and as said Code may be amended from time to time).
3. **"COB-TIRZ#4"** means the City of Brownsville, Tax Increment Reinvestment Zone Number Four, *Madeira Espiritu Santo Reinvestment Zone*, City of Brownsville, Texas (COB-TIRZ#4).
3. **"County"** means Cameron County, Texas.
4. **"Participating Taxing Entity"** or **"Participating Taxing Entities"** means, singularly, a taxing unit participating in the COB-TIRZ#4, and collectively, all taxing units participating in the COB-TIRZ#4.
5. **"Project Costs"** means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred listed in the Project Plan for the Project and as defined by Section 311.002(1), Texas Tax Code (as said Code may be amended from time to time).
6. **"Project Plan"** or **"Project Plans"** means singularly the Project Reinvestment Zone and Financing Plan for the COB-TIRZ#4 adopted and approved by the City of Brownsville. The Project Plan for COB-TIRZ#4 is attached hereto as Exhibit "A".
7. **"Reimbursable Costs"** means that costs incurred by the County in the collection and distribution of the tax increment funds collected on behalf of COB-TIRZ#4.
8. **"Tax Increment"** means the total amount of ad valorem taxes levied and collected each year by and on behalf of a Participating Taxing Entity each year on the Captured Appraised Value of taxable real property in COB-TIRZ#4. Further, with respect to CAMERON COUNTY, this term means the total amount of ad valorem taxes levied and collected only on behalf of CAMERON COUNTY each year.
9. **"Tax Increment Base"** means the total appraised value of all real property taxable by a Participating Taxing Entity and located in COB-TIRZ#4 as of January 1, 2021, as certified by the Cameron County Appraisal District. .
10. **"Tax Increment Fund"** means the tax increment fund created by the COB-TIRZ#4 for the deposit of Tax Increments for COB-TIRZ#4.

11. **"Tax Increment Payment"** means the amount of the Tax Increment that a Participating Taxing Entity agrees to deposit annually into the COB-TIRZ#4's Tax Increment Fund in accordance with this Agreement.
12. **"Term"** shall mean a period of thirty (30) years for the Agreement, beginning on January 1, 2021 and ending on December 31, 2050.
13. **"ZONE BOARD"** means the Board of Directors of the COB-TIRZ#4 appointed in accordance with Section 311.009 of the Texas Tax Code.

All terms defined herein are subject to the requirements contained in Chapter 311, Texas Tax Code.

III. BACKGROUND

- A. On December 1, 2020 and December 8, 2020, the City Commission of the City of Brownsville adopted and approved Ordinance Number 2020-1678, which created and established a Tax Increment Reinvestment Zone #4 (COB-TIRZ#4), pursuant to Chapter 311, Texas Tax Code. The COB-TIRZ#4 may provide funding for eligible project costs within the COB-TIRZ#4 as provided for in Chapter 311 of the Texas Tax Code, as amended. The COB-TIRZ#4 is projected to terminate on December 31, 2050.

IV. RIGHTS AND OBLIGATIONS OF CAMERON COUNTY

A. Tax Increment Participation by CAMERON COUNTY

1. Subject to the terms set out in this Agreement and requirements of Chapter 311, Texas Tax Code, CAMERON COUNTY agrees to participate in the COB-TIRZ#4 by contributing to the COB-TIRZ#4 Tax Increment Fund **sixty percent (60%)** of its Maintenance and Operation Tax Rate levied by the County each year during the term of this Agreement, beginning with the 2021 tax year. This does not include the Interest and Sinking Tax Rate. The total amount of Tax Increment funds obligated to be paid by CAMERON COUNTY over the term of this Agreement shall not exceed the amount stated in Section IV(B)(7), below, unless otherwise provided therein.
2. The Parties hereto agree that CAMERON COUNTY'S contribution to the Tax Increment Fund shall be used to fund project costs to support the development and revitalization efforts as provided in the Project Plan for the COB-TIRZ#4 as allowed under Chapter 311 of the Texas Tax Code as amended. Unless otherwise changed by formal amendment pursuant to Section VI.D of this agreement, CAMERON COUNTY'S contributions to the Tax Increment Fund shall end

when it has contributed its proportionate share, 35.50% of the actual costs of the project, or the maximum total contribution provided for in this Agreement, whichever is less, subject to any early termination as otherwise provided in this Agreement not to extend beyond December 31, 2050, the end date for the County's participation as set forth in Section V.A. in any event. Subject to any limitations of V.T.C.A., Tax Code § 311.014, County tax increment actually paid in excess of its proportionate share of the actual costs of the project shall be returned without delay upon project completion.

B. Tax Increment Payment

1. CAMERON COUNTY'S obligation to contribute its Tax Increment Payments to the Tax Increment Fund, as provided in paragraph IV (A) (1) of this Agreement, shall accrue as CAMERON COUNTY collects its Tax Increment. The Parties hereto agree that all real property taxes collected each year by CAMERON COUNTY that are attributable to real property in the COB-TIRZ#4 shall first constitute taxes on the Tax Increment Base. Subject to the limitations on the County's total participation in the ZONE as set forth in Section IV.A.2, after the total amount of taxes on the Tax Increment Base have been collected, the collected amount shall then constitute the Tax Increment. CAMERON COUNTY agrees to contribute its Tax Increment Payments to the Tax Increment Fund annually upon presentation of an invoice and presentation and approval by the County Commissioners Court of annual report on or after November 1st of each tax year. Such demand for payment will be subject to review and audit by the Cameron County Auditor. The amount of each Tax Increment Payment shall be based on the Tax Increments that are received during the annual period preceding each deposit date. The Parties agree that CAMERON COUNTY'S obligation to deposit Tax Increment Payments after December 31, 2050 shall only be for taxes collected and received after such date that are attributable to the time period during which CAMERON COUNTY agreed to participate.
2. Any delinquent deposit of a Tax Increment Payment under this Agreement by CAMERON COUNTY shall be administered as provided in Section 311.013(c-1) of the Texas Tax Code (or its successor provision). The Parties expressly agree that CAMERON COUNTY shall not owe any penalty or interest on Tax Increments that have been levied, but not received by CAMERON COUNTY. In addition, CAMERON COUNTY shall not be obligated to contribute its Tax Increments Payment from any tax accounts that are classified as exempt or from any non-Tax Increment revenue sources.

3. The COB-TIRZ#4 shall have five (5) years from the execution of this Agreement in which to commence construction on a project listed in the Project Plan. Failure to begin construction on a project listed in the Project Plan during that period will be considered as a breach of this Agreement and subject to the County's termination of its contribution to the COB-TIRZ#4.
4. The COB-TIRZ#4 and the CITY agree to comply with the approved Project Plan for the ZONE (Exhibit "A") and to apply the County's tax increment payments to the actual costs of the Projects in the COB-TIRZ#4 as provided in the Project Plan. COB-TIRZ#4, and subsequently the City, will keep the County promptly informed as to all changes in the project costs as those costs become known. The COB-TIRZ#4 agrees to provide prior written notice to CAMERON COUNTY of a proposed material change (defined in this context as any change in the boundaries of the ZONE or any 10% or more increase in the Total Project Plan's actual costs to be incurred within the ZONE) to the Project Plan. CITY shall have the right to amend and modify the Project Plan without providing prior written notice to CAMERON COUNTY so long as such amendment or modification does not constitute a material change. CAMERON COUNTY shall have a period of 30 business days from the date of receipt of such notice of a material change to provide comment(s) and objection(s) to the proposed change. The absence of written objection(s) or comment(s) by CAMERON COUNTY to the COB-TIRZ#4 will constitute approval of the proposed material change by CAMERON COUNTY. If CAMERON COUNTY provides notice to the COB-TIRZ#4 that it objects to the proposed material change, and the objection(s) and any comment(s), as set out in the notice, is (are) not resolved within 60 calendar days from the date of such notice, CAMERON COUNTY may thereafter discontinue its Tax Increment Payments towards the unapproved proposed material change or changes but shall continue to participate in other projects in the Zone's Project Plans to which there have been no unapproved material changes subject to the other terms of this Agreement. The Parties agree that this paragraph does not permit any increase in the COUNTY'S tax increment payment participation in the ZONE. Any increased participation shall require a formal amendment to this Agreement as set forth in Paragraph IV., B.6 and VI.I below.
5. A. For purposes of this Agreement, a "Material Breach" shall be defined as:
 - i. Amendment of the TIRZ Project Plan, without a joint public hearing and approval undertaken by the participants in the TIRZ, conforming to the requirements of Chapter 311 of the Texas Tax Code, and in a manner which:
 - a. Reduces or increases the geographic area of the zone;
 - b. Increases the amount of bonded indebtedness to be incurred;

- c. Increases or decreases the percentage of a tax increment to be contributed by a taxing unit;
 - d. Increases the total estimated budgeted project costs;
 - e. Designates additional property in the TIRZ to be acquired by any TIRZ participant; or
 - ii. Actions directly attributable to one Party which deprives another Party of its reasonably expected benefits as provided under the TIRZ, with no likelihood of any cure after notice and a time to cure has been granted and undertaken.
- B. The City and County further agree to meet with each other, through their duly-authorized representatives, on at minimum a quarterly basis to see that the objectives of this Agreement are carried out and to address any issues of concern as soon as is reasonably possible.
- C. In the event of a claim of Material Breach of this agreement, each Party agrees to notify the other in writing within 10 business days of said claim. Upon receipt of such notice, authorized representatives from each Party shall meet in person to discuss the claim and attempt to obtain resolution. Should resolution be reached, the non-complaining party shall have the lesser of (1) 60 days; or (2) a reasonable time within which to cure.
- 6. Except for contributing its respective Tax Increment Payments to the Tax Increment Fund as set out in this Agreement, CAMERON COUNTY shall not have any obligation or responsibility for any costs or expenses associated with the development of the ZONE or the implementation of the Project Plan, including, without limitation, any obligation to pay or repay any debt.
- 7. Notwithstanding anything in this Agreement to the contrary, CAMERON COUNTY'S total Tax Increment payment to the Tax Increment Fund over the term of this Agreement shall not exceed \$57,650,218.00.

The Parties may agree in writing and pursuant to applicable notice and hearing requirements provided by Chapter 311 of the Texas Tax Code to increase these amounts during the term of this Agreement.

- 8. Details of this arrangement that are not specifically addressed in the agreement are to be consistent with all the exhibits including the "Preliminary Project Plan and Reinvestment Zone Financing Plan" attached herein.

C. Management of the ZONE

1. The COB-TIRZ#4 is the only Participating Taxing Entity with any responsibility for managing or administering the Projects. CAMERON COUNTY may inspect the Project sites and review Project plans and drawings at times and intervals, which will not interfere with ongoing operations.
2. The ZONE BOARD shall be composed of ten (10) members, as provided under Section 311.009(a) of the Texas Tax Code with the City of Brownsville appointing seven members and CAMERON COUNTY appointing three members.

D. Expansion of the ZONES

The obligation of CAMERON COUNTY to participate in COB-TIRZ#4 is limited to the description of the ZONE in Exhibit "C" attached hereto. CAMERON COUNTY'S participation shall not extend to the Tax Increment on any additional property added to the ZONE by the COB-TIRZ#4 unless CAMERON COUNTY approves such participation in writing and pursuant to Chapter 311 of the Texas Tax Code.

V. TERM AND TERMINATION

A. Agreement Term and Termination

This Agreement shall become effective as of the last date of execution by the Parties hereto, and shall remain in effect until December 31, 2050 unless earlier terminated as provided in this Agreement (the "Agreement Term"). Subject to the terms of this Agreement, CAMERON COUNTY agrees to participate under this Agreement, beginning with the 2021 tax year and ending in accordance with the terms provided in this Agreement. The Parties agree and understand that CAMERON COUNTY'S Tax Increment Payments will not be made after December 31, 2050 except for Tax Increment levies generated during the life of the ZONE but collected after December 31, 2050 subject to the limitations set out in paragraph IV.A.2, of this Agreement.

D. Early Termination

Neither the COB-TIRZ#4 nor the ZONE BOARD shall take any action to terminate the ZONE earlier than the duration of the ZONE as specified in this Agreement, unless the purpose for the ZONE no longer is deemed feasible by the COB-TIRZ#4 and ZONE BOARD.

E. Disposition of Tax Increments

Upon expiration or termination of the ZONE, any money remaining in the Tax Increment Fund shall be paid to the Participating Taxing Entities on a pro-rata basis based on the amounts contributed by each Participating Taxing Entity and in accordance with Section 311.014(d) of the Texas Tax Code.

VII.MISCELLANEOUS

A. Understanding

Any and all costs incurred by the COB-TIRZ#4 are not, and shall never become, general obligations or debt of either Party to this Agreement. The eligible project costs incurred by the COB-TIRZ#4 shall be payable solely from the Tax Increment Fund in the manner and priority provided in this Agreement. There shall also be no recourse against any Participating Taxing Entities, public official, ZONE, or ZONE BOARD if all, or any part of the COB-TIRZ#4's costs are not reimbursed.

B. Severability

1. In the event any term, covenant, or condition herein contained shall be held to be 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 any Party hereto in its respective rights and obligations contained in the valid terms, covenants, or conditions hereof.
2. In the event any term, covenant, or condition shall be held invalid and said invalidity substantially impairs a material right of a Participating Taxing Entity or any the ZONE BOARD, then this Agreement shall be void as to that Participating Taxing Entity and that Participating Taxing Entity shall have no further obligation to contribute any future Tax Increment Payments to the Tax Increment Funds. In such a situation, the Parties hereto agree that the Tax Increment Funds shall not refund any prior Tax Increment Payments under this provision of this Agreement.

C. Entire Agreement

The Agreement merges the prior negotiations and understandings of the Parties hereto and embodies the entire agreement of the Parties.

D. Written Amendment

This Agreement may be changed or amended only by a written instrument duly executed on behalf of each Party hereto. All Parties to this Agreement understand and recognize that only the COB-TIRZ#4, the City of Brownsville, and the CAMERON COUNTY Commissioners Court have authority to change or amend this Agreement on behalf of COB-TIRZ#4 or CAMERON COUNTY, respectively.

E. Notices

All Notices required or permitted hereunder shall be in writing and shall be deemed delivered the earlier of (i) when actually received or, (ii) on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the respective other Party at the address prescribed in Section 1 of this Agreement, or at such other address as the receiving Party may have theretofore prescribed by notice to the sending Party.

F. 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 seek legal enforcement of any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future or failure of performance.

G. Assignment

This section intentionally left blank. .

H. 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 elected official, or agent of a Party to this Agreement.

I. Project Plan

The Parties agree an amendment to any Project Plan shall not apply to CAMERON COUNTY unless CAMERON COUNTY approves the amendment as provided in this Agreement if such

amendment to any Project Plan (i) has the effect of directly or indirectly increasing the percentage or amount of Tax Increment to be contributed by CAMERON COUNTY to the Tax Increment Fund; or (ii) increases or reduces the geographical area of any ZONE set forth in its Project Plan.

J. No Waiver of Immunity

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

K. Access to Financial Information

The COB-TIRZ#4 shall conduct or cause to be conducted, at a minimum, an annual audit of the Zone Fund by April 30th of each year during the term of the Agreement, a copy of which will be provided to CAMERON COUNTY. Furthermore, each Party to this Agreement shall have reasonable access to financial information and audit reports regarding the operation of the ZONE, contribution of Tax Increment Payments to the Tax Increment Fund, and expenditures from the Tax Increment Fund for Project Costs. Further, in accordance with Section 311.016 of the Texas Tax Code, COB-TIRZ#4 shall prepare and deliver an annual report to the Cameron County Commissioners' Court no later than January 1st of every year for the duration of the Agreement. No Payments will be made by CAMERON COUNTY unless the Cameron County Commissioners' Court has received the annual report by the COB-TIRZ#4.

L. ZONE Designation

COB-TIRZ#4 represents that its designation of the ZONE meets the criteria of Section 311.005(a), Texas Tax Code, and said designation also complies with Texas Attorney General Opinion No. JC-0152 (December 8, 1999).

IN WITNESS HEREOF, the City of Brownsville, and CAMERON COUNTY have made and executed this Agreement in duplicate originals on this 18th day of May, 2021.

City of Brownsville, Texas



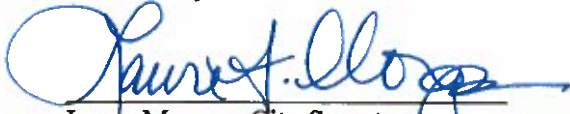
Juan "Trey" Mendez, III, Mayor

Cameron County, Texas



Eddie Treviño, Jr., County Judge

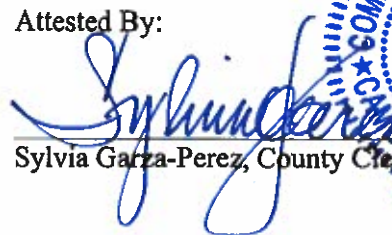
Attested By:



Laure Morgan, City Secretary



Attested By:



Sylvia Garza-Perez, County Clerk

