

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CORPUS CHRISTI TAX INCREMENT REINVESTMENT
ZONE #3 AND THE CORPUS CHRISTI DOWNTOWN MANAGEMENT DISTRICT
TO ENCOURAGE THE REDEVELOPMENT OF THE CORPUS CHRISTI
TAX INCREMENT REINVESTMENT ZONE #3**

This Interlocal Cooperation Agreement ("Agreement") is made between the Corpus Christi Downtown Management District ("DMD"), created under Chapter 375 of the Texas Local Government Code, and the City of Corpus Christi, Texas ("City") a municipal corporation, as the agent of the Corpus Christi Tax Increment Reinvestment Zone #3 ("TIRZ #3").

WHEREAS, on December 16, 2008, the City approved Ordinance 027996 which established the TIRZ #3 in accordance with the Texas Tax Code Chapter 311 in order to promote economic development and stimulate business and commercial activity within the designated reinvestment zone (the "Zone") in downtown Corpus Christi area;

WHEREAS, the board of directors of TIRZ #3 (the "Board") includes members of the City Council in a non-public official capacity, as well as a representative from each of Nueces County and Del Mar College who have committed to contribute to TIRZ #3 through interlocal agreements created in 2009 and amended in 2012 and 2016;

WHEREAS, on August 25, 2015, the City approved a Project and Financing Plan (the "Plan ") for TIRZ #3, which was amended on September 27, 2016, on second reading;

WHEREAS, any reference to "City" or "City Staff" herein is entirely in an agency capacity for TIRZ #3 and the City as a home-rule municipal corporation is not a party to this Agreement but is acting solely in an agency capacity on behalf of TIRZ #3;

WHEREAS, the DMD and TIRZ #3 desire to enter into an Agreement under the Interlocal Cooperation Act to provide for certain redevelopment services within the Zone (the "Project");

Now, therefore, in consideration of the mutual covenants in this Agreement, TIRZ #3 and the DMD, as authorized by appropriate actions of their governing bodies, agree as follows:

Article I. SERVICES

Section 1.01 General Services Requested by Zone.

DMD shall provide the following services to TIRZ #3 utilizing DMD resources and the funding provided by this Agreement in the Zone and adjacent areas to assist in the redevelopment of Downtown Corpus Christi:

- (a) Management and Operations Services: Create a cleaner, safer, more beautiful

and accessible downtown area comprising the Zone.

- (b) Development & Improvement Services: Attract new businesses, development and residences; increase sales activity and street level occupancy and improve existing buildings and urban design.
- (c) Marketing Services: Brand and promote the Zone, increase sales, visitors and investment and improve Zone's image and visibility.
- (d) Public Private Partnership Development Service: recruit financial resources to support this Agreement from private sector property owners, businesses and other public sector partners within the Zone outside the DMD area.

The Scope of Service and Budget for providing the above services is attached as Exhibit A.

Section 1.02 Initial Service Plan (FY 2017).

DMD shall provide a TIRZ #3 Service Plan in support of this Agreement, which outlines the services and overall objectives of the DMD to the Board. The Plan must describe the plan of action for the upcoming year, budget and significant initiatives. Development of Service Plan will occur as follows:

- (a) Stakeholder Engagement: Engage stakeholders in planning process October – December 2016 to recruit participation and financial support of the plan.
- (b) Presentation of Plan: Present plan for the fiscal year to the Board by January 31, 2017.

Section 1.03 TIRZ #3 Obligations

In consideration for the DMD's performance under this Agreement, TIRZ #3 agrees to make payment to DMD in the amount of \$330,000 in FY 2017.

- (a) The DMD shall receive an initial payment of \$40,000 for the months of October through December of 2016.
- (b) The DMD shall receive the remaining \$290,000 in equal monthly installments from January through September of 2017.
- (c) In order to receive payment, the DMD must submit a monthly invoice. Payment shall be made within 30 days after the acceptance of the monthly invoice.

Article II. Term of Agreement and Renewal Option.

Section 2.01 Term of Agreement.

The effective date of this Agreement ("Effective Date") is October 1, 2016, after the last approval by one of the Parties, for a term of one year.

Section 2.02 Renewal Option

The DMD may submit a Service Plan and Budget request by August 1, of each year. Upon the Board's approval of a Service Plan and Budget for a subsequent year, this agreement will automatically renew for an additional one-year term. The continuation and renewal of this agreement is contingent upon the continued existence of the DMD and TIRZ #3.

Section 2.03 Payment Process

Payment of the amount in a Budget approved by the Board will be made in equal monthly installments unless otherwise specified in the approved budget. The DMD will submit monthly invoices. Payment will be made within 30 days after the acceptance of the invoice.

Section 2.04 Subject to Annual Appropriations

The parties agree and understand that funding under this Agreement is subject to annual appropriations by the Board, and that each fiscal year's funding must be included in the TIRZ #3's budget for that year. Funding is not effective until the TIRZ #3's budget is approved by the Board and City Council.

Article III. FINANCIAL REQUIREMENTS

Section 3.01 Use of Funds

The DMD shall use funds provided under this Agreement for purposes outlined herein and no other. Use of funds must comply with Local Government Code Chapter 311.

Section 3.03 Interest Earned

Interest earned on funds contributed to the DMD by the City must be clearly identified, credited, and reflected on the books as resulting from the investment of the funds. The interest earned is available for the DMD's use.

Section 3.04 Fiduciary Duty

The parties agree that receipt of these funds creates a fiduciary duty of the DMD.

Section 3.05 Audit Requirement

The DMD shall provide an independent audit for expenditures of funds allocated under this agreement for each year based on its fiscal year. The DMD shall provide a copy of the independent audit to the City Manager within one hundred twenty (120) days after the end of the DMD's fiscal year, as an addendum to the Annual Report. The Board has the right to conduct its own audit of funds provided under this agreement, with appropriate prior notice to the DMD.

Section 3.06 Generally Accepted Accounting Principles

The accounting records and independent audit must conform to the accounting standards as promulgated by a Certified Public Accountant under Generally Accepted Accounting Principles ("GAAP") and to the requirements of applicable state law, so as to include a statement of support, revenues and expenses, and balance sheets for all funds.

Section 3.07 Financial Records

The books of account of the funds held by the DMD must be maintained in a form approved by the City's Director of Finance, and must be available for inspection and copying by the Director, or the Director's authorized agents and representatives, during

regular business hours of the DMD. Records must be maintained for at least 3 years after the expiration or termination of this Agreement.

Article IV. PERFORMANCE REPORTS & MEASUREMENT

Section 4.01. Performance Reports

The DMD shall report annually to the Board on its activities and work accomplished. The Annual Report is due within 30 days after the end of each fiscal year and should include:

- (a) A description of each project undertaken by the DMD in each month.
- (b) The status of projects.
- (c) The amounts expended on each project.
- (d) The accomplishments of its performance measures for the fiscal year, as specified in Section 1.01 of this Agreement.
- (e) Independent Audit, as specified in Section 2.06 of this Agreement.

The DMD shall be deemed to have met its performance requirements for the fiscal year upon accomplishment of the objectives outlined in Section 1.01 of this Agreement. The DMD shall make any special presentations or prepare specific reports, if requested by the members of the Board, within thirty (30) days of a request.

V. MISCELLANEOUS

Section 5.01. Implementation.

The City Manager and Executive Director for the DMD are authorized and directed to take all steps necessary or convenient to implement this Agreement.

Section 5.02. Warranty.

This Agreement has been officially authorized by the governing body of the TIRZ #3, the DMD, and the City, and each signatory to this Agreement guarantees and warrants that the signatory has full authority to execute this Agreement and to legally bind their respective party to this Agreement.

Section 5.03 Expending Funds.

Any payment made by the DMD or the TIRZ #3 for any of the costs or expenses that either incurs under this Agreement must be made out of current revenues available to the paying party as required by the Interlocal Cooperation Act.

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the TIRZ #3 are at any time insufficient or not forthcoming through failure of any entity to appropriate funds or otherwise, then TIRZ #3 shall have the right to terminate this Agreement without penalty by giving prior written notice documenting the lack of funding, in which instance unless otherwise agreed to by the parties, this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. TIRZ #3 agrees that it will make its best efforts to obtain sufficient funds including, but not limited to, requesting in its budget for each fiscal period during the term hereof sufficient funds to meet its obligations

hereunder in full.

Section 5.04 Severability.

If any portion of this Agreement, or its application to any person or circumstance, is ever held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Agreement is not affected and continues to be enforceable under its terms.

Section 5.05 Nondiscrimination.

DMD and any subcontractors shall not discriminate against any employee or independent contractor to be utilized in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment, because of race, religion, color, sex, age, handicap, disability, national origin, ancestry, disabled veteran status or Vietnam-era veteran status. Breach of this section shall constitute a material breach of this Agreement.

Section 5.06 Waiver.

TIRZ #3's delay or inaction in pursuing remedies set forth in this Agreement, or available by law, shall not operate as a waiver of any of TIRZ #3's rights or remedies contained herein or available by law.

Section 5.07 Immunity Not Waived.

Nothing in this Agreement is intended, nor may it be deemed, to waive any governmental, official, or other immunity or defense of any of the Parties or their officers, employees, representatives, and agents as a result of the execution of this Agreement and the performance of the covenants contained in this Agreement.

Section 5.08 Conflicts of Interest.

DMD certifies and warrants to TIRZ #3 that neither it nor any of its agents, representatives or employees who will participate in the performance of any services required by this Agreement has or will have any conflict of interest, direct or indirect, with TIRZ #3, in violation of Texas law or the City's Ethics Ordinance. In compliance with Section 2-349 of the City's Code of Ordinances, the DMD shall complete the City's Disclosure of Interests form, which is attached to this Agreement as Exhibit B, the contents of which, as a completed form, are incorporated in this document by reference as if fully set out in this Agreement.

Section 5.09 Confidentiality.

DMD understands that the information provided to it by TIRZ #3 during the performance of its services is confidential and may not be disclosed to a person not designated by TIRZ #3. Any work product given to or generated by DMD under this Agreement shall not be made available to any individual or organization by DMD without the prior written approval of TIRZ #3 except for appropriate agencies of the United States.

Section 5.10 Competitive Procurement.

In regards to expenditures made in furtherance of this Agreement, DMD shall utilize a competitive bidding process as required by state law when making expenditures in excess of \$50,000 for any single contract or for expenditures in excess of \$50,000 in the

aggregate for any contract. DMD shall not avoid the application of competitive bidding by purposely dividing a single purchase into smaller components so that each component purchase is less than \$50,000 or make component, sequential or incremental purchases to avoid the competitive bidding requirements.

Section 5.11 Notices.

Any notice, correspondence or payment made pursuant to this Agreement shall be sent by first-class US mail, addressed to:

To the TIRZ #3:

TIRZ #3
c/o City Manager
City of Corpus Christi
P. O. Box 9277
Corpus Christi, Texas 78469-9277

To the DMD:

Terry Sweeney
Executive Director
Corpus Christi Downtown Management District
223 N. Chaparral, Suite A
Corpus Christi, Texas 78401

Section 5.12 Amendments or Counterparts.

This Agreement may not be amended except by written Agreement approved by the governing bodies of the Parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original all of which shall constitute but one and the same instrument.

Section 5.13 Modifications.

No officer or employee of any of the Parties may waive or otherwise modify the terms in this Agreement, without the express action of the governing body of the Party.

Section 5.14 Captions.

Captions to provisions of this Agreement are for convenience and shall not be considered in the interpretation of the provisions.

Section 5.15 Governing Law and Venue.

This Agreement is governed by the laws of the State of Texas. Venue for an action arising under this Agreement is in Nueces County, Texas.

EXECUTED to be effective as of this 27th day of September, 2016.

CORPUS CHRISTI DOWNTOWN MANAGEMENT DISTRICT

By: Tammy Sweaney
Name: Tammy Sweaney
Title: Executive Director

CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

CITY OF CORPUS CHRISTI

Rebecca Huerta,
City Secretary

Margie C. Rose
City Manager

Approved as to Legal Form
_____, 2016

Assistant City Attorney

**Exhibit A
Scope of Service**

DMD shall provide the following services to the Tax Increment Reinvestment Zone (TIRZ) #3 utilizing DMD resources and the funding provided by this contract in the TIRZ and adjacent areas to assist in the redevelopment of Downtown Corpus Christi. The table below summarizes the services, projected cost allocations and timeline execution.

- **Administration, Planning and Organizational Development \$33,000**

Service	Cost	Projected Execution Timeline
Lead stakeholders through a planning process to develop specific service plan by January 2017. Print plan and present to stakeholders and TIRZ board.	\$23,000	October 2016-December 2016
Recruit geographic stakeholder investment in the plan supporting this scope of service	\$10,000	October 2016-December 2016. On-going as needed.

- **Cleaning and Beautification Services: \$175,000.**

Service	Cost	Projected Execution Timeline
Provide a 4-person Downtown ambassador team, in addition to DMD's current 4-person team, to provide cleaning services and act as customer friendly presence	\$112,000	January 2017 -July 2017
Conduct a Downtown-wide Spring Program Manager	\$15,000	January 2017 -April 2017
2 cleaning support vehicles	\$27,000	January 2017 -July 2017
Fuel	\$12,000	January 2017 -July 2017
Storage	\$2,500	January 2017 -July 2017
Equipment, supplies	\$2,000	January 2017 -July 2017
	\$4,500	January 2017 -July 2017

- **Branding and Marketing: \$105,000**

Service	Cost	Execution
Lead stakeholders through Downtown brand; conduct consumer survey;	\$95,000	January 2017 -July 2017
Downtown promotion and marketing	\$10,000	August 2017-September 2017

- **Development and Recruitment \$17,000.**

Service	Cost	Execution
Property improvement grant program	\$10,000	January 2017 - September 2017
Business and developer recruitment services, materials and website, outreach	\$7,000	October 2016-September 2017