

**DOWNTOWN DEVELOPMENT AGREEMENT
DEMOLITION OF 1914 NUECES COUNTY COURTHOUSE**

This Downtown Development Agreement (the “**Agreement**”) is entered into by and between the City of Corpus Christi, Texas (the “**City**”), as the agent of the Corpus Christi Tax Increment Reinvestment Zone #3 (“**TIRZ #3**”), and Nueces County, Texas (the “**County**”), a political subdivision of the State of Texas.

Recitals

WHEREAS on December 16, 2008, the City Council of the City (the “**City Council**”) approved Ordinance 027996, which established the TIRZ #3 in accordance with Texas Tax Code Chapter 311. TIRZ #3 promotes economic development and stimulates business and commercial activity in its downtown Corpus Christi area (the “**Zone**”);

WHEREAS on August 25, 2015, the City Council approved a Project and Financing Plan (the “**Plan**”) for TIRZ #3;

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 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 the Corpus Christi Downtown Management District (“**DMD**”) assists the City with administration of TIRZ #3, recommends projects and recommends a DMD representative to be appointed to the Board through an Interlocal Agreement;

WHEREAS the Plan contained certain programs designed to improve conditions and increase commerce within the Zone;

WHEREAS the County has proposed to demolish the 1914 Nueces County Courthouse, on the property located at the intersection of N. Mesquite St. and Belden St., with such property being more fully described on attached **Exhibit B** (the “**Property**”). The Property is located within the Zone, and the proposed demolition falls within one of the programs approved in the Plan;

WHEREAS the demolition of the 1914 Nueces County Courthouse meets the desired goals of revitalization within the Zone and serves a public benefit;

WHEREAS any reference to “City” or “City Staff,” is entirely in agency capacity for TIRZ #3, and further the City as a home-rule municipal corporation is not a party to this agreement; and

WHEREAS section 311.010(b) of the Texas Tax Code authorizes the board of directors of a reinvestment zone to enter into agreements the Board considers necessary or convenient to implement the project plan and reinvestment zone financing plan and

achieve their purposes;

WHEREAS the County desires to receive funding support for certain future costs incurred in the demolition of the 1914 Nueces County Courthouse pursuant to the Project and Finance Plan and the TIRZ #3 desires to contribute funding to the County for these costs in accordance with this Agreement.

NOW, THEREFORE, this contract is made and entered into by TIRZ #3 and County in consideration of the aforementioned recitals and for the mutual consideration stated herein.

Agreement

Section 1. Funding Obligations.

The City agrees to pay the County from available TIRZ #3 funds in the amount of \$2,000,000.00. The City shall provide funding to County for the demolition of the 1914 Nueces County Courthouse, located within the Zone at the intersection of N. Mesquite St. and Belden St., Nueces County, Corpus Christi, Texas, which is owned by Nueces County.

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed \$2,000,000.00.

Section 2. Payment Schedule.

The funds shall be distributed in two equal payments of \$1,000,000.00, with the first payment made no later than September 30, 2026. The second payment shall be distributed in City's FY 2027, no later than September 30, 2027.

Section 3. Performance Requirements.

- (a) County agrees to use the funding provided pursuant to this agreement for the demolition of the 1914 Nueces County Courthouse and shall not use the funds for any other purpose.
- (b) County shall present a report to TIRZ #3 Board upon completion of the demolition.
- (c) County will obtain all required building permits from the City and commence demolition within one year of the date this Agreement is signed by the City. Any extensions of this deadline must be requested by County in writing and approved by the TIRZ #3 Board.
- (d) When the demolition has been completed, County shall submit the amount of money that County paid for completion of such work and that County claims as actual costs and any supporting documents demonstrating that such amounts were actually paid by County, including but not limited to invoices, receipts, etc.

Section 4. Return of Funds.

If the demolition of the 1914 Nueces County Courthouse is not complete by December 31, 2028, County shall repay the funds to the TIRZ, less monies spent preparing for the demotion, engineering, or asbestos remediation.

In the event the TIRZ is expired, the funds, minus the monies outlined in the paragraph above, will be refunded to the City of Corpus Christi and Del Mar College District based on each respective entity's contribution to the TIRZ in FY 2026 and/or FY 2027. (For example, if City's contributions in FY 2026 are 50% of total TIRZ and Del Mar's contributions are 25%, County shall repay City \$1,000,000 and shall repay Del Mar \$500,000 and will be allowed to keep the remaining \$500,000.)

Upon Any funds that have not been used for or committed to the demolition upon expiration or termination of this Agreement must be returned promptly as outlined above or applied to another mutually agreed upon purpose, as directed in writing by both parties.

Section 5. Audit and Record Keeping

County will maintain complete and accurate accounting records and copies of any reports submitted to the City relating to the Project. County will retain such records and reports for five years after funds have been fully spent, or as required pursuant to the retention schedules, as promulgated by the Texas State Library and Archives Commission, whichever is longer. County will also make available for inspection by designated City Staff all financial and business records of County that relate to the demolition, in order to assist City Staff in verifying the County's compliance with the terms and conditions of this Agreement. City shall have the right to have these records audited.

Section 6. Termination.

This Agreement shall terminate upon any one of the following:

- (a) By written agreement of the parties to this Agreement; or
- (b) Upon fulfillment and completion of all covenants and duties of the parties hereunder.

Section 7. County Warranties.

County warrants and represents to City the following:

- (a) County is a political subdivision of the State of Texas and has the authority to enter into and perform the terms of this Agreement.
- (b) County acknowledges that the funds transferred under this Agreement must be utilized solely for purposes authorized under State law and by the terms of this

Agreement

- (c) If an audit determines that the request for funds was defective under the law or the terms of this agreement, the County agrees to reimburse the City for the sums of money not authorized by law or this Agreement within 30 days of written notice from the City requesting reimbursement.
- (d) The parties executing this Agreement on behalf of the County are duly authorized to execute this Agreement on behalf of County.

Section 8. Force Majeure.

If the City or County are prevented, wholly or in part, from fulfilling their obligations under this Agreement by reason of any act of God, unavoidable accident, acts of enemies, fires, floods, governmental restraint or regulation, other causes of force majeure, or by reason of circumstances beyond their control, then the obligations of the City or County are temporarily suspended during continuation of the force majeure. If either party's obligation is affected by any of the causes of force majeure, the party affected shall promptly notify the other party in writing, giving full particulars of the force majeure as soon as possible after the occurrence of the cause or causes relied upon.

Section 9. Assignment.

The County may not assign all or any part of its rights, privileges, or duties under this Agreement without the prior written approval of the Board. Any attempted assignment without such approval is void, and constitutes a breach of this Agreement.

Section 10. Indemnity.

As required under the Constitution and laws of the State of Texas, each party understands that it is solely liable for any liability resulting from its acts or omissions. No act or omission of a party shall be imputed to the other party. Neither party shall indemnify or defend the other party.

Section 11. Events of Default.

The following events constitute a default of this Agreement:

- (a) Failure of the County to timely, fully, and completely comply with any one or more of the requirements, obligations, duties, terms, conditions, or warranties of this Agreement.
- (b) The TIRZ #3, the Board, or City Staff determines that any representation or warranty on behalf of the County contained in this Agreement or in any financial statement, certificate, report, or opinion submitted to the TIRZ #3 in connection with this Agreement was incorrect or misleading in any material respect when made.
- (c) The County makes an assignment for the benefit of creditors.
- (d) The County files a petition in bankruptcy or is adjudicated insolvent or bankrupt.

Section 12. Notice of Default.

Should the City determine that the County is in default according to the terms of this Agreement, the City shall notify the County in writing of the event of default and provide 60 days from the date of the notice ("Cure Period") for the County to cure the event of default.

Section 13. Results of Uncured Default.

After exhausting good faith attempts to address any default during the Cure Period, and taking into account any extenuating circumstances that might have occurred through no fault of the County as determined by the City, the following actions must be taken for any default that remains uncured after the Cure Period.

- (a) The County shall immediately repay all unexpended funds paid from TIRZ #3 funds under this Agreement.
- (b) The County shall pay reasonable attorney fees and costs of court to collect amounts due to the City if not immediately repaid upon demand from the City.
- (c) The City and TIRZ #3 shall have no further obligations to the County under this Agreement.
- (d) Neither the City nor TIRZ #3 may be held liable for any consequential damages.
- (e) The City and TIRZ #3 may pursue all remedies available under law.

Section 14. No Waiver.

- (a) No waiver of any covenant or condition, or the breach of any covenant or condition of this Agreement, constitutes a waiver of any subsequent breach of the covenant or condition of the Agreement.
- (b) No waiver of any covenant or condition, or the breach of any covenant or condition of this Agreement, justifies or authorizes the nonobservance on any other occasion of the covenant or condition or any other covenant or condition of this Agreement.
- (c) Any waiver or indulgence of the County's default may not be considered an estoppel against the City or TIRZ #3.
- (d) It is expressly understood that if at any time the County is in default in any of its conditions or covenants of this Agreement, the failure on the part of the City to promptly avail itself of the rights and remedies that the City may have, will not be considered a waiver on the part of the City, but City may at any time avail itself of the rights or remedies or elect to terminate this Agreement on account of the default.

Section 15. Available Funds.

The County specifically agrees that the City and TIRZ #3 shall only be liable to the County for the actual amount of the money due to the County under this Agreement

from TIRZ #3 funds and shall not be liable to the County for any actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by the City or TIRZ #3 under the terms of this Agreement. Payment by the City is strictly limited to the total amount of increment funds for TIRZ #3. The City shall use its best efforts to anticipate economic conditions and to budget accordingly. In the event of insufficient funding, or if funds become unavailable in whole or part, the City, as its sole discretion, may provide funds from a separate source or terminate this Agreement. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

Section 16. Notices.

Any required written notices shall be in writing, and if sent by mail shall be sent by certified mail, return receipt requested, postage prepaid, addressed as follows:

Nueces County
Attn: Nueces County Judge
901 Leopard Street, Room 303
Corpus Christi, Texas 78401

City of Corpus Christi
Attn: City Manager's Office
Tax Increment Reinvestment Zone #3
PO Box 9277
Corpus Christi, Texas 78469-9277

Notice is effective upon deposit in the United States mail in the manner provided above.

Section 17. No Waiver of Governmental Immunity

The County, the City, and the Board agree that each be responsible for their own negligent acts or omissions in the performance of this Agreement, without waiving any sovereign governmental immunity available to either the County or the City under Texas law and without waiving any available defenses under Texas law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.

Section 18. Amendments or Modifications.

No amendments or modifications to this Agreement may be made, nor any provision waived, unless in writing signed by a person duly authorized to sign agreements on behalf of each party.

Section 19. No Joint Enterprise or Liability.

The parties do not intend, by entering into this Agreement to create a partnership or

joint enterprise with each other, and the City shall at no time be responsible or liable for the acts of the County or the County's agents or employees. In no event shall the City be liable (i) for the performance of any contracts made by the County with any other person or entity or (ii) for any damages, injuries, or losses charged to or adjudged against the County arising from its operations or the use or maintenance of its facilities. The City shall be under no obligation to provide any additional funding or incur any other costs or expenses in connection with this Agreement beyond the Project Costs.

Section 20. Captions.

The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the terms and provisions of this Agreement.

Section 21. Severability.

If any provision of this Agreement shall be held invalid, void, or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

Section 22. Governing Law and Venue.

This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas. Venue for any legal action related to this Agreement shall be in a court of competent jurisdiction in Nueces County, Texas.

Section 23. Sole Agreement.

This Agreement constitutes the sole agreement between the City and the County. Any prior agreements, promises, negotiations, or representations, verbal or otherwise, not expressly stated in this Agreement, are of no force and effect.

Section 24. Counterparts and Electronic Signatures.

Except as may be prohibited by applicable law or regulation, this Agreement and any amendment may be signed in counterparts, by facsimile, PDF, or other electronic means, each of which will be deemed an original and all of which when taken together will constitute one agreement. Facsimile and electronic signatures will be binding for all purposes.

[Signature page follows.]

APPROVED AS TO FORM: _____ day of _____, 20____.

Assistant City Attorney

City of Corpus Christi on behalf of Tax Increment Reinvestment Zone #3

By: _____
Michael Dice, Assistant City Manager
Date: _____

Attest:

By: _____
Rebecca Huerta, City Secretary

Nueces County

By: _____
Connie Scott, Nueces County Judge
Date: _____

DRAFT