

**AMENDMENT TO INTERLOCAL AGREEMENT
BETWEEN HAYS COUNTY AND THE CITY OF SAN MARCOS RELATING TO
CITY OF SAN MARCOS, TEXAS TAX INCREMENT REINVESTMENT ZONE NO. 5**

This amendment (the "Amendment") is made to be effective as of the 18th day of May, 2021 by and between the City of San Marcos, Texas (the "City"), a home-rule municipality of the State of Texas principally situated in the County of Hays, acting by and through its governing body, the City Council of the City (the "City Council"), pursuant to Ordinance No. 2021-37, passed and approved by the City Council on May 18, 2021 and Hays County (the "County"), a political subdivision of the State of Texas, acting by and through its governing body, the Commissioners Court, pursuant to authority granted by the Hays County Commissioners Court on May 11, 2021. This Amendment is made pursuant to Chapter 791 of the Texas Government Code, as amended, and Chapter 311 of the Texas Tax Code, as amended. The City and the County may be referred to herein singularly as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the City Council adopted Ordinance No. 2011-74, which designated the San Marcos, Texas Reinvestment Zone No. 5 (the "Reinvestment Zone") pursuant to Section 311.005(a) of the Tax Increment Finance Act, Texas Tax Code, Chapter 311, as amended (the "Act"); and

WHEREAS, the Board of Directors of the Zone (the "Zone Board") prepared and adopted a Project Plan and Reinvestment Zone Financing Plan (the "Project and Financing Plan") for the Zone pursuant to Section 311.011 of the Act, and

WHEREAS, the City Council adopted Resolution No. 2011-145R on November 14, 2011, which gave effect to the Project and Financing Plan pursuant to Section 311.011(d) of the Act, and

WHEREAS, the City Council adopted Ordinance No. 2020-46 on June 18, 2020, which amended the Project and Financing Plan to add eligible projects and associated eligible project costs, including the acquisition of property for parking and other public priorities, and approved amending the tax increment participation interlocal agreement with Hays County to reduce the City's and County's contribution rate of the tax increment deposited into the tax increment fund from 70 percent to 25 percent for one year; and

WHEREAS, pursuant to Section 311.011 and Ordinance No. 2021-37, the City approved an amended Project and Financing Plan to include continuing the reduced contribution rate of the tax increment attributed to the captured appraised value of the City and the County for one additional year, all as set forth and further described in the amended Project and Financing Plan (the "Amended Project and Financing Plan") attached as Exhibit A; and

WHEREAS, on December 7, 2011, the Parties entered into an Interlocal Agreement (the "Agreement") related to the Reinvestment Zone providing for payments from the County to the City of Tax Increments produced from property located in the Reinvestment Zone and deposited into the Tax Increment Fund pursuant to Chapter 311 of the Texas Tax Code; and

WHEREAS, the Parties desire to amend the Agreement to continue the reduced amount of tax increment the County agrees to pay to the City for deposit in the Tax Increment Fund for one additional year, as described in the Project and Financing Plan; and

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. AMENDMENTS.

1.1. Subsection A of SECTION 2 is amended as follows:

A. Payments to the City. The County agrees to make payments to the City during the term of this Agreement, not including Fiscal Years 2021 and 2022, for deposit in the Tax Increment Fund, in the amount of 70% of the tax increment attributed to the captured appraised value of the County in the Reinvestment Zone. For Fiscal Years 2021 and 2022, the County agrees to make payments to the City in the amount of 25% of the tax increment attributed to the captured appraised value of the County in the Reinvestment Zone. The County's obligation to make these payments will accrue only as taxes on the captured appraised value are collected by the County. Payments shall be due on May 1 of each year during the term of this Agreement. No interest or penalty will be charged to the County for any payments made by the County based on collections that occur after this due date; however, the County will pay to the City, for deposit in the Tax Increment Fund, 70% of any penalty or interest received by the County on any delinquent taxes on the captured appraised value of the County. The County may offset against future payments to the Tax Increment Fund any portion of payments to the City under this Agreement that the County subsequently refunds to taxpayers pursuant to the provisions of the Texas Tax Code.

1.2 The Agreement is amended by replacing Exhibit "C" of the Agreement with the attached Exhibit "A" of this Amendment.

SECTION 2. COUNTERPARTS. This Amendment may be executed in any number of counterparts, each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

SECTION 3. CAPTIONS. The section headings appearing in this Amendment are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

SECTION 4. INCORPORATION OF PREAMBLE RECITALS. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Amendment for all purposes and are adopted as a part of the judgment and findings of the Commissioners Court and the City Council.

SECTION 5. INCONSISTENT PROVISIONS. The Agreement is amended only to the extent of the changes herein. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Amendment are hereby repealed to the extent of such

conflict, and the provisions of this Amendment shall be and remain controlling as to the matters provided herein.

SECTION 6. GOVERNING LAW. This Amendment shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 7. SEVERABILITY. 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 the Parties in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.

SECTION 8. CONSTRUCTION. Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Amendment and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity of this Amendment.

SECTION 9. COMPLIANCE WITH TEXAS OPEN MEETINGS ACT. It is officially found, determined, and declared that the meeting of both the City and the County at which this Amendment is adopted was open to the public and public notice of the time, place and subject matter of the public business was considered at such meeting, including this Amendment, was given, all as required by Chapter 551, as amended, Texas Government Code.

[Signature of Parties on Next Page]

IN WITNESS HEREOF, the City and the County have made and executed this Amendment in multiple copies, each of which is an original.

CITY OF SAN MARCOS, TEXAS,
a home rule municipality

Mayor

Date

ATTEST:

City Clerk

(Seal of City)

APPROVED AS TO FORM AND LEGALITY:


City Attorney

HAYS COUNTY


County Judge

5-4-2021
Date

ATTEST:


County Clerk



(SEAL)

APPROVED AS TO FORM:


General Counsel

EXHIBIT A

Project Overview and Project Costs

This Table 1 summarizes the currently anticipated Project Costs to be financed within Zone No. 5.

| Tax Year | Total Valuation | Value Increase From Base Year | Yearly Increase Percentage | 70% City Tax | 70% County Tax | Total Revenue Available ^a | Cumulative Revenue Available |
|----------------|-----------------|-------------------------------|----------------------------|--------------|----------------|--------------------------------------|------------------------------|
| 2012 | \$105,083,437 | \$ 899,281 | 0.86% | \$ 3,338 | \$ 2,671 | \$ 6,008 | \$ 6,008 |
| 2013 | \$116,624,239 | \$ 12,366,933 | 10.9% | \$ 46,020 | \$ 36,033 | \$ 82,053 | \$ 88,870 |
| 2014 | \$143,130,508 | \$ 41,268,182 | 24.7% | \$ 145,098 | \$ 116,541 | \$ 257,294 | \$ 346,164 |
| 2015 | \$145,033,604 | \$ 42,341,838 | 0.7% | \$ 151,841 | \$ 121,198 | \$ 269,342 | \$ 615,506 |
| 2016 | \$151,017,107 | \$ 48,375,011 | 4.1% | \$ 173,485 | \$ 136,200 | \$ 309,684 | \$ 925,190 |
| 2017 | \$190,650,978 | \$ 86,366,376 | 24.9% | \$ 371,208 | \$ 242,594 | \$ 613,802 | \$ 1,538,992 |
| 2018 | \$245,973,144 | \$ 110,056,967 | 31.3% | \$ 606,454 | \$ 310,695 | \$ 917,149 | \$ 2,456,141 |
| 2019 Actual | \$268,922,632 | \$ 142,006,455 | 22.0% | \$ 692,450 | \$ 367,578 | \$ 1,080,028 | \$ 3,536,170 |
| 2020 @ 25% | \$348,627,389 | \$ 221,711,212 | 30.0% | \$ 362,387 | \$ 217,409 | \$ 579,896 | \$ 4,116,066 |
| 2021 @ 25% | \$366,058,756 | \$ 239,142,581 | 5.0% | \$ 354,529 | \$ 234,599 | \$ 589,128 | \$ 4,705,193 |
| 2022 Estimated | \$384,361,606 | \$ 267,446,610 | 6.0% | \$1,068,666 | \$ 707,161 | \$ 1,776,008 | \$ 6,480,901 |
| 2023 Estimated | \$403,579,781 | \$ 276,663,604 | 5.0% | \$1,148,431 | \$ 759,940 | \$ 1,908,370 | \$ 8,389,361 |
| 2024 Estimated | \$422,758,770 | \$ 296,842,593 | 5.0% | \$1,232,194 | \$ 815,367 | \$ 2,047,561 | \$ 10,436,922 |
| 2025 Estimated | \$444,946,709 | \$ 318,030,532 | 5.0% | \$1,320,145 | \$ 873,566 | \$ 2,193,711 | \$ 12,630,633 |
| 2026 Estimated | \$467,194,044 | \$ 340,277,867 | 5.0% | \$1,412,493 | \$ 934,675 | \$ 2,347,169 | \$ 14,977,802 |

Assumptions:

- Estimated Years
- City Tax Rate \$0.5930
- County Tax Rate \$0.3924

1. Infrastructure supporting cohesive redevelopment

Zone No. 5 tax increment revenues shall be made available to facilitate investment in infrastructure or other improvements allowed by law that facilitate the following potential projects. This Project and Finance Plan will be amended as may be required by law to accommodate additional uses of the tax increment revenues within Zone No. 5:

- a. Projects that support multi-modal transportation and mobility including sidewalks and downtown shuttle services.
- b. Overall enhancement of the downtown area including but not limited to lighting, safety and other aesthetic features.
- c. Acquisition of property for parking and other public priorities with the amounts allocated to include the required operation and maintenance costs.