

**AGREEMENT BY AND BETWEEN THE
FORT BEND COUNTY, TEXAS, FORT BEND COUNTY
REINVESTMENT ZONE NUMBER ONE,
AND
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 162**

This **AGREEMENT** (this "Agreement"), effective as of _____, 2022 (the "Effective Date"), is made by and between the **FORT BEND COUNTY, TEXAS**, a body corporate and politic under the laws of the State of Texas, by and through its Commissioners Court (the "County"); **REINVESTMENT ZONE NUMBER ONE, FORT BEND COUNTY, TEXAS**, a reinvestment zone created by the County pursuant to Chapter 311, Texas Tax Code (the "Zone"); and **FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 162**, a municipal utility district organized and existing under the laws of the State of Texas (the "District").

RECITALS

WHEREAS, the County created the Zone pursuant to Chapter 311, Texas Tax Code (the "TIRZ Act"); and

WHEREAS, the Board of Directors of the Zone (the "Zone Board") and the Commissioners Court of the County each approved and adopted a Project Plan and a Reinvestment Zone Financing Plan for the Zone (the "TIRZ Plan"); and

WHEREAS, the County and the Zone Board have determined that it is advisable to have the District facilitate the TIRZ Plan and assist the County with the financing of and/or reimbursement to developers of certain Project Costs through the issuance by the District of its bonds and administration of the District Revenue Fund (as defined herein); and

WHEREAS, pursuant to the TIRZ Act, the County and the Zone desire to contract with the District as provided herein to finance the efforts of the TIRZ Plan using tax increments as provided herein; and

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the County, the Zone, and the District agree as follows:

**I.
DEFINITIONS**

The terms "Agreement," "County," "District," "TIRZ Plan," "TIRZ Act," "Zone," and "Zone Board," have the meanings set forth in the preamble hereof, and the following capitalized terms shall have the meanings provided below, unless otherwise defined or

the context clearly requires otherwise. For purposes of this Agreement the words “shall” and “will” are mandatory, and the word “may” is permissive.

“Bond Costs” shall mean any principal, capitalized interest, costs of issuance, interest and/or other non-construction costs related to the issuance of the District Bonds.

“Captured Appraised Value” shall mean the total appraised value of property in the Zone as of January 1 of any year less the Tax Increment Base of the Zone, all as defined in the TIRZ Act.

“Commissioners Court” shall mean the Commissioners Court of the County.

“County” shall mean Fort Bend County, Texas.

“Developers” shall mean one or more developers of land within the Zone.

“District Auditor” shall mean the firm of independent certified public accountants employed by the District to audit the District’s annual financial statements and reimbursements to developers within the District.

“District Board” shall mean the Board of Directors of the District.

“District Bonds” shall mean the bonds, notes and other obligations of the District payable in whole or in part from a pledge of all or a part of the District Revenue Fund.

“District Engineer” shall mean the District Engineer of the District.

“Developer Projects” shall mean any District Projects, the design and construction of which is advance funded by a developer of property within the Zone.

“District Projects” shall mean any TIRZ Projects, the design and construction of which is funded by the District, either through the District Revenue Fund, the District’s advance funding via its operating fund, or through District Bonds.

“District Revenue Fund” shall mean the District account into which the Tax Increment is deposited by the County as provided herein for the use of the District hereunder and all other accounts or funds of the District to which monies from the District Revenue Fund are transferred.

“Project Costs” shall mean those costs of public works and improvements and other costs for which payment can be made pursuant to the TIRZ Act that are identified in the TIRZ Plan.

“Reimbursement Agreements” shall mean the agreements to be entered into between Developers and the District regarding the advance funding of and reimbursement for the costs to design and construct certain TIRZ Projects.

“Reimbursement Audit” shall mean a report prepared (generally in accordance with the rules of the Texas Commission on Environmental Quality) by the District Auditor calculating and approving the reimbursement to the District or a Developer for funds advanced for the design and construction of a particular TIRZ Project.

“Tax Increment” shall mean the amount of property taxes collected each year by the County (to the extent of their participation) on the Captured Appraised Value.

“Tax Increment Base” shall mean the total appraised value of all real property taxable by the County and located in the Zone as of January 1, 2022, the year in which the Zone was effective and designated as a reinvestment zone, plus the total appraised value of all real property taxable by the County and the other Taxing Units and annexed into the Zone determined as of January 1 of the year in which any future area is annexed into the Zone.

“Tax Increment Fund” shall mean the Tax Increment Fund created by the County for the Zone, which shall be comprised of payments from the County equaling 75% of the County’s actually collected Tax Increment generated by the Zone, including any subaccount therein into which all Tax Increments shall be deposited by the County.

“TIRZ Projects” shall mean the various public works and improvements contained in the TIRZ Plan, and shall include both the Developer Projects and the District Projects.

II. SCOPE OF SERVICES BY DISTRICT

A. General Statement. The District agrees that, subject to the consideration provided in this Agreement, the District shall assist the County and the Zone in the implementation of the TIRZ Plan. Such service shall include the design and construction of certain TIRZ Projects and, to the extent of available funds in the District Revenue Fund and subject to the limitations of this Agreement, the issuance of District Bonds to facilitate the TIRZ Plan and making reimbursements to Developers.

B. Design and Construction. The District and the Zone shall comply with all applicable state law related to the design and construction of TIRZ Projects, including the procurement of design and construction services.

The District agrees that it shall enter into appropriate Reimbursement Agreements for the design and construction of Developer Projects. Such Reimbursement Agreements shall obligate the Developers to follow the process for project development outlined in **Section C** below. The District shall be responsible for the supervision of TIRZ Projects.

C. Process for Project Development.

(1) Upon receipt of approval from the District Board, the District shall diligently proceed to design the particular TIRZ Project or cause such TIRZ Project to be designed. The District shall be responsible for obtaining all governmental approvals and permits, including approvals and permits from the County. All contract documents related to the TIRZ Projects shall be submitted to the District for review and approval prior to advertisement. The District shall proceed to advertise for bids for the construction of the particular TIRZ Project in accordance with applicable law. The District shall not proceed to award a construction contract for a particular TIRZ Project until the District has approved such award.

(2) Upon receipt of approval from the District Board, the District shall diligently proceed to construct the particular TIRZ Project and pay, or cause to be paid, all costs related thereto. The District Board shall review monthly reports regarding the progress of construction and payment of pay estimates and change orders.

(3) Upon completion of the particular TIRZ Project, the TIRZ Project and an appropriate interest in the real property upon which the TIRZ Project is constructed shall be conveyed to the District, who shall be responsible for operation and maintenance of the TIRZ Project.

(4) Upon completion of the particular TIRZ Project, the District Board shall review the following: (i) a summary of construction costs, including all pay estimates and change orders, (ii) the recommendation of the District's Engineer that the work be finally accepted, and (iii) evidence of final acceptance by the District with regard to its responsibility for operation and maintenance. The District shall also promptly present or require presentation to the District Auditor all information, such as invoices, pay estimates and cancelled checks, necessary or convenient for the preparation of a Reimbursement Audit.

(5) Upon approval by the District of the Reimbursement Audit for the particular TIRZ Project, reimbursement for the particular TIRZ Project is approved.

III.

POWERS OF THE DISTRICT AS TO TAX INCREMENT

A. General Statement. The District has the authority to enter into contracts with consultants and others to be paid from the District Revenue Fund, and further, the District may issue District Bonds, provided that nothing in this Agreement shall be construed to authorize the District to expend any of the Tax Increment funds received pursuant to this Agreement for any purpose other than: (i) payment of District Bonds, including Bond Costs, issued to finance the TIRZ Projects, (ii) payment of the TIRZ Projects, including costs of TIRZ administration, creation, and all other items identified

in the TIRZ Plan, by the District through monies collected in the District Revenue Fund, and (iii) to make developer reimbursements in accordance with **Article VII** below.

B. Creation and Pledge of the District Revenue Fund. The County, the Zone and the District hereby acknowledge and approve of the creation of the District Revenue Fund by the District for the purpose of receiving the moneys to be deposited therein by the County pursuant to this Agreement. The District may pledge and assign all or a part of the District Revenue Fund under this Agreement to the owners and holders of District Bonds, to reimburse Developer Projects, or to directly fund TIRZ Projects. The County and the Zone consents to any assignment and pledge for the benefit of bondholders consistent with this Agreement.

IV.

DUTIES AND RESPONSIBILITIES OF THE COUNTY AND THE ZONE

A. Tax Increment Fund. The County hereby confirms that it has established, or will establish within ninety (90) days of the Effective Date, and currently maintains a separate Tax Increment Fund, including subaccounts if necessary, in the County treasury into which Tax Increments are and shall be deposited.

B. Limitation of Source of Payment. The County and the Zone shall have no financial obligation to the District other than as provided in this Agreement or in other agreements between the County, the Zone, and the District. The obligation of the County and the Zone to the District and under this Agreement is limited to the Tax Increments that are collected by the County. This Agreement shall create no obligation on the County or the Zone that is payable from taxes or other moneys of the County other than the Tax Increments that are collected by the County. The obligation of the County and the Zone to the District under this Agreement shall be subject to the rights of any of the holders of the bonds or other obligations that have heretofore been or are hereafter issued by the County that are payable from or secured by a general levy of ad valorem taxes throughout the taxing jurisdiction of the County.

C. Collection and Payment of Tax Increments by the County and the Zone. The County and the Zone covenant and agree that they will, as authorized under the TIRZ Act and other applicable laws, continuously collect the Tax Increment during the term of this Agreement in the manner and to the maximum extent permitted by applicable law. In addition, the County covenants and agrees that it will not dissolve the Zone except as provided in **Sections XVI.C** below and that any repeal of the right and power to collect the Tax Increments will not be effective until all outstanding District Bonds have been paid in full or until they are legally defeased. The County and the Zone further covenant and agree that they will make all payments as set forth in **Article V** below, by a direct deposit into the District Revenue Fund, without counterclaim or offset.

D. Obligations of County and the Zone to be Absolute. The obligation of the County and the Zone to make the payments to the District set forth in **Article V** of this Agreement shall be absolute and unconditional, and until such time as all outstanding District Bonds and all outstanding District Bonds have been fully paid or provision for payment thereof shall have been made in accordance with their terms, the County and the Zone will not suspend or discontinue any payments provided for in this Agreement and will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, the failure of the District to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Agreement. The County and the Zone will not amend any order or resolution related to the Zone or the TIRZ Plan in a manner that negatively impacts the ability of the Zone and the District to implement the TIRZ Plan or reduces (i) the term of the TIRZ Plan, the Zone, or this Agreement; (ii) the percentage of the County's participation in the Zone via the Tax Increment; or (iii) the authorized payments related to the TIRZ Projects and reimbursement of the Project Costs. Nothing contained in this section shall be construed to release the District from performance of any of the agreements on its part contained in this Agreement, and in the event the District shall fail to perform any such agreement on its part, the County may institute such action against the District as the City may deem necessary to compel performance so long as this action does not abrogate the obligations of the County and the Zone to make the payments set forth in this Agreement.

**V.
PAYMENTS OF TAX INCREMENT**

A. County Payments to District. For any year in which the County collects or receives Tax Increment, the County, on behalf of itself and the Zone, will pay the District, on or about the first day of each calendar quarter or more often as convenient during the term of this Agreement, solely from the Tax Increment Fund and from no other source, all monies then available in the Tax Increment Fund. The District shall deposit the payments received pursuant to this section into the District Revenue Fund and use the monies in the District Revenue Fund solely for payment of the reasonable operation and administrative expenses of the District and the Zone, to finance the design, construction, maintenance, and operation of TIRZ Projects, the costs associated with the TIRZ creation, its obligations to the holders of the District Bonds, while any are outstanding, and developer reimbursements in accordance with **Article VII** hereof. The obligation to make these payments while District Bonds are outstanding shall survive a termination of this Agreement as provided by **Article XV** hereof.

**VI.
ACCOUNTING AND AUDITS**

A. Accounts, records, and accounting reports. The District will maintain books of records and accounts in which full, true, and proper entries will be made on all

dealings, transactions, business, and matters that in any way affect or pertain to the allocation and application of funds in the District Revenue Fund, respectively. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. The District shall provide free access to the books and records of the District relating to the District Revenue Fund at all times to the County and the Zone. The District shall further allow the County and the Zone, and their representatives to make inspections of all work data, documents, proceedings, and activities related to this Agreement. Such right of access and audit shall continue for a period of three years from the date of final payment under this Agreement.

B. Audit and Annual Report. At the end of each fiscal year (beginning with the fiscal year or fraction thereof in which payments are made into the District Revenue Fund), the District will have an audit prepared by an independent Certified Public Accountant for that fiscal year that shall be submitted to the Zone and the County within 120 days after the end of the fiscal year. The audit shall contain all information required under Section 311.016 of the Texas Tax Code, and shall serve as the Annual Report required therein. The County shall then submit the Annual Report to the Texas Comptroller within 30 days of its receipt. The District shall furnish copies of the audit and annual report to the County and the Zone Board.

C. District Depository. Any moneys received from investing and reinvesting the moneys paid pursuant to this Agreement (i) to the District shall remain in the District Revenue Fund until used by the District for one of the purposes permitted by this Agreement, and may not be commingled with other moneys of the District. Such funds shall be invested and reinvested by the District only in investments that would be eligible for investment by the City in accordance with applicable law, including the Public Funds Investment Act (Chapter 2256, Texas Government Code). Such funds will be secured by the depository bank in the same manner as City funds are required to be secured in accordance with applicable law, including the Public Funds Collateral Act (Chapter 2257, Texas Government Code).

VII.

FINANCING OF PROJECTS/REIMBURSEMENT TO DEVELOPERS

A. General Statement. The District agrees that only one hundred percent (100%) complete TIRZ Projects for which Reimbursement Audits have been approved by the District Board shall be reimbursed. The Zone, the County, and the District hereby agree and confirm that any reimbursements made pursuant to this **Article VII** shall be in strict compliance with the TIRZ Plan and the Reimbursement Agreements. Notwithstanding the foregoing, should the District Board, in its sole discretion, determine it to be advantageous and economically beneficial, the District shall be entitled to fund TIRZ Projects through payment directly from the District Revenue Fund (in lieu of the issuance of District Bonds).

B. Reimbursement Agreements. The District may enter into Reimbursement Agreements with Developers regarding certain Developer Projects. The District agrees to abide by the terms and conditions of the Reimbursement Agreements with respect to making reimbursements to Developers. Reimbursement for Developer Projects shall be from the proceeds of District Bonds and/or other available monies in the District Revenue Fund. Each Reimbursement Agreement may provide for the reimbursement to the developers of such advanced funds using the proceeds of one or more issues of the District Bonds, as otherwise permitted by law and the applicable rules, [of closings] and guidelines of the County Zone, District, and/or TCEQ, and may obligate the District to sell District Bonds when feasible to reimburse the Developers for such advanced funds.

C. District Bonds to Finance TIRZ Projects. Subject to **Section VII (A)** above, to the extent available, funds in the District Revenue Fund exist, and subject to the limitations of this Agreement, the District may issue District Bonds to finance TIRZ Projects, may reimburse the District for Project Costs the District has advanced, and make reimbursements to Developers for Developer Projects. The District shall not be authorized to issue District Bonds secured by the District Reserve Fund to finance or reimburse TIRZ Projects until it has provided the County and the Zone with a certified copy of the Texas Commission on Environmental Quality (“TCEQ”) order approving each District Bond issue (if applicable) in which the TCEQ concludes that the proposed bond issue is feasible in accordance with its existing rules the District shall provide to the County and the Zone with draft copies of the Preliminary Official Statement, the bid form, the notice of sale, and the proposed bond order or resolution for each issue prior to the issuance of the District Bonds. The County and the Zone shall review the documents requested to be provided hereunder and the evidence of compliance with the criteria of this **Article VII** relative to the District’s issuance of the District Bonds within ten (10) business days following the County and the Zone’s receipt of same. If no written objections are provided to the District by either the County or the Zone within said period, issuance and sale of the Director Bonds shall be deemed approved by the County and the Zone and the criteria set forth in this **Article VII** shall be deemed complied with. Any objections by either the County or the Zone shall be in writing and shall set forth the reasons thereof.

D. Priority of Reimbursement and Method of Financing Projects. The County, the Zone and the District agree that the District shall, in its sole discretion, determine the priority for which TIRZ Projects are reimbursed. The District reserves the right to, in its sole discretion, determine the method in which TIRZ Projects are reimbursed, (e.g., issuing District Bonds or authorizing payment from the District Revenue Fund).

E. Bonds as Obligations of the District. The District Bonds shall be and remain obligations solely of the District (and not the Developer, Zone or County);

provided, however that nothing herein shall limit the District's ability to assign or pledge all or any of the monies contained in the District Revenue Fund.

VIII.

PERSONAL LIABILITY OF DIRECTORS, EMPLOYEES, AND PUBLIC OFFICIALS

To the extent permitted by State law, no director of the Zone or the District, nor any employee, consultant or agent of the Authority or the District, no director of the Zone, nor any employee or agent of the Zone, and no official of the County, nor any employee or agent of the County, shall be personally responsible for any liability arising under or growing out of the Agreement, or operations of the District or the Authority under the terms of this Agreement.

IX.

INDEPENDENT CONTRACTOR

It is expressly understood and agreed that the District shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the County or the Zone.

X.

INSURANCE

The District shall obtain and maintain insurance coverage continuously during the term of this Agreement, of a type and in an amount as is suitable and reasonable for a municipal utility district.

XI.

ADDRESS AND NOTICE

Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following addresses:

For the District:

Fort Bend County Municipal Utility District No. 162
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, TX 77027
Attn: President, Board of Directors

For the Zone:

Reinvestment Zone Number One, Fort Bend County, Texas
c/o Fort Bend County, Texas
301 Jackson St
Richmond, TX 77469
Attn: Chair, Board of Directors

For the County:

Fort Bend County, Texas
301 Jackson Street
Richmond, Texas 77469
Attention: Fort Bend County Commissioner Precinct 4, Chief of Staff

With a copy to:

Fort Bend County, Texas
301 Jackson Street
Richmond, Texas 77469
Attention: County Judge

Each party may change its address by written notice in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when received for by, or actually received by, the District, the Zone, or the County, as the case may be.

XII.
APPLICABLE LAWS AND VENUE

This Agreement is made subject to the Constitution and laws of the State of Texas. Venue shall lie exclusively in Fort Bend County, Texas.

XIII.
CAPTIONS

The captions at the beginning of the Articles of this Agreement are guides and labels to assist in locating and reading such Articles and, therefore, will be given no effect in construing this Agreement and shall not be restrictive of the subject matter of any article, section, or part of this Agreement.

XIV.
SUCCESSORS AND ASSIGNS

This Agreement shall bind and benefit the respective parties and their legal successors, and shall not be assignable, in whole or in part, by any party hereto without first obtaining the written consent of the other parties.

XV.
TERM AND TERMINATION, DISSOLUTION OF THE DISTRICT AND THE ZONE

A. In general. This Agreement shall become effective, and its initial term shall begin, on the date first set forth above, and end upon the latter of (i) the termination of the Zone, (ii) the full payment or defeasance of all District Bonds, or (iii) the expiration of forty-five (45) years from the Effective Date.

B. Termination for cause. A party may terminate its performance under this Agreement only upon default by one of the other parties hereto. Default by a party shall occur if the party fails to perform or observe any of the terms and conditions of this Agreement required to be performed or observed by that party. Should such a default occur, the party against whom the default has occurred shall have the right to terminate all or part of its duties under this Agreement as of the 90th day following the receipt by the defaulting party of a notice describing such default and intended termination, provided: (i) such termination shall be ineffective if within said 90-day period the defaulting party cures the default, or (ii) such termination may be stayed, at the sole option of the party against whom the default has occurred, pending cure of the default. No termination of this Agreement will affect the obligation of the County and the Zone to pay an amount that will permit the District to pay outstanding District Bonds and the Authority to pay outstanding Authority Bonds issued or incurred pursuant to and consistent with this Agreement prior to termination.

C. Dissolution of District and Zone. The County agrees not to dissolve the Zone unless it makes satisfactory arrangements to provide for the payments of the outstanding District Bonds incurred prior to the District's or the Zone's dissolution. In the event of the dissolution of the District, the County shall deposit in the Tax Increment Fund all monies in the District Revenue Fund.

D. 381 Agreement. Should the County, by change in law or through a successful challenge of its legal authority to institute and implement the TIRZ, be prohibited from proceeding with the TIRZ over any portion of the Zone, this Agreement shall automatically terminate as to that portion of the Zone upon such time. With regards to the implementation and financing of the TIRZ Projects as described in this Agreement, the County shall utilize an agreement with the District via Chapter 381 of the Local Government Code to accomplish the same purpose. The County agrees that the portion

of tax increment received by the County and allocated to the District via the Chapter 381 Agreement may be utilized for the same purposes as the Tax Increment.

**XVI.
AMENDMENT OR MODIFICATIONS**

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment, or modification only by the mutual written consent of the parties hereto.

[EXECUTION PAGES FOLLOW]

IN TESTIMONY OF WHICH this instrument has been executed in multiple counterparts, each of equal dignity and effect, on behalf of the District, the Zone, and the County effective as of the date first above written.

FORT BEND COUNTY, TEXAS

KP George, County Judge

ATTEST/SEAL:

County Clerk

**FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 162**

President, Board of Directors

ATTEST/SEAL:

Secretary, Board of Directors

**REINVESTMENT ZONE NUMBER ONE,
FORT BEND COUNTY, TEXAS**

Chairman, Board of Directors

ATTEST:

Secretary, Board of Directors

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FORT BEND COUNTY, TEXAS

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**FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 162**

President, Board of Directors

ATTEST/SEAL:

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**REINVESTMENT ZONE NUMBER ONE,
FORT BEND COUNTY, TEXAS**



Chairman, Board of Directors

ATTEST:



Secretary, Board of Directors

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FORT BEND COUNTY, TEXAS

KP George, County Judge

ATTEST/SEAL:

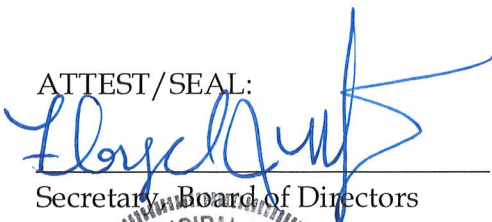
County Clerk

**FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 162**



President, Board of Directors

ATTEST/SEAL:



Secretary, Board of Directors



**REINVESTMENT ZONE NUMBER ONE,
FORT BEND COUNTY, TEXAS**

Chairman, Board of Directors

ATTEST:

Secretary, Board of Directors