

**CITY OF SAGINAW AND TARRANT COUNTY, TEXAS
AGREEMENT TO PARTICIPATE IN REINVESTMENT ZONE NUMBER ONE,
CITY OF SAGINAW, TEXAS**

This **AGREEMENT TO PARTICIPATE IN REINVESTMENT ZONE NUMBER ONE, CITY OF SAGINAW** (the "Agreement") is entered into between the City of SAGINAW, Texas (the "City") and Tarrant County, Texas (the "County").

The City and the County hereby agree that the following statements are true and correct and constitute the basis upon which the City and the County have entered into this Agreement:

WHEREAS, on November 2, 2021, the City Council of the City (the "City Council"), in accordance with Chapter 311 of the Texas Tax Code (the "Act"), adopted Ordinance No. 2021-24 (the "Creation Ordinance") designating certain real property within the corporate limits of the City and establishing *Reinvestment Zone Number One, City of Saginaw* (the "Zone"). The Creation Ordinance, with all its accompanying exhibits, is hereby incorporated for reference for all purposes and is attached hereto as "**Exhibit 1**"; and

WHEREAS, designation of the Zone will enable development of property in and around the Zone to occur that would not occur otherwise in the foreseeable future. As a result of designation of the Zone, it is intended that public infrastructure will be funded to support the development of the area in and around the Zone and this overall development will result in increased tax revenues and other benefits for both the City and the County; and

WHEREAS, on November 16, 2021 the City Council, adopted Ordinance No. 2021-27, approving the final project and finance plan (the "Final Plan") as recommended by the board of directors of the Zone (the "Board"); and

WHEREAS, pursuant to Section 311.013(f) of the Act, the County is not required to pay any tax increment into the tax increment fund of the Zone unless it enters into an agreement with the City to do so. The County wishes to enter into such an agreement with the City.

NOW, THEREFORE, for and in consideration of the conditions set forth herein. The sufficiency of which is hereby acknowledged, the City and the County do hereby contract, covenant and agree as follows:

1. INCORPORATION OF RECITALS.

The parties hereby agree that the recitals set forth above are true and correct and form the basis upon which they have entered into this Agreement.

2. DEFINITIONS.

In addition to any terms defined in the body of this Agreement, the following terms shall have the definitions ascribed to them as follows:

“Act” means the Tax Increment Financing Act, as amended and codified as Chapter 311 of the Texas Tax Code.

“Board” means the governing board of directors of the Zone appointed in accordance with Section 311.009 of the Act and Section 3 of the Creation Ordinance. The County shall appoint and maintain at least one (1) member on the Board, and may appoint non-voting ex-officio members or staff members who shall also be notified of all Board meetings and actions.

“Captured Appraised Value” in a given year means the total appraised value of all real property taxable by the County and located in the Zone for that year less the Tax Increment Base.

“Creation Ordinance” means Ordinance No. 2021-24 with all its exhibits, attached hereto as **“Exhibit 1.”**

“Final Plan” means the project and finance plan for the development and/or redevelopment of the Zone as adopted by the Board and approved by the City Council of the City on November 16, 2021 attached hereto as **“Exhibit 2”**.

“Tax Increment” in a given year means the amount of property taxes levied and collected by the County for that year on the Captured Appraised Value of real property taxable by the County and located in the Zone.

“Tax Increment Base” means the total appraised value as of January 1, 2021 of all real property taxable by the County and located in the Zone.

“Tax Increment Fund” means the fund created by the City pursuant to Section 311.014 of the Act and Section 7 of Creation Ordinance, which will be maintained by the City, into which all revenues of the Zone will be deposited, including: (i) deposits of Tax Increment by the City and by other participating taxing units with jurisdiction over real property in the Zone, including the County, and (ii) all accrued interest earned on the cash balance of the fund.

“Tier 1 Projects” means those projects to be funded exclusively from the City Tax Increment, as identified in the Final Plan.

“Tier 2 Projects” means those projects eligible to receive funding from any participating taxing entity in the Zone, as identified in the Final Plan.

“Zone” means the certain real properties and boundaries as described in the Creation Ordinance, attached hereto as **“Exhibit 1”**.

3. DEPOSIT OF TAX INCREMENT.

Pursuant to a Resolution duly adopted by the governing body of the County, which Resolution is attached hereto as **“Exhibit 3”** and is hereby made a part of this Agreement for all purposes, and specifically subject to Section 4 of this Agreement, the County hereby agrees to deposit each year during the remaining term of the Zone, beginning with the 2022 tax year, fifty percent (50%) of

the County's Tax Increment into the Tax Increment Fund up to a maximum cumulative contribution of Eleven Million, Nine Hundred and Eighty-Six Thousand, Three Hundred and Eighty-Three dollars (\$11,986,383) (the "Maximum County Contribution").

The calculation to determine the dollar amount of the County's Tax Increment to be deposited shall be made in accordance with the County's Tax Increment Financing Policy and such deposits shall be made in accordance with the City's standard administrative procedures, but only following receipt of a bill from the City that outlines the City's calculation of the amount of the deposit that is required for that year. The County is not obligated to pay the County Tax Increment from any source other than taxes collected on the Captured Appraised Value. Furthermore, the County has no duty or obligation to pay the County Tax Increment from any other County taxes or revenues, or until the County Tax Increment in the Zone is actually collected. Any portion of the taxes representing the County Tax Increment that are paid to the County and subsequently refunded pursuant to the provision of the Texas Tax Code shall be offset against future payments to the Tax Increment Fund.

4. LIMITATIONS ON TAX INCREMENT DEPOSITS AND USE OF FUNDS.

This Agreement is based on the following conditions, and the City agrees and acknowledges the County's right to enforce the conditions contained herein by in junction or any other lawful means in the event one or more of such conditions are not satisfied.

4.1 Amendment to Creation Ordinance.

The Creation Ordinance designates the boundaries, the eligible real properties for the calculation of Tax Increment for the Zone, and the specific participation level by the City. All amendments to the Creation Ordinance shall be approved by the Board prior to approval by the City Council. If the City Council approves an amendment to the Creation Ordinance different from the amendment approved by the Board, the County may suspend payment into the Tax Increment Fund as described in Section 3 until the amendment is approved by the County governing body.

4.2 Certain Project Costs Excluded.

The Tax Increment deposited into the Tax Increment Fund by the County shall be used to pay for Tier 2 Projects, as defined in the Final Plan, for purposes as set forth and identified in the Final Plan. All Tax Increment Fund allocations, including but not limited to any management and administrative costs, must be approved by the Board in accordance with the Final Plan. If the Final Plan, as included herein, is amended to substantially change the scope and nature of the projects included in the Final Plan or to include additional projects and associated costs that will increase the total costs of the Final Plan, the County may suspend payment into the Tax Increment Fund as described in Section 3 until the amended Final Plan is approved by the governing body of the County as an amendment to this Agreement.

4.3 Zone Expansion.

As defined, the Zone shall include real properties located within the boundaries as depicted in the Creation Ordinance. If the Zone is expanded, the County is not required to deposit into the Tax Increment Fund any Tax Increment generated from properties in the expanded area unless participation in the expanded boundary area is approved by the County governing body as an amendment to this Agreement. Additionally, the Tax Increment deposited into the Tax Increment Fund by the County may not be used for any permissible project costs in any portion of the expanded area of the Zone unless approved by the County governing body as an amendment to this Agreement.

5. TERM.

This Agreement shall take effect on the date as of which both parties have executed it and shall expire upon expiration or termination of the Zone, which currently is the earlier of: (i) December 31, 2051 (with final year's tax to be collected by September 1, 2052), or (ii) the date on which all Project Costs of the Zone have been paid in full, or (iii) the date on which the Maximum County Contribution is reached.

Nothing in this agreement limits the authority of the Tarrant County Commissioner's Court to extend the term of the Agreement. Upon termination of the Agreement, the obligation of the County to contribute to the Tax Increment Fund for the Zone shall end; however, any refund obligations of the City or the Zone shall survive such termination.

6. TAX INCREMENT FUND AND FINAL ACCOUNTING OF FUNDS.

No later than July 1 of each year following execution of this Agreement, the City shall provide the County with an annual accounting of the funds deposited to and disbursed from the Tax Increment Fund, including accrued interest. After all Project Costs of the Zone have been paid or at the time of the expiration of this Agreement, any funds remaining in the Tax Increment Fund following the final annual accounting by the City shall be paid to each taxing unit participating in the Zone in proportion to each taxing unit's share of the total amount of the Tax Increment deposited into the Tax Increment Fund.

Furthermore, if the projects to be undertaken pursuant to the Final Plan are not undertaken, are discontinued, or are terminated, all monies remaining in the Tax Increment Fund after satisfaction of lawful claims, shall be paid to the participating taxing entities in proportion to their respective share of the total amount of Tax Increment deposited into the Tax Increment Fund derived from taxable real property in the Zone that were deposited in the Tax Increment.

7. RESPONSIBILITY FOR ACTS.

The City and the County shall each be responsible for the sole negligent acts of their officers, agents, or employees or separate contractors. In the event of joint and concurrent negligence of both the City and the County, responsibility, if any, shall be apportioned comparatively with the laws of the State of Texas, with the understanding that neither party waives any governmental powers or immunities or any other defenses available to each individually.

8. ADMINISTRATION OF AGREEMENT.

This Agreement shall be administered on behalf of the City by the City Manager's Office of the City, or his designee.

9. NOTICES.

All written notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party may subsequently designate in writing, by certified mail, postage prepaid, or by hand delivery:

CITY:

City of Saginaw
Attn: City Manager
Gabriel Reaume
333 West McLeroy Boulevard
Saginaw, TX 76179

COUNTY

Tarrant County
Attn: County Administrator
100 E Weatherford St.
Suite 404
Fort Worth, TX 76196

With copies to:

Bryn Meredith
City Attorney
333 West McLeroy Boulevard
Saginaw, TX 76179

or to such other address as either party may request, in writing, from time to time.

10. NO WAIVER.

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

11. VENUE AND JURISDICTION.

If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

12. NO THIRD PARTY RIGHTS.

The provisions and conditions of this Agreement are solely for the benefit of the City and the County and are not intended to create any rights, contractual or otherwise, to any person or entity.

13. FORCE MAJEURE.

The parties shall exercise every reasonable effort to meet their respective obligations as set forth in this Agreement, but shall not be held liable for any delay in or omission of performance due to force majeure or other causes beyond their reasonable control, including but not limited to, compliance with any government law, ordinance or regulation, acts of God, acts of omission, acts of terrorism, fires, strikes, lockouts, national disasters, wars, riots, material or labor restrictions, transportation problems and/or any other cause beyond reasonable control of either party.

14. INTERPRETATIONS.

In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement shall be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement.

15. CAPTIONS

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

16. ENTIRETY OF AGREEMENT/AMENDMENTS

This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and the County as to matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement. Notwithstanding anything to the contrary herein, this Agreement shall not be amended, modified, or supplemented unless executed in writing by both parties and approved by the County and the City Council of the City in an open meeting held in accordance with Chapter 551 of the Texas Government Code, as amended.

17. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

[Remainder of this page intentionally left blank.]

EXECUTED as of the later date below:

CITY OF SAGINAW, TEXAS

By: _____

Todd Flippo, Mayor

Date: _____

APPROVED AS TO FORM/LEGALITY:

By: _____

Bryn Meredith, City Attorney

ATTEST:

By: _____

Janice England, City Secretary

TARRANT COUNTY, TEXAS

By: _____

B. Glen Whitley, County Judge

Date: _____

APPROVED AS TO FORM

By: _____

Asst. Criminal District Attorney

ATTEST:

By: _____

Deputy County Clerk

COURT ORDER # _____

**By law, the Criminal District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval and should seek review and approval by their own respective attorney(s).*