

**FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN
THE CITY OF WACO AND McLENNAN COUNTY JUNIOR COLLEGE
DISTRICT FOR PARTICIPATION IN REINVESTMENT ZONE NUMBER ONE,
CITY OF WACO, TEXAS**

This **FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT** (hereinafter "Agreement") is entered into by and between **McLENNAN COUNTY JUNIOR COLLEGE DISTRICT**, (hereinafter "MCC") and the **CITY OF WACO** (hereinafter "City") on the date set forth below.

RECITALS:

WHEREAS, in accordance with the provisions of the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code (the "Act"), the City Council of Waco, Texas, pursuant to Ordinance No. 1982-54 (the "Ordinance") adopted on December 14, 1982, created, established, and designated Reinvestment Zone Number One, Waco, Texas (the "TIF Zone 1"); and

WHEREAS, on October 2, 2012, the City Council adopted Ordinance No. 2012-469 which extended the term of TIF Zone until December 31, 2032, pursuant to Texas Tax Code Section 311.007 ("First Extension"); and

WHEREAS, on February 13, 2013, MCC and the City entered into an interlocal agreement in connection with the First Extension in which each party agreed to contribute 100% of the taxes each levied on the increased value of taxable real property within the boundaries of the TIF Zone 1 into the tax increment fund for TIF Zone 1 until December 31, 2032; and

WHEREAS, on _____, 202__, the City Council adopted Ordinance No. 202_-__ which extended the term of TIF Zone 1 for an additional twenty years (until to December 31, 2051) pursuant to Texas Tax Code Section 311.007 ("Second Extension"); and

WHEREAS, with the Second Extension, the City also adopted an updated Project Plan and Financing Plan (collectively the "Plan") for TIF Zone 1 in substantially the form of the Plan attached hereto as **Exhibit "B"** and incorporated herein by reference; and

WHEREAS, the Act provides that each taxing unit levying taxes on real property in a reinvestment zone is not required to pay into the Tax Increment Fund any of its tax increment produced from property located in the reinvestment zone unless such taxing unit enters into an agreement to do so with the governing body of the municipality that created the reinvestment zone; and

WHEREAS, an agreement to participate in a reinvestment zone created under the Act may be entered into any time before or after the reinvestment zone is created, and

such agreement may include any conditions for payment of the tax increment into the Tax Increment Fund and must specify the portion of the tax increment to be paid into the Tax Increment Fund and the years for which that tax increment is to be paid into the Tax Increment Fund,

NOW, THEREFORE, the City and MCC in consideration of the terms, conditions, and covenants contained herein, hereby agree as follows:

Section 1. The City and MCC hereby agree to pay into the Tax Increment Fund established by the City for TIF Zone 1 a percentage of the ad valorem tax collections on the captured appraised value of real property in TIF Zone 1 as follows and subject to the following terms and conditions:

- a) **City of Waco.** The City hereby agrees to pay into the Tax Increment Fund, one hundred percent (100%) of the ad valorem tax collections on the captured appraised value of real property in TIF Zone 1 from the date TIF Zone 1 is established until December 31, 2052, or at an earlier time as provided in Sec. 311.017, Texas Tax Code.
- b) **MCC.** MCC hereby agrees to pay into the Tax Increment Fund:
 - 1. One hundred percent (100%) of the ad valorem tax collections on the captured appraised value of real property in TIF Zone 1 from the date TIF Zone 1 is established until December 31, 2022; and
 - 2. Fifty percent (50%) of the ad valorem tax collections on the captured appraised value of real property in TIF Zone 1 from January 1, 2023, until December 31, 2042, or at an earlier time as provided in Sec. 311.017, Texas Tax Code.
- c) **Boundary.** The boundaries of the TIF Zone 1 are and shall be those boundaries described as set forth in **Exhibit "A,"** attached hereto.
- d) **Purpose and Program.** Public improvements, public works, programs, or other projects benefiting TIF Zone 1 are to be constructed as nearly as possible in conformity with the Plan. Any additions, changes, revisions, or modifications to the Plan made after the date of this Agreement may only be made by the Board of Directors of TIF Zone 1 and the City Council of the City.
- e) **Appraised Value.** The Tax Increment Base in the areas of TIF Zone 1 shall be as previously determined by the McLennan County Tax Appraisal District.
- f) **Bond Limit.** The City Council of City of Waco shall authorize the total principal amounts of bonds or notes containing a pledge of the Tax Increment.

- g) **Use of TIF Funds.** All amounts paid into the Tax Increment Fund shall be used solely to pay or reimburse cash expenditures for project costs or the principal of and interest on any tax increment bonds or notes issued to finance project costs under the Act, and to pay direct costs properly chargeable under the Act and under generally accepted accounting principles to the administration of the Reinvestment Zone, all in accordance with the Plan.
- h) **Deposit of TIF Funds.** The City and MCC shall provide for the collection of its taxes in TIF Zone 1 as for any other property taxed by the City or MCC. Each participating taxing authority shall pay into the Tax Increment Fund an amount equal to the tax increment produced by the authority. The City shall invoice MCC not later than thirty (30) days after the delinquency date of property taxes in the Tax Increment Zone. Pursuant to the Act, (Section 311.013(c)) the City and MCC shall make payment to the Tax Increment Fund, pursuant to this agreement, not later than ninety (90) days after the delinquency date of property taxes in the Zone.
- i) **Limits of Obligation of MCC.** Except for payment to the Tax Increment Fund as specified in this Agreement of MCC ad valorem tax collections on the captured appraised value of real property in TIF Zone 1, and subject to the terms and conditions set forth herein, MCC shall have no obligation for any costs or expenses associated with the operation of TIF Zone 1, including, without limitation, any obligation to pay or repay any debt issued by the City, TIF Zone 1, or the Board of Directors of TIF Zone 1 relating to TIF Zone 1, or any costs associated with the operation of TIF Zone 1 or any projects relating thereto.
- j) **Expansion of Zone.** The obligation of MCC to participate in TIF Zone 1 is limited to the area described in Exhibit "A." MCC's participation does not extend to the tax increment on any additional property added to TIF Zone 1 by the City unless MCC specifically agrees to participate in the additional area.

Section 2. The City agrees that City bonds or tax increment bonds of the TIF Zone 1 will not be issued to finance projects contemplated in the Plan until (a) a final Plan has been prepared and adopted by the Board of Directors of TIF Zone 1 and approved by the City Council of City, and (b) the City has furnished documentation, evidence, and assurances satisfactory to the Board of Directors of TIF Zone 1 to the effect that funds necessary to support cash expenditures and/or the retirement of tax increment bonds will be available either from revenues of the Tax Increment Fund or from other funds provided by the City.

Section 3. The Plan attached hereto as **Exhibit "B"** is approved by MCC.

Section 4. This Agreement shall become effective as of the date of the final signature hereto and shall have the same termination date of TIF Zone 1 which is December 31, 2051.

Section 5. To the extent of their respective liabilities, City and MCC shall each be responsible for the sole negligent acts of their officers, agents, employees, or separate contractors. In the event of joint and concurrent negligence of both City and MCC, responsibility, if any shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City or MCC under Texas law and without waiving any defenses of the parties under Texas law.

Section 6. This agreement shall be administered on the City's behalf by the City Manager or his designees, and on the MCC's behalf by MCC's President or her designees.

Section 7. Whenever this Agreement requires or permits any consent, approval, notice, request, proposal, or demand from one party to another, the consent, approval, notice, request, proposal or demand must be in writing to be effective and shall be delivered to the party intended to receive it at the addresses show below:

If intended for the City, to:

City Manager's Office
Economic Development - TIF
P.O. Box 2570
Waco, Texas 76702-2570

If intended for MCC, to:

McLennan Community College
Attention: President
1400 College Drive
Waco, Texas 76708

Or such other addresses as the parties may request, in writing, from time to time.

Section 8. This Agreement shall be interpreted under Texas law, and venue for any legal action to interpret or enforce the provisions of this Agreement shall be exclusively in any court of competent jurisdiction in McLennan County, Texas.

Section 9. This Agreement embodies the complete understanding of City and MCC superseding all oral or written agreements between the parties relating to matters herein. This Agreement may be amended, modified, or supplemented only by a written instrument executed by City and MCC. Any alterations, additions or deletions to the terms of this Agreement incorporated into this Agreement without written amendment, and shall become effective on the date designated by such law or regulation.

Section 10. The provisions of this Agreement are severable and the invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision. It is the intention of the parties that each provision hereof be construed in a manner designed to effectuate the purposes of such provision to the maximum extent enforceable under applicable law.

Section 11. Failure of either party hereto to insist on the strict performance of any of the covenants or agreements herein contained or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

Section 12. No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees or agents as a result of its execution of this Agreement and performance of the covenants contained herein.

Section 13. This Agreement may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile or electronic transmission (including email transmission of a PDF image) shall be deemed to be an original signature hereto.

Executed this the ____ day of _____, 20____, by the City, signing by and through its City Manager, approved on _____, 2022 by Resolution No. 2022_____, and by the _____ day of _____, 20____, by the MCC through its duly authorized officials by approval at a duly called and noticed MCC Board of Trustees meeting on _____, 20_____.

(signature block on the next page)

McLENNAN COMMUNITY COLLEGE

By: _____
Dr. Johnette McKown, President

ATTEST:

CITY OF WACO, TEXAS

By: _____
Bradley Ford, City Manager

ATTEST:

Esmeralda Hudson, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jennifer Richie, City Attorney

Exhibit “A”

Map of Reinvestment Zone Number Four, Waco, Texas

Exhibit “B”

**Project Plan and Financing Plan for Reinvestment Zone Number Four, Waco,
Texas**