

AMENDED AND RESTATED INTERLOCAL AGREEMENT

I. PARTIES

A. THIS AMENDED AND RESTATED INTERLOCAL AGREEMENT (this “Agreement”) is made as of _____, 2020 (the “Effective Date”) among the **CITY OF SCHERTZ, TEXAS**, a Texas home rule municipality (the “City”), acting through its City Manager pursuant to Resolution No. _____, passed and approved by the City Council of the City on _____, 2020; **BEXAR COUNTY, TEXAS**, a political subdivision of the State of Texas, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on _____, 2020 (the “County”); **SAN ANTONIO RIVER AUTHORITY**, a Texas river authority, acting through its executive director pursuant to a resolution of its Board of Directors dated _____, 2020 (the “Authority”); and **REINVESTMENT ZONE NUMBER TWO, CITY OF SCHERTZ, TEXAS**, a reinvestment zone created by the City pursuant to Chapter 311 of the Texas Tax Code (the “Zone”), acting through its duly authorized Board of Directors (the “Zone Board”) pursuant to a resolution dated _____, 2020. The City, the County, the Authority, and the Zone may be referred to singularly as a “Party” or collectively as “Parties”. This Agreement is made pursuant to Chapter 311 of the Texas Tax Code (as may be amended from time to time, the “Code”) for the participation of the parties in the CROSSVINE DEVELOPMENT PROJECT (the “Project”).

B. The initial addresses of the Parties are listed below. Each Party may designate a different address by giving the other Parties at least ten (10) days prior written notice.

CITY

City Manager
City of Schertz
1400 Schertz Parkway
Schertz, Texas 78154

COUNTY

County Judge
Bexar County Courthouse
100 Dolorosa Street, #1.20
San Antonio, Texas 78205

AUTHORITY

General Manager
San Antonio River Authority
100 East Guenther Street
San Antonio, Texas 78204

ZONE

Chair, Reinvestment Zone Number Two
City of Schertz, Texas
c/o City of Schertz
1400 Schertz Parkway
Schertz, Texas 78154

II. DEFINITIONS

A. As used in this Agreement, the following terms shall have the meanings set out below:

1. “Administrative Costs” means reasonable costs directly incurred by a “Participating Taxing Entity” (as hereinafter defined) related to its agreement to participate in the

development and administration of the Zone, as described in this Agreement. These costs include, but are not limited to, reasonable costs and expenses for legal review and financial analysis related to the Zone incurred prior to entering into this Agreement, as well as any such costs and expenses incurred after this Agreement becomes effective.

2. “Captured Appraised Value” means the captured appraised value of the Zone, as defined by Section 311.012(b) of the Code.

3. “Construction Schedule” means the schedule contained in the “Development Agreement” (as hereinafter defined) incorporated into this document in its entirety by reference, for the construction of all components of the Project, which may be amended from time to time by the Developer, the County, the Zone Board and City.

4. “Developer” means Schertz 1518 Ltd., a Texas limited partnership.

5. “Development Agreement” means the Development Agreement of even date herewith by and among the City, the County, the Zone and the Developer as more fully described in Section V(D), and as the same may be amended from time to time.

6. “Participating Taxing Unit” or “Participating Taxing Units” means, singularly, a taxing unit as defined by Section 311.002(4) of the Code, that is participating in the Zone, and collectively, all taxing units participating in the Zone which includes the City, the County, and the Authority. The County, as a Participating Tax Unit, shall not include the Bexar County Flood Control District or the Bexar County Hospital d/b/ University Health System.

7. “Project Costs” means the items set forth and described in Section 311.002(1) of the Code, which are included in the amended Project and Financing Plan for the Project. The Project Costs include public infrastructure improvements and related capital costs including streets, drainage, utilities, platting fees, architect, legal and engineering fees, sidewalks, landscaping, rights-of-way, and area-wide public improvements, maintenance costs paid by Developer, and administrative costs. The total reimbursable Project Costs for public improvements (exclusive of financing costs or interests but including administrative costs) shall in no case exceed SIXTY-SIX MILLION and NO/100 Dollars (\$66,000,000.00) in the aggregate for the life of the Zone.

8. “Project and Financing Plan” means the amended Final Project Plan and Reinvestment Zone Financing Plan for the Zone, completed in accordance with Section 311.011 of the Code and attached hereto as **Exhibit “B”** as adopted by the Zone Board on _____, 2020 and approved by the City pursuant to Ordinance No. _____ on _____, 2020.

9. “Tax Increment” means the total amount of ad valorem taxes levied and collected each year by a Participating Taxing Unit on the Captured Appraised Value of taxable real property in the Zone. Further, with respect to the County, this term means the total amount of ad valorem taxes levied and collected only on behalf of the County each year for maintenance and operations purposes.

10. “Tax Increment Base” means the total appraised value of all real property taxable by a Participating Taxing Unit and located in the Zone as of January 1, 2006, the year in which the Zone was originally designated and the appraised value of any real property taxable by a Participating Tax Unit and added to the Zone after January 1, 2006 as of the date of its acquisition by Developer.

11. “Tax Increment Fund” means the tax increment fund originally created by the City via Ordinance No. 06-T-61 on December 19, 2006, and amended by Ordinance No. _____ on _____, 2020, pursuant to Section 311.014 of the Code for the deposit of Tax Increments for the Zone, entitled “Reinvestment Zone Number Two, City of Schertz, Texas Tax Increment Fund”.

12. “Tax Increment Payment” means the amount of the Tax Increment that a Participating Taxing Unit agrees to deposit annually into the Tax Increment Fund in accordance with this Agreement and the Project and Financing Plan.

13. The “Zone” means Reinvestment Zone Number Two, City of Schertz, Texas, originally created by the City to encompass the boundaries of the Project on December 19, 2006, by Ordinance No. 06-T-61, and amended by Ordinance No. _____ on _____, 2020, a copy of which is attached as **Exhibit “A”** hereto.

14. “Zone Board” consists of the individuals appointed to serve on the Board of Directors for the Zone pursuant to Section 311.0091(c) of the Code, Ordinance No. _____, and the Bylaws of the Zone Board.

B. Any other term to which meaning is expressly given in this Agreement, shall have such meaning.

III. BACKGROUND

A. By Resolution No. 05-R-20, passed and approved by the City on December 6, 2005, the City expressed its intent to create a tax increment reinvestment zone to support the revitalization activities commonly known as the Sedona Development Project, pursuant to Chapter 311 of the Code. On December 19, 2006, the City Council of the City passed and approved Ordinance No. 06-T-61, which originally created the Zone.

B. The Zone Board adopted the original Project and Financing Plan on October 27, 2008. The City approved the Project and Financing Plan on November 4, 2008. The Tax Increment Fund was originally authorized by City Ordinance No. 06-T-61.

C. Soon after the commencement of the Zone and the Project therein, there occurred a national economic crisis that was particularly devastating to the real estate and home-building industry. Control of the Project transferred to new ownership, who worked with the City to redesign the entire outlook and scope of the Project. Following a revised Planned Development District (“PDD”) for the Project in 2011, Developer sought to amend the scope of the original Zone

by expanding the property boundary, the length of the approved Zone, and the maximum amount of reimbursable Project Costs for public improvements. On _____, 2020, the City adopted Ordinance No. _____, which amended and expanded the original Zone.

D. There are approximately 151.16 acres of property within the Zone located within the Air Installation Compatible Use Zone, Accident Potential Zone II (the “AICUZ Development Area”) that was originally zoned and available for development of two (2) lots per acre for a total planned development in the AICUZ Development Area of 302 lots. As part of amending the Project, and at the request of the City and Joint Base San Antonio, the Developer voluntarily agreed not to develop the AICUZ Development Area and it has since been permanently dedicated as a conservation easement.

E. The Zone Board adopted an amended Project and Financing Plan on _____, 2020, to reflect the amended and expanded scope of the Project, and the City adopted the such Plan on _____, 2020, via Ordinance No. _____.

F. The Parties agree that no tax-supported public debt instrument will be issued by a Participating Taxing Unit or the Zone to finance any costs or improvements on the Project.

G. Intentionally Deleted.

H. Under this Agreement, the Participating Taxing Units agree, pursuant to Section 311.013(f) of the Code, to participate in the Zone, and to deposit their respective Tax Increment Payments into the Tax Increment Fund, in accordance with the terms, and in consideration for the agreements set forth herein and in the Project and Financing Plan.

IV. RIGHTS AND OBLIGATIONS OF PARTICIPATING TAXING UNITS

A. Tax Increment Participation by Participating Taxing Units

1. Subject to the limitations set out in this Agreement, each Participating Taxing Unit agrees to continue participation in the Zone by contributing to the Tax Increment Fund in the following percentages of their respective Tax Increments each year during the term of this Agreement:

City: One hundred percent (100%) up to a maximum of Forty-Seven Million, One Hundred Ninety Thousand Dollars (\$47,190,000) (“City Cap”)

County: Fifty-eight percent (58%) of the maintenance and operation portion of the County’s general fund tax through tax year 2019; thereafter, starting in tax year 2020, Eighty percent (80%) of the maintenance and operation portion of the County’s general fund tax, in total, up to a maximum of Seventeen Million, Eight Hundred Twenty Thousand Dollars (\$17,820,000) (“County Cap”)

Authority: Fifty-five percent (55%) up to a maximum of Nine Hundred Ninety Thousand Dollars (\$990,000) (“Authority Cap”)

The Participating Taxing Units' combined total Tax Increment Payment to the Tax Increment Fund over the term of the Zone shall not exceed SIXTY-SIX MILLION and NO/100 Dollars (\$66,000,000) in the aggregate ("Maximum Total Contribution").

2. The Parties agree that the Participating Taxing Units' contribution to the Tax Increment Fund has been used and shall continue to be used to fund public infrastructure improvements to support the development and revitalization efforts in the Zone, including related Project Costs associated with the Project. The Participating Taxing Units' contributions to the Tax Increment Fund shall end when the Tax Increment Fund has reimbursed the Developer for the Maximum Total Contribution provided for herein, when the Participating Taxing Units have made contributions, as specified in the Project and Financing Plan, from taxes imposed through the end of calendar year 2041, or pursuant to Section VI of this Agreement, whichever occurs first. Notwithstanding anything herein to the contrary, the total City Tax Increment Payments to the Tax Increment Fund shall not exceed the City Cap, the total County Tax Increment Payments to the Tax Increment Fund shall not exceed the County Cap, and the total Authority Tax Increment Payments to the Tax Increment Fund shall not exceed the Authority Cap. The Participating Taxing Units shall pay over to the Zone the Tax Increment collected for and allocable to the calendar year 2041 in subsequent calendar years as provided herein, in the Amended Development Agreement, and in the Amended Project Financing Plan.

B. Tax Increment Payment

1. Each Participating Taxing Unit's obligation to contribute its Tax Increment Payment to the Tax Increment Fund, as provided in Section IV(A)(1) of this Agreement, shall accrue as each Participating Taxing Unit collects its Tax Increment. The Parties agree that all real property taxes collected each year by each Participating Taxing Unit that are attributable to real property in the Zone shall first constitute taxes on the Tax Increment Base, and after the total amount of taxes on the Tax Increment Base have been collected shall then constitute the Tax Increment. Each Participating Taxing Unit agrees to deposit its Tax Increment Payments to the Tax Increment Fund no later than the thirtieth (30th) day of January (or the first business day thereafter) of each calendar year for tax payments from the preceding calendar year, commencing on the first of such dates after the Effective Date. Each Participating Taxing Unit will deposit its Tax Increment Payment from the 2020 tax year, if any, as soon as reasonably practical following the Effective Date, as well as any remaining Tax Increment Payment from the 2019 tax year that remained unpaid prior to the Effective Date. The Parties agree that the Participating Taxing Units' obligation to deposit Tax Increment Payments after December 31, 2041, shall only be for taxes collected and received after such date that are attributable to the time period during which the Participating Taxing Units agreed to participate. Under no circumstances shall the Participating Taxing Unit be required to participate in the Zone Board or the Zone after December 31, 2041, except to the extent of making deposits as provided in the preceding sentence.

2. At least two weeks before the deposits are due to the Tax Increment Fund (i.e. by January 16th of each applicable year), the Zone Board will make all reasonable efforts to provide the Participating Taxing Units with an updated fact sheet that describes what portion of the Project has been completed to date, a schedule of what portion of the Project is anticipated to be completed

in the following year and a current roster of the Zone Board members, including the term of each Zone Board member, the entity that appointed each Zone Board member, and the date for the next Zone Board meeting, if known. The updated fact sheet may also include a statement of Tax Increment Fund activity, including a summary of the requests for reimbursements that have been submitted to the Zone Board by the Developer, Zone Board approved reimbursement payments, payments not approved by the Zone Board, the outstanding balance of approved but unpaid payments due to the Developer, and, when the Maximum Total Contribution has been reached, the prorated balance due to each Participating Taxing Unit from funds remaining in the Tax Increment Fund, if any, according to the distribution specified in Section 311.014(d) of the Code. These reporting requirements are in addition to, and do not take the place of, the annual report required to be made to the Participating Taxing Units under Section 311.016 of the Code.

3. In the event there is a conflict between the Parties in regard to the amount of the Tax Increment owed by any one Participating Taxing Unit, the Parties agree that the Participating Taxing Unit whose Tax Increment is disputed will make a reasonable determination as to the amount of Tax Increment owed by it under this Agreement and that Participating Taxing Unit will be responsible for reasonably determining which tax collections will be apportioned for purposes of determining its Tax Increment. The annual Total Appraised Value of all real property taxable by each Participating Taxing Unit located in the Zone shall be determined through an independent third-party verification obtained from the Bexar County Appraisal District. Each Participating Taxing Unit will verify taxes levied and collected in regard to the property contained within the Zone.

4. The Parties expressly agree that the Participating Taxing Units shall not owe any penalty or interest on Tax Increments that have been levied, but not received. In addition, no Participating Taxing Unit shall be obligated to contribute its Tax Increment Payment from any non-Tax Increment revenue sources.

5. Except for contributing its respective Tax Increment Payments to the Tax Increment Fund as set out in this Agreement, the Participating Taxing Units shall not have any obligation or responsibility for any costs or expenses associated with the development of the Zone or the implementation of the Project and Financing Plan, including, without limitation, any obligation to pay or repay any debt issued by another Participating Taxing Unit, the Zone, or the Zone Board relating to the Zone or any costs associated with the operation of the Zone, the Project, or any other projects relating thereto.

6. Any and all costs incurred by the Developer are not, and shall never become, general obligations or debt of any Participating Taxing Unit. The eligible public improvement infrastructure costs incurred by the Developer shall be payable solely from the Tax Increment Fund in the manner and priority provided in this Agreement to the extent that Tax Increment becomes available. The Parties agree and understand that under no circumstance shall repayment of the eligible costs exceed the Maximum Total Contribution. The Participating Taxing Units are not obligated above and beyond what is actually collected as Tax Increment. There shall also be no recourse against any Participating Taxing Unit, any public official, the Zone, or the Zone Board if all or part of the Developer contributions or costs are not reimbursed. It is recognized by the Zone Board, the Participating Taxing Units, and the Developer that the Project and Financing Plan does

not forecast sufficient Tax Increment revenues to reimburse the Developer for all of its estimated contributions or costs inclusive of financing costs and interest.

7. The County acknowledges its obligation under this Agreement and the Development Agreement to contribute its Tax Increment Payment. However, the County shall not be obligated to continue to deposit its Tax Increment Payment to the Tax Increment Fund in the event that a Participating Taxing Unit other than the County discontinues its required contribution (except as otherwise agreed to in this Agreement) or fails to contribute its agreed-to percentage contribution to the Tax Increment Fund during the term of this Agreement unless the discontinuance is in compliance with and authorized by a written amendment to this Agreement.

C. Financing of Project Costs

Each Participating Taxing Unit shall participate in the payment of Project Costs only to the extent described herein. The City and the Zone Board shall be entitled to enter into any other agreements to pay Project Costs and other reasonable expenses from the Tax Increments paid into the Tax Increment Fund by the City without the consent of any other Participating Taxing Unit, but will provide written notice of such agreement(s) to each Participating Taxing Unit (and copies of such agreements, upon request). However, except as provided herein, neither the Zone Board nor the City shall ever use any Tax Increment Payments contributed by a Participating Taxing Unit, to make payments on bonds, obligations, or other debt instruments without the prior written authorization by and consent of the Participating Taxing Unit.

D. Disbursement of Funds in the Tax Increment Fund

1. Each Taxing Unit agrees that the City shall administer the Tax Increment Fund on behalf of the Zone Board. No funds shall be disbursed from the Tax Increment Fund without the prior written approval of the Zone Board and the City Manager of the City. Notwithstanding the above, the Zone Board and the City shall release to the County any Tax Increment in the Tax Increment Fund that has been contributed by the County upon the County's demand to reclaim funds pursuant to Article VI of this Agreement and Article XII of the Development Agreement.

2. The Parties recognize that the Participating Taxing Units and the Zone Board may, to the extent funds are available in the Tax Increment Fund and to the extent allowed by law, use such funds to reimburse each Participating Taxing Unit for its Administrative Costs if a Participating Taxing Unit includes an invoice detailing its Administrative costs with its request to the Zone Board for reimbursement. If it is determined during the term of this Agreement that reimbursement of Administrative Costs is not allowed under law, the Parties agree that the Zone Board shall set the amount each Participating Taxing Unit may withhold as Administrative Costs from their respective Tax Increment Payment based on the best evidence available to the Zone Board to make such projections including, but not limited to, invoices reflecting Administrative Costs incurred by the Participating Taxing Unit and historical data of actual Administrative Costs of the Project incurred by the Participating Taxing Unit.

3. The Parties recognize that, in addition to Project Costs and any other allowable costs, the City and the Zone Board have represented that they may use funds in the Tax Increment

Fund to pay expenditures in the following order or priority of payment: (i) to reimburse eligible initial startup Administrative Costs incurred by each Participating Taxing Unit until such amounts have been paid in full; (ii) to reimburse the City for its financial and legal advisor fees until the full amount has been paid, provided that this portion of the reimbursement must come only from Tax Increment contributed by the City; (iii) pursuant to Section VI(B) of this Agreement; (iv) to pay all other ongoing Administrative Costs of the Participating Taxing Units, except that if there are insufficient funds for the full reimbursement of Administrative Costs to each Participating Taxing Unit, then the Administrative Costs of each Participating Taxing Unit shall be reimbursed on a pro rata basis based on each participating Taxing Unit's level of participation in the Zone; and (v) to reimburse the Developer for public improvements, including financing costs, as provided in the Development Agreement referred to in Section V(D) and in the Project and Financing Plan to the extent that funds in the Tax Increment Fund are available for this purpose. The foregoing notwithstanding, no funds will be paid from the Tax Increment Fund to a Participating Taxing Unit for its financial or legal services in any dispute arising under this Agreement with another Participating Taxing Unit or Participating Taxing Units.

E. School District

1. The Participating Taxing Units understand that the Project is located in the Schertz-Cibolo-Universal City Independent School District and that the Schertz-Cibolo-Universal City Independent School District will not participate in the Zone or any Tax Increment Payments.

F. Management of Zone

1. The City is the only Participating Taxing Unit with any responsibility for managing or administering the Zone. The Participating Tax Units, during the term of this Agreement, may inspect the Project site and review Project plans and drawings at times and intervals which will not interfere with ongoing operations. The City shall keep the other Participating Taxing Units informed of Zone Board meetings and amendments to documents relating to the Zone (including the Project and Financing Plan).

2. The Zone Board, as of the Effective Date, shall be composed of eleven (11) members, as provided under Section 311.0091(c) of the Code. The Participating Taxing Units shall appoint the following number of members to the Zone Board: the City, six (6); the County, two (2); and the Authority, one (1). The State Senator and State Representative for the area in which the Zone is located, or their delegates, are also members of the Zone Board.

G. Expansion of Zone

The obligation of the Participating Taxing Units to participate in the Zone is limited to the description of the Zone in the Project and Financing Plan and Ordinance Nos. _____ and _____ attached hereto. The Participating Taxing Units' participation shall not extend to the Tax Increment on any additional real property added to the Zone by the City unless the Participating Taxing Units approve such participation in writing.

V. ADDITIONAL REPRESENTATIONS AND AGREEMENTS

A. Zone Designation

The City represents that its designation of the Zone met the criteria of Section 311.005(a) of the Code upon its original creation and that the Zone has continued to remain in compliance with the Code up to the Effective Date.

B. Project and Financing Plan

The Participating Taxing Units acknowledge that they were permitted to review the amended Project and Financing Plan before City Council considered it for City approval. The Parties agree an amendment to the Project and Financing Plan shall not apply to the Participating Taxing Units unless all Participating Taxing Units approve the amendment as provided herein if such amendment to the Project and Financing Plan has the effect of directly or indirectly: 1) increasing the agreed percentage to be contributed by the Participating Taxing Units to the Tax Increment Fund; or 2) exceeding the City Cap, the County Cap or the Authority Cap.

C. Access to Financial Information

1. Each Party shall have reasonable access to financial information and audit reports regarding the operation of the Zone, contribution of Tax Increment Payments to the Tax Increment Fund, and expenditures from the Tax Increment Fund for Project Costs. In addition, the City agrees, during the term of this Agreement, to prepare and deliver an annual report to the Participating Taxing Units in accordance with Section 311.016 of the Code.

2. The Zone Board shall conduct or cause to be conducted an annual audit, a copy of which shall be provided to each Participating Taxing Unit.

D. Development Agreement

The City, the County, the Zone and the Developer have entered into a written Development Agreement (the "Development Agreement") related to the Project and the development of the Zone, a copy of which is attached hereto and incorporated herein as **Exhibit "C"**. The City hereby represents that it will enforce the provisions of the Development Agreement, as required, including, to the extent contained in the Development Agreement, the Developer's compliance with (i) all applicable building codes and ordinances, including but not limited to the terms and requirements of the PDD governing the Zone, flood, subdivision, building, electrical, plumbing, fire, and life safety codes and ordinances, as amended; (ii) all applicable federal, state, and local laws, rules, regulations, statutes, ordinances, orders, and codes, as amended; and (iii) the same competitive bidding procedures that would be required of the City if it were awarding contracts for constructing the public infrastructure improvements. The City, the County, and the Zone Board agree to provide all Participating Taxing Units with a copy of any notice of default that is delivered or sent to any party under the Development Agreement within five (5) business days after receipt of the notice by the City, the County, or the Zone Board.

VI. TERM AND TERMINATION

A. Agreement Term and Termination

This Agreement shall become effective as of the Effective Date, and shall remain in effect until December 31, 2041, unless earlier terminated as provided herein (the “Agreement Term”). Provided, however, the Zone shall remain in place and effective until such time as the tax disbursements associated with the 2041 tax year have been made.

B. Early Termination

1. Neither the City nor the Zone Board shall take any action to terminate the Zone earlier than the duration of the Zone as specified herein, except that they may terminate the Zone if the Developer (a) ceases to undertake said improvements as set out in the Development Agreement, or (b) fails for two (2) full years or more to (i) cause construction activities to commence on any new homes in the Project (but only if Developer has not previously completed 750 homes in the Project); or (ii) make any public infrastructure improvements that qualify as Project Costs, as defined in Section 311.002(1) of the Code (but only if the Developer has not previously made all of the public improvements characterized as “Development-Wide Public Improvements” as set forth and required in the Project and Financing Plan).

2. Pursuant to Article XI of the Development Agreement, the City may terminate the Zone for any of the uncured default conditions listed in the Development Agreement. The termination of the Development Agreement also terminates this Agreement.

3. After giving any required notice, with subsequent failure to cure as provided for below, the County may terminate its participation in the Zone and shall not be required to deposit any further Tax Increment Payment into the Tax increment Fund as required by this Agreement if: (1) a Party breaches a term, covenant, condition or representation contained in this Agreement; (2) the County determines that a breach of a term, covenant, condition or representation contained in the Development Agreement has occurred, including an “Event of Default” as defined therein; (3) the City and/or Zone Board declares that a breach of a term, covenant, condition or representation contained in the Development Agreement has occurred, including an “Event of Default” as defined therein; (4) pursuant to Section IV(B)(7) of this Agreement; or (5) a party to this Agreement or the Development Agreement initiates, pursues or otherwise engages in litigation or any type of adversarial proceeding related to the Zone and against or involving the County. Prior to terminating its participation in the Zone, the County shall provide written notice to the Developer, the Zone Board and any other Participating Taxing Unit still contributing Tax increment Payments, stating its intent to terminate its participating in the Zone and detailing its objection(s) or concern(s). If the objection and/or concern as set out in the County’s notice is not resolved within ninety (90) business days from the date of such notice, then the County may terminate its participation in the Zone. All Parties acknowledge that the County may seek repayment from the Developer of Tax Increment contributed by the County pursuant to Article XII of the Development Agreement, and in the amounts set forth therein, in the event of an uncured Developer breach or, to the extent any County Tax Increment remains in the Tax Increment Fund, from the Tax Increment Fund.

C. Disposition of Tax Increments

Upon expiration or termination of the Zone, any money remaining in the Tax Increment Fund shall be paid to the Participating Taxing Units on a pro rata basis in accordance with Section 311.014(d) of the Code.

VII. MISCELLANEOUS

A. Incorporation of Exhibits

The exhibits attached hereto are incorporated into this Agreement for all purposes.

B. Understanding

Any and all costs incurred by the Developer are not, and shall never, become general obligations or debts of any Participating Taxing Entity. The eligible public improvement infrastructure costs incurred by Developer shall be payable solely from the Tax Increment Fund in the manner and priority provided in this Agreement and only to the extent that tax increment funds become available. The Parties agree and understand that under no circumstance shall the eligible costs reimbursed exceed the Maximum Total Contribution. The Parties further agree that the City's contribution to the Tax Increment Fund shall not exceed the City Cap, the County's contribution to the Tax Increment Fund shall not exceed the County Cap, and the Authority's contribution to the Tax Increment Fund shall not exceed the Authority Cap. No Participating Taxing Entity shall be obligated above and beyond what is actually collected as tax increment funds. The City and the Board each represent that the Developer understands and agrees that the Project Plan does not forecast sufficient tax revenues in the Tax Increment Fund to reimburse the Developer for all its estimated contributions or costs.

C. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties as to the subject matter hereof. There are no other agreements, assurances, conditions, covenants (express or implied), or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

D. Written Amendment

This Agreement may be changed or amended only by a written instrument authorized and duly executed on behalf of each Party.

E. Severability

1. 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

any Party hereto in its respective rights and obligations contained in the valid terms, covenants, or conditions hereof.

2. In the event any term, covenant, or condition shall be held invalid and said invalidity substantially impairs a material right of the County, then the County shall have no further obligation to contribute any future Tax Increment Payments to the Tax Increment Fund. In such situation, the Parties hereto agree that the Tax Increment Fund shall not refund any prior Tax Increment Payments from the County under this provision of this Agreement.

F. Non-Waiver

Failure of any Party hereto to insist on the strict performance of any of the agreements herein 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.

G. Successors

This Agreement shall bind and benefit the Parties and their legal successors. This Agreement does not create any personal liability on the part of any trustee, officer, employee, elected official, or agent of any Party to this Agreement.

H. Assignment

Except for the City's right to assign and delegate this Agreement and the performance of obligations to the Zone Board, no Party shall assign this Agreement at law or otherwise without the prior written consent of the other Parties, and no Party shall delegate any portion of its performance under this Agreement without the prior written consent of the other Parties.

I. No Waiver of Immunity

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

J. Attorney's Fees

Each Party shall bear its own costs, including, but not limited to, attorneys' fees, for any action at law or in equity brought to enforce or interpret the provisions of this Agreement.

K. Notices

All notices required or permitted hereunder shall be in writing and shall be deemed delivered the earlier of (i) when actually received; or (ii) on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail,

return receipt requested) addressed to the respective other Party at the address prescribed in Section I(B) of this Agreement, or at such other address as the one Party may have theretofore prescribed by notice to the other Parties in accordance with Section I(B). Copies of any notices shall be sent to the following:

FOR CITY OR ZONE

Denton, Navarro, Rocha, Bernal & Zech
2517 N. Main Ave.
San Antonio, Texas 78212
Attn: Daniel Santee

FOR COUNTY

Bexar County Criminal District
Attorney's Office-Civil Section
Criminal Justice Center
300 Dolorosa Street
San Antonio, Texas 78205
Re: Crossvine TIRZ

FOR AUTHORITY

Allison Elder
100 E. Guenther
San Antonio, Texas 78204

L. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same instrument.

[Signatures of Parties on Next Page]

IN WITNESS HEREOF, THE CITY OF SCHERTZ, TEXAS; BEXAR COUNTY, TEXAS; SAN ANTONIO RIVER AUTHORITY; and REINVESTMENT ZONE NUMBER TWO, CITY OF SCHERTZ, TEXAS have entered this Agreement in multiple originals as of the Effective Date.

CITY OF SCHERTZ, TEXAS

SAN ANTONIO RIVER AUTHORITY

Mark Browne
City Manager

Suzanne B. Scott
General Manager

APPROVED AS TO FORM:

Daniel Santee
City Attorney

**REINVESTMENT ZONE NUMBER TWO
CITY OF SCHERTZ, TEXAS**

Chair, Board of Directors

[Signatures continued on next page]

COUNTY
BEXAR COUNTY, TEXAS

APPROVED AS TO FINANCIAL CONSENT
BY BEXAR COUNTY, TEXAS

Nelson W. Wolff
County Judge

_____, Budget Officer and
Executive Director of Planning and
Resource Management

ATTEST/SEAL

Lucy Adame-Clark
County Clerk

County Auditor

APPROVED AS TO LEGAL FORM

Joe Gonzales
Bexar County Criminal District Attorney

By: _____

Assistant Criminal District Attorney

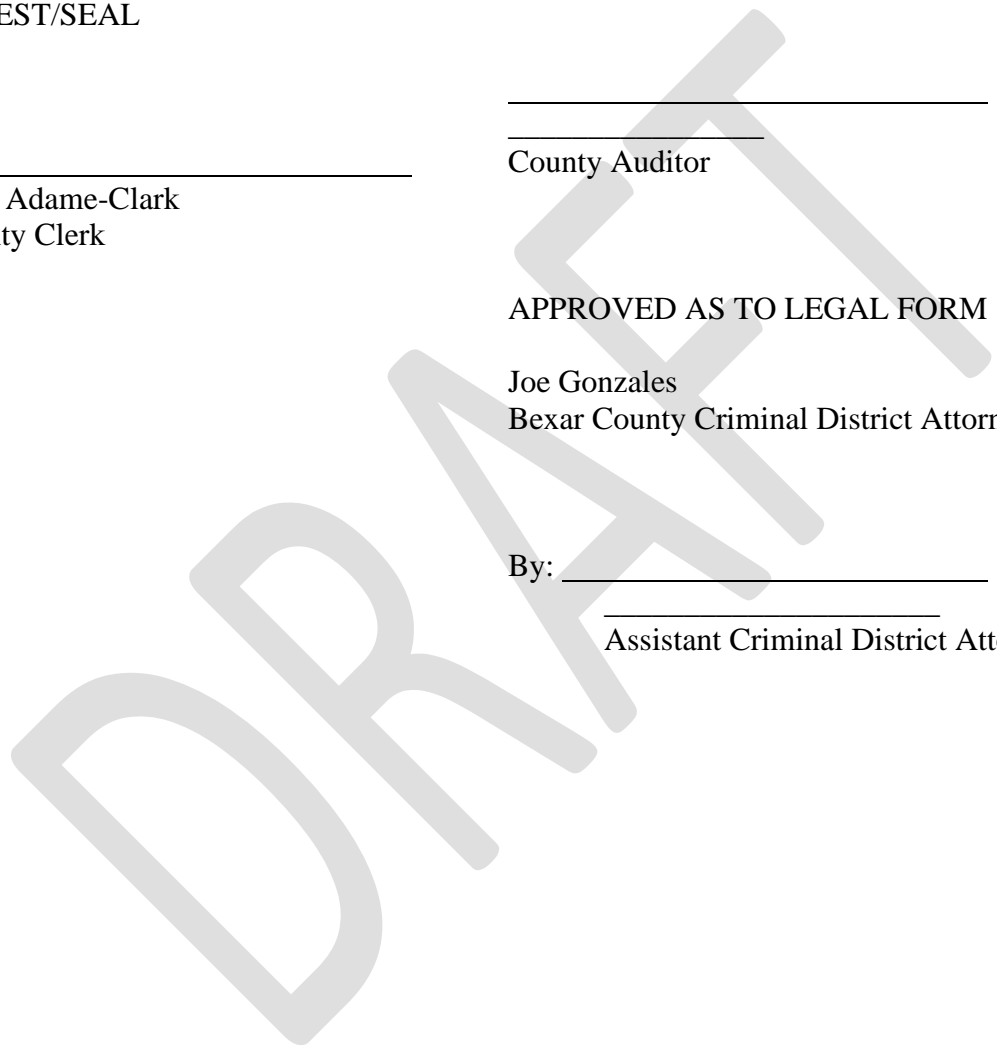


EXHIBIT A

Zone Designation Ordinance

[See attached City of Schertz Ordinance No. _____]

DRAFT

EXHIBIT B

Project and Financing Plan

*[See attached amended Final Project Plan and Reinvestment Zone
Financing Plan for Reinvestment Zone Number Two, City of Schertz, Texas]*

DRAFT