

STATE OF TEXAS §

COUNTY OF BRAZOS §

**INTERLOCAL AGREEMENT BETWEEN
CITY OF BRYAN, TEXAS
BRAZOS COUNTY, TEXAS; AND
CITY OF BRYAN AND BRAZOS COUNTY ECONOMIC DEVELOPMENT
FOUNDATION, INC.**

THIS INTERLOCAL AGREEMENT is entered into by and between the City of Bryan (“City”), a Texas home-rule municipal corporation, Brazos County (“County”), a political subdivision of the State of Texas, and the City of Bryan and Brazos County Economic Development Foundation, Inc. (“BBCEDF”), a Texas Transportation Code local government corporation (“Agreement”), and is effective for all purposes as of October 1, 2016 (“Effective Date”).

WHEREAS, the respective participating governments (the “Parties”) are authorized by the Interlocal Cooperation Act, GOV’T CODE Chapter 791, to enter into an agreement for to administer a program for local economic development; and

WHEREAS, in 2009, the City coordinated with the County with regards to the creation of the BBCEDF for the purpose of promoting the development of an industrial park in an unincorporated area of Brazos County, just outside the city limits; and

WHEREAS, the City and the County have shared equally in the responsibilities associated with the formation, operation, and funding of the BBCEDF; and

WHEREAS, the BBCEDF entered into several contracts for the purchase of real estate that will be developed, marketed, and governed as the Texas Triangle Industrial Park and Inland Port (“Park”); and

WHEREAS, the County wishes to contract with BBCEDF as its agent pursuant to TEX. GOV’T CODE § 381.004 to administer the County’s program for local economic development in the Park; and

WHEREAS, the City wishes to contract with BBCEDF as its agent pursuant to TEX. GOV’T CODE § 380.001 to administer the City’s program for local economic development in the Park; and

WHEREAS, the BBCEDF has contracted with various vendors to provide services related to the development, marketing, and sale of the land in the Park, and has incurred other operational expenses set forth in its annual budget; and

WHEREAS, the City and the County have determined that it is in the best interests of their citizens that the BBCEDF be supported in the development of Park because the economic

impact of new jobs, increased property value, and additional utility revenue will benefit the local economy; and

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

A. Annual Budget

1. BBCEDF adopts an annual budget showing reasonably anticipated revenue and expenses for each year. The annual budget is provides funding for the ongoing operations of the BBCEDF.
2. Once a budget has been approved by the BBCEDF Board of directors it will be submitted to the Brazos County Commissioner's Court and the Bryan City Council for review and approval. The City and County agree to make an annual lump sum payment sufficient to cover respective portions of the Operational Costs from the annual budget within thirty (30) days following approval of the budget by both governing bodies. Each governmental entity's obligation to make a payment is conditional upon the approval of the budget by the governing body of each governmental entity.

B. Funding

3. The City agrees to fund an amount not to exceed \$163,911.00 and the County agrees to fund an amount not to exceed \$163,911.00 to satisfy their respective obligations under this Agreement.

C. Operational Costs

4. The BBCEDF budget will include the operational costs associated with the maintenance, development, and marketing of the Park. The operational budget may be offset by any grants, gifts, interest income, or other unencumbered revenue received by the BBCEDF. The operational cost budget for the 2017 Fiscal year totals \$327,822.00
5. The City and the County will each be required to pay fifty percent (50%) of the operational costs of the BBCEDF which are not offset by grants, gifts, interest income, or other unencumbered revenue. The City and the County will tender this payment within thirty (30) days of the execution of this Agreement by all parties.

D. Repayment Terms

6. The amounts funded by the City and the County to the BBCEDF constitute a loan of funds to be repaid by the unencumbered proceeds of future land sales (or other revenue of the BBCEDF). In accordance with the terms of the BBCEDF By-laws, the entities that created the BBCEDF are entitled to an equal share of the revenue of the BBCEDF. The BBCEDF agrees there shall be no further encumbrance of future revenues without getting the express approval of the governing bodies of the City and the County. In the event City or County

constructs public infrastructure, or pays or reimburses the cost of construction of public infrastructure, as an incentive or inducement to a purchaser or developer of land in the Park, such cost borne or paid by City or County will be repaid to such entity from the proceeds of the sale of land prior to calculating the revenue to be shared by the entities.

E. Miscellaneous

7. Term. This Agreement shall continue in force for one (1) year from the Effective Date, or until the real property constituting the Park has been sold or transferred to another entity, the debts and obligations of the BBCEDF have been paid, and the BBCEDF dissolves pursuant to its governing documents and state law, whichever occurs first.
8. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added as part of this Agreement a provision that is legal, valid and enforceable and that is as similar as possible in terms and substance as possible to the deleted provision.
9. Texas law to apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas and the obligations of the parties created hereunder are performable by the parties in the City of Bryan, Texas. Venue for any litigation arising under this Agreement shall be in a court of appropriate jurisdiction in Brazos County, Texas.
10. Sole Agreement. This Agreement constitutes the sole and only Agreement of the Parties hereto respecting the subject matter covered by this Agreement, and supersedes any prior understandings or written or oral agreements between the parties.
11. Amendments. No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.
12. Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any and all other legal remedies. Said rights and remedies are provided in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
13. Incorporation of Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.
14. Interpretation. The parties acknowledge that each has had the assistance of counsel in the review of this agreement, no one party is to be deemed the author of the agreement, and ambiguities shall not be resolved against any party. The caption headings of this Agreement are for reference only and shall not affect its interpretation. This Agreement is entered into for the exclusive benefit of the parties hereto and not for any other third parties. Nothing in

this Agreement, expressed or implied, is intended to confer upon any person or entity not a party to this Agreement any rights or remedies under this Agreement.

15. Duplicate Originals. The parties may execute this Agreement in duplicate originals, each of equal dignity. If the parties sign this Agreement on different dates, the later date shall be the effective date of this Agreement for all purposes.

Executed this ____ day of _____, 2016.

CITY OF BRYAN

ATTEST

Jason P. Bienski, Mayor

Mary Lynne Stratta, City Secretary

APPROVED AS TO FORM

Janis K. Hampton, City Attorney

BRAZOS COUNTY

APPROVED AS TO FORM

Duane Peters, County Judge

Bill Ballard, Asst. County Attorney

BRYAN-BRAZOS COUNTY ECONOMIC DEVELOPMENT FOUNDATION, INC.



Jason P. Bienski, President