



MINUTES

OCTOBER 3, 2017

BRAZOS COUNTY COMMISSIONERS COURT

NOTICE OF ADDENDUM

MEETING DATE: October 3, 2017

MEETING TIME: 10:00 AM

MEETING PLACE: Commissioners Courtroom of the County Administration Building,
200 S. Texas Ave., Suite 106, Bryan, Texas

1. Interlocal Agreement between City of Bryan, Texas; Brazos County, Texas; and City of Bryan and Brazos County Economic Development Foundation, Inc.

The minutes for this addendum can be found in the regular meeting minutes for 10/03/17.

The County Administration Building, 200 South Texas Avenue, Suite 332, Bryan, Texas is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive services must be made two working days before the meeting. To make arrangements, please call (979) 361-4102.



**BRAZOS COUNTY
BRYAN, TEXAS**

DEPARTMENT:

NUMBER:

DATE OF COURT MEETING: 10/3/2017

ITEM: Interlocal Agreement between City of Bryan, Texas; Brazos County, Texas; and City of Bryan and Brazos County Economic Development Foundation, Inc.

TO: Commissioners Court

DATE: 09/29/2017

FISCAL IMPACT: False

BUDGETED: False

DOLLAR AMOUNT: \$0.00

ATTACHMENTS:

File Name

Description

Type

[City of Bryan Brazos County and BBCEDF Interlocal Agreement ILA.pdf](#) ILA

Cover Memo

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, 2017 ("Effective Date").

WHEREAS, the respective participating governments ("Parties") are authorized by the Interlocal Cooperation Act, Texas Government Code Chapter 791, to enter into an agreement 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 Texas Local Government Code Section 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 Texas Local Government Code Section 380.001 to administer the City's program for local economic development in the Park as authorized by Resolution number 3516; 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 the Park because the economic impact of new jobs, increased property value, and additional utility revenue will benefit the local economy; and

WHEREAS, the BBCEDF has purchased 119.283 acres of real property adjacent to the Park, for the purpose of including such property into the Park, and requires funding to service the loan that made the purchase possible; and

WHEREAS, the Interlocal Cooperation Act, Texas Government Code Section 791.011(i) authorizes governmental entities to enter into a contract for a term of years, provided that it is subject to annual appropriation; 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 ("Budget") showing reasonably anticipated revenue and expenses for each fiscal year. The Budget provides funding for the ongoing operations of the BBCEDF and the satisfaction of real property purchase and financing costs.
2. Once the 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 Budget, or any amendment of same, must be approved by both governing bodies to be valid. Each governmental entity's obligation to provide funding under this Agreement is conditional upon the approval of the Budget by the governing body of each entity and annual appropriation for such payments.

B. Funding

3. The City and the County agree to share equally in the cost of funding the BBCEDF and, subject to approval of the Budget and annual appropriation for such cost, each governmental entity will provide one-half (1/2) of the funding as provided for in the approved Budget.

C. Operational Costs

4. The Budget will include the operational costs associated with the maintenance, development, and marketing of the Park. The operational costs may be offset by any grants, gifts, rental income, interest income, or other unencumbered revenue received by the BBCEDF.
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, rental income, interest income, or other unencumbered revenue. The City and the County will tender this payment within thirty (30) days of the approval of the Budget or any amendment of same by both governing bodies.

D. Real Property Purchase and Financing Costs

6. The BBCEDF budget will include \$429,310.68 annually to service the loan from Branch Banking and Trust Company ("BB&T") for the purchase of the 119.283 acres. The City and the County will each authorize monthly payments that collectively equal \$35,775.89. Each entity will pay \$17,887.94 and the City will pay an extra penny for the first six (6) months and the County will pay an extra penny the following six (6) months. The BBCEDF will tender payment to BB&T on a monthly basis as required by the promissory note. The parties acknowledge and agree that BB&T will have a security interest in those funds tendered to the BBCEDF for service of the note as described herein.

E. Repayment Terms

7. 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.

F. Miscellaneous

8. Term. This Agreement shall continue in force for ten (10) years 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. In the event that the loan from BB&T is repaid before the expiration of this Agreement, this Agreement shall be modified to reflect that no further funds need be provided for same.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. Incorporation of Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.
15. 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.

16. 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 _____, 2017.

CITY OF BRYAN

ATTEST

Andrew Nelson, 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

Bruce L. Erratt, Civil Division Chief
Brazos County Attorney

**CITY OF BRYAN AND BRAZOS COUNTY
ECONOMIC DEVELOPMENT FOUNDATION, INC.**



Mark Conlee, Vice President