**INTERLOCAL COOPERATIVE AGREEMENT**

This Interlocal Cooperative Agreement is made and entered into as of the \_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2022, by and between The Industrial Development Board of the County of Hamilton, Tennessee (the “County IDB”), and the Industrial Development Board of the City of Chattanooga (the “City IDB”) (the City IDB collectively with the County IDB, the “Parties” and each a “Party”).

**WITNESSETH**:

WHEREAS, the County IDB and the City IDB are industrial development corporations duly incorporated pursuant to Chapter 53, Title 7, Tennessee Code Annotated, as amended (the “Act”); and

WHEREAS, the Board of Commissioners (the “County Commission”) of Hamilton County, Tennessee (the “County”) has approved an Economic Impact Plan for South Broad District Plan Area (the “Plan”) in order to promote and accelerate the economic development of the South Broad District and certain parcels adjacent to the District that would benefit from redevelopment of the District (the “Plan Area”); and

WHEREAS, pursuant to the Plan, certain incremental property tax revenues derived from the Plan Area will be allocated by the County to the County IDB for use consistent with this Agreement; and

WHEREAS, as described in the Plan, a new stadium (the “Stadium”) is expected to be constructed within the Plan Area and is intended to be a catalytic project to promote and accelerate the redevelopment of the Plan Area; and

WHEREAS, a sports authority to be jointly formed by the City and the County (the “Sports Authority”) is expected to own the Stadium and finance all or a portion of the cost of the construction of the Stadium through the issuance of bonds or other obligations (the “Stadium Bonds”); and

WHEREAS, the County IDB desires for the incremental property tax revenues paid by the County to the County IDB pursuant to the Plan to be applied, in order to promote economic development, to pay debt service on the Stadium Bonds, with any excess of incremental property tax revenues being applied to (i) the reimbursement of the County and the City for financial assistance provided to the Sports Authority to pay such debt service; (ii) the cost of capital improvements or the funding of a capital reserve for capital improvements for the Stadium and (iii) the cost of or debt service relating to the financing of the cost of public infrastructure improvements in the Plan Area; and

WHEREAS, for administrative convenience and efficiency, the County IDB desires to pay such incremental property tax revenues so derived from County taxes to the City IDB to be combined with comparable incremental property tax revenues of the City of Chattanooga (the “City”) thereafter for payment by the City IDB to the Sports Authority for the purposes described herein.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the Parties agree as follows:

# Payment of Tax Increment Revenues. Subject to receiving any approval required by Section 6 hereof and to the conditions set forth in Section 2 hereof, the County IDB agrees to pay all incremental property tax revenues (the “County Tax Increment Revenues”) allocated to the County IDB pursuant to the Plan, as received, less any administrative expenses deducted by the County IDB, to the City IDB for payment to the Sports Authority as provided in Section 2.

# City Tax Increment Revenues. The City IDB represents that the City IDB has submitted to the City and the City Council of the City has approved an economic impact plan (the “City Plan”) pursuant to which certain incremental property tax revenues received by the City from the Plan Area (the “City Tax Increment Revenues”) will also be made available to the Sports Authority for the same purposes for which the County Tax Increment Revenues can be applied pursuant to the Plan. The City IDB agrees to transfer the City Tax Increment Revenues, together with the County Tax Increment Revenues, as received, to the Sports Authority to be applied to pay debt service on the Stadium Bonds with any excess of County Tax Increment Revenues and City Tax Increment Revenues being applied to (i) the reimbursement of the County and the City for financial assistance provided to the Sports Authority to pay such debt service; (ii) the cost of capital improvements or the funding of a capital reserve for capital improvements for the Stadium and (iii) the cost of or debt service relating to the financing of the cost of public infrastructure improvements in the Plan Area. The County IDB’s obligation in Section 1 to pay County Tax Increment Revenues to the City IDB for the foregoing purposes shall be conditioned upon the City IDB’s continued right to receive the City Tax Increment Revenues and the City IDB’s obligation to pay such City Tax Increment Revenues to the Sports Authority pursuant to a binding agreement.

# Application of Tax Increment Revenues. The City IDB, by agreement with the Sports Authority, will ensure that all County Tax Increment Revenues and City Tax Increment Revenues paid to the Sports Authority shall only be applied for the purposes authorized in the Plan, including the payment of debt service on the Stadium Bonds with any excess being applied to (i) the reimbursement of the County and the City for financial assistance provided to the Sports Authority to pay such debt service; (ii) the cost of capital improvements or the funding of a capital reserve for capital improvements for the Stadium and (iii) the cost of or debt service relating to the financing of the cost of public infrastructure improvements in the Plan Area.

# Term. Subject to the approvals and conditions herein, the duties and responsibilities of the Parties hereunder shall commence as of the date hereof and shall continue until all County Tax Increment Revenues have been allocated pursuant to the Plan and paid to the City IDB as provided hereunder.

# Interlocal Cooperation Provisions. For purposes of Section 12-9-104 of the Tennessee Code Annotated, as amended, the County IDB and the City IDB agree that (i) no separate legal entity shall be established to conduct the cooperative undertaking being undertaken pursuant to this Agreement; (ii) no real or personal property is expected to be acquired in connection with the cooperative undertaking being undertaken pursuant to this Agreement; and (iii) prior to the first payment of County Tax Increment Revenues to the City IDB, the Parties shall jointly designate an administrator to oversee the performance of the provisions of this Agreement.

# State Determination. Promptly following the execution of this Agreement, the County IDB shall submit the Plan and all the approving resolutions of the County IDB and County Commission to the State of Tennessee Department of Economic and Community Development and the Tennessee Comptroller of the Treasury for either a written determination that it is in the best interest of the State of Tennessee for County Tax Increment Revenues to be applied as provided in the Plan and this Agreement or a written confirmation that such a best interest determination is not required by applicable law. This submission shall also include a request for a written determination that it is in the best interest of the State of Tennessee for the allocation period of Tax Increment Revenues as to any parcel as described in the Plan to not exceed thirty (30) years.

# Default. In the event any of the Parties hereto shall fail to perform any of its obligations hereunder or shall become unable to perform by reason of bankruptcy, insolvency, receivership or other similar event, then the non-defaulting Party, so long as said Party is not itself in default hereunder, may seek specific performance, mandamus or other extraordinary relief to compel the defaulting Party to perform hereunder.

# Establishment of Funds. The County IDB and the City IDB agree to establish such funds and accounts that may be required with respect to the matters set forth herein and such further funds and accounts as shall be determined necessary and advisable for the payment of the costs of constructing, operating, and maintaining the Stadium and paying the principal of and interest on the Stadium Bonds.

# Cooperation of Parties. The Parties agree to cooperate with each other to facilitate the transactions described herein. Without limiting the foregoing, the City IDB agrees to notify the County IDB when the City IDB designates, pursuant to the City Plan, that the allocation of incremental property tax revenues from a parcel or group of parcels will commence, and upon such notice, the County IDB will also give notice to the County of the commencement of such allocation as to such parcels. The County IDB will not give notice of the commencement of an allocation of incremental property tax revenues as to any parcel unless the City IDB has also given notice of the commencement of an allocation as to such parcel. The City IDB and the County IDB will request the administrator designated pursuant to Section 5 to coordinate the designation of parcels pursuant to this Section.

# Notices. Any notice, request, demand, instruction or other communication (a “Notice”) to be given to any Party with respect to this Agreement may be given either by the Party or its counsel and shall be deemed to have been properly sent and given when (a) delivered by hand, (b) sent by certified mail, return receipt requested, or (c) sent by reputable courier service. If delivered by hand or courier service, a Notice shall be deemed to have been sent, given and received on the date when actually received by the addressee (or on the date when the addressee refuses to accept delivery of same). If sent by certified mail, a Notice shall be deemed to have been sent and given when properly deposited with the United States Postal Service with the proper address and postage paid therewith, and shall be deemed to have been received on the fifth (5th) business day following the date of such deposit, whether or not actually received by addressee. The addresses to which Notices shall be sent are:

If to the County IDB: The Industrial Development Board of the County of Hamilton, Tennessee

633 Chestnut Street, Suite1900

Chattanooga, Tennessee 37450

Attention: Chairman

If to the City IDB: Industrial Development Board of the City of Chattanooga

101 East 11th Street, 2nd Floor

City Hall Annex, Suite 200

Chattanooga, Tennessee 37402

Attention: Chairman

# Assignment. Neither Party shall assign any right or obligation hereunder without first receiving the written consent of the other Party, provided, however, the City IDB, after notice to the County IDB, may assign its right to receive County Tax Increment Revenues from the County IDB pursuant to this Agreement to the Sports Authority if requested by the Sports Authority to provide security for the payment of the Stadium Bonds.

# Severability. If a court of competent jurisdiction or an arbitrator determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

# Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Chancery Court and/or the Circuit Court of Hamilton County, Tennessee, shall have exclusive and concurrent jurisdiction of any disputes which arise hereunder.

# Entire Agreement. This Agreement contains the entire understanding among the Parties with respect to the matters contained herein, and supersedes any prior understanding and agreements between them respecting the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between or among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein. Notwithstanding the foregoing, to the extent this Agreement or any of the terms hereof shall conflict with the terms of any of the other documents or agreements referenced herein between the Parties, the terms of said documents or agreements shall control.

# Amendments and Modifications. No amendment, modification, or alteration to this Agreement shall be valid or enforceable nor shall any waiver of any provision be effective unless such amendment, modification, or alteration is approved, in writing, by the governing body of the Parties.

# Headings. The paragraph headings are inserted only as a matter of convenience and for references and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

# Authorized Representatives. Any action required of or permitted to be taken pursuant to this Agreement by any of the Parties hereto may be performed by an authorized representative of the respective Party without further action by the governing body of such Party.

# Limitation of Liability. All covenants, stipulations, promises, agreements and obligations of the Parties contained in this Agreement shall be deemed to be the respective limited covenants, stipulations, promises, agreements and obligations of the Parties, as applicable, and not of any officer, director, employee or agent of such Parties nor of any incorporator, director, employee or agent of any successor corporation to any such Party, in its individual capacity. No recourse shall be had against any such individual, either directly or otherwise under or upon any obligation, covenant, stipulation, promise or agreement contained herein or in any other document executed in connection herewith.

*[Signature page follows]*

# **IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be duly executed and delivered by their respective officers as of the date first written above.

|  |  |
| --- | --- |
|  | THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF HAMILTON, TENNESSEE  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Its: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Its: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

33317613.6