

THE STATE OF TEXAS
COUNTY OF WALLER

INTERLOCAL AGREEMENT BETWEEN WALLER COUNTY, TEXAS AND THE CITY OF BROOKSHIRE, TEXAS FOR APPROVAL OF ENTERPRISE PROJECT NOMINATION BY COUNTY

This Interlocal Agreement (“Agreement”) is made and entered by and between the **CITY OF BROOKSHIRE, TEXAS** (“City”), a municipal corporation and general law city of the State of Texas situated in Waller County, Texas, acting by and through its governing body, the City Council; and **WALLER COUNTY, TEXAS** (“County”), a political subdivision of the State of Texas, acting by and through its governing body, the Waller County Commissioners Court. This Agreement is made pursuant to Texas Government Code Chapter 791, the Interlocal Cooperation Act, and Texas Government Code Chapter 2303, the Texas Enterprise Zone Act as of the date of the last signature affixed hereto (the “Effective Date”). City and County are each referred to individually as “party” and collectively as “parties.”

WHEREAS, the Texas Legislature enacted Texas Government Code Chapter 2303, the Texas Enterprise Zone Act (the “Act”) creating the Texas Enterprise Zone Program (“Program”) as an economic tool for local communities to partner with the State of Texas to encourage job creation and capital investment in economically distressed areas of the State;

WHEREAS, Texas Government Code § 2303.004 requires that before a county makes a nomination of a Texas enterprise project located within the jurisdiction of a municipality within the county, the nominating county must enter into an interlocal agreement with the municipality that has jurisdiction of the territory in which the nominated project or activity will be located;

WHEREAS, Tesla is a “qualified business,” as defined in § 2303.402 of the Act, and meets the criteria for designation as an enterprise project;

WHEREAS, the County wishes to nominate Tesla, Inc., located at 111 Empire West Blvd, Brookshire, Texas 77423 (“Tesla”), a company operating a manufacturing facility focused on battery energy storage, for designation as a Texas enterprise project under the Act; and

WHEREAS, pursuant to § 2303.004 of the Act, the County desires to nominate for designation as an enterprise project a project or activity of Tesla, located at a qualified business site within the jurisdiction of the City;

WHEREAS, the County has not exceeded its maximum number of designations per biennium permitted under § 2303.406(d) of the Act;

WHEREAS, both the County and the City approve the nomination of Tesla as an enterprise project, and agree that the County shall have administrative authority under Section 2303.201 of the Act, and

WHEREAS, the County’s nomination to the State of Texas of the project area as a Texas enterprise project shall not be considered a nomination from the City’s allotment of designations under § 2303.406 of the Act;

NOW THEREFORE, in consideration of the mutual agreements and terms stated herein, it is agreed as follows:

I. PURPOSE

- 1.01 The purpose of this Agreement is to comply with the legal requirements of Texas Government Code § 2303.004(c).

II. TERMS

- 2.01 Both the City and the County approve the County's nomination for designation as an enterprise project, a project or activity of Tesla, Inc., located at a qualified business site in the jurisdiction of the City.
- 2.02 The City and County agree that the County is the governing body which has the administration authority over the designated Texas enterprise project under Texas Government Code § 2303.201.
- 2.03 This nomination shall not count as one of the City's allotted nominations under Texas Government Code § 2303.406.
- 2.04 The recitals are incorporated into this Agreement.
- 2.05 This Agreement shall commence on the Effective Date, and upon designation of the nominated project or activity of Tesla as an enterprise project by the Texas Economic Development and Tourism Office, or other entity having the authority to make such designation. The Agreement shall remain in effect for so long as the enterprise project designation remains in effect, pursuant to § 2303.404 of the Act. Notwithstanding the foregoing, either party may terminate this Agreement by written notice to the other party at any time if, within one (1) year of the Effective Date, the nominated project or activity of Tesla has not been designated as an enterprise project under the Act.

III. FUNDS FROM CURRENT REVENUES

- 3.01 Neither County nor City is paying for the performance of governmental functions or services under this Agreement.

IV. NOTICE

- 4.01 All notices and communications by the parties shall be in writing to the following address. Either party may change their address for notice by providing five (5) days written notice to the other party.

City: Attn: City Mayor
City of Brookshire
4029 5th St.
Brookshire, TX 77423

County: Attn: Waller County Judge
Waller County, Texas
836 Austin St., Suite 4300
Hempstead, Texas 77445

V. MISCELLANEOUS

- 5.01 Notwithstanding anything contained in the Agreement to the contrary, it is expressly understood and agreed that in the execution of this Agreement, neither party waives or shall be deemed to waive any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers or functions.
- 5.02 This Agreement is subject to the laws of the State of Texas, and venue shall be in a court of competent jurisdiction in Waller County, Texas.
- 5.03 If any provision of this agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. In such event, there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal, or enforceable. The remainder of the agreement shall be valid and enforceable to the maximum extent possible.
- 5.04 This Agreement does not inure to the benefit of any third party.
- This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. Any modifications concerning this Agreement shall be of no force or effect, unless made in a writing signed by both parties hereto.

IN WITNESS WHEREOF, this Agreement has been entered into as of the Effective Date.

COUNTY

WALLER COUNTY, TEXAS

a political subdivision of the State of Texas

CITY

BROOKSHIRE, TEXAS

a Texas general law municipality

Carbett "Trey" Duhon, III
County Judge

Robert Richards
Mayor

Date

Date

ATTEST

ATTEST

Debbie Hollan
County Clerk

LaKethia Connor
City Secretary