

STATE OF TEXAS

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COUNTY OF KENDALL

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**SECOND AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN THE
CITY OF BOERNE, TEXAS AND
KENDALL COUNTY, TEXAS FOR CONSTRUCTION AND FUNDING OF
DRAINAGE IMPROVEMENT PROJECTS**

THIS SECOND AMENDMENT (“Second Amendment”) is made and entered into by and between Kendall County (“County”), a body corporate and politic under the laws of the State of Texas, and the City of Boerne, Texas (“City”), a home-rule municipality situated wholly within the County (hereinafter collectively referred to as “Parties”).

WHEREAS, the Parties executed and accepted that certain Interlocal Agreement Between the City Of Boerne, Texas and Kendall County, Texas, for the construction and funding of drainage improvement projects on February 14, 2022 (“Original Agreement”); and

WHEREAS, the Parties executed a First Amendment to the Original Agreement on August 19, 2024 (Resolution No. 2024-R58), which modified Article I, Section 1.1.2 of the Original Agreement by removing the Old San Antonio Road project and increasing the Adler Road culvert construction funding to \$1,500,000; and

WHEREAS, the Adler Road Culvert Project (Project I) has experienced unforeseen delays in right-of-way and easement acquisitions as well as unanticipated construction complexities, including discovery of hand dug well and undocumented telecom lines, that have extended the project schedule beyond the completion date established in Article II, Section 2.1 of the Original Agreement; and

WHEREAS, the Parties desire to amend the Agreement to establish a revised schedule to allow the Adler Road Culvert Project to achieve Substantial Completion and Final Acceptance in a reasonable amount of time while protecting the public health, safety, and welfare; and

WHEREAS, this Amendment has been approved by the Kendall County Commissioners Court and the Boerne City Council;

NOW, THEREFORE, the parties do mutually agree as follows:

Article II: Term of Agreement – Amended

1. Section 2.1(d) of the Original Agreement (as amended by this Second Amendment) is restated in its entirety to read as follows:

(d) Procedure for Delay or Failure to Meet Milestones.

(1) Early Warning Notice. If at any time the City Engineer determines in writing that the Project is reasonably likely to fail to achieve Substantial Completion by September 4, 2026 or Final Acceptance by October 1, 2026, the City Manager shall provide written notice to the County Judge within five (5) business days of such determination. The notice shall state the cause of the anticipated delay, the revised estimated completion date, and the corrective actions being taken or proposed by the City and its contractor.

(2) Consultation. Within fourteen (14) calendar days following the notice required by subsection (1), or, if no early warning notice was given, within five (5) business days following an actual missed milestone, the City Manager and County Judge, together with such staff as each may designate, shall meet to consult on the appropriate course of action. The Parties may agree on a written corrective action plan that may include: a revised project schedule; the procedures and timing for return of unexpended ARPA funds to the County for remittance to the United States Treasury as required by Article IV of the Original Agreement; reallocation of funds within ARPA-eligible categories; and any other measures necessary to comply with applicable federal funding requirements. Any such agreement shall be reduced to writing, signed by the City Manager and County Judge, and reported to

the Boerne City Council and the Kendall County Commissioners Court at the next regularly scheduled meeting of each body. Matters requiring action by either governing body shall be presented for ratification or approval at that meeting.

(3) Federal Compliance Action. If the consultation under subsection (2) does not result in a written agreement, or if a federal compliance deadline is imminent and the consultation cannot be timely completed, either Party may take such action as is necessary to ensure its respective compliance with applicable laws and federal funding requirements, including return of unexpended ARPA funds to the United States Treasury. The Party taking such action shall provide prompt written notice to the other Party stating the action taken and the basis for it. Action taken in good faith under this subsection shall not constitute a breach of this Agreement.

(4) Force Majeure. Neither Party shall be in default under this Agreement for delay or failure to perform caused by acts of God, severe weather, declared emergencies, archaeological or historical discoveries, undisclosed subsurface conditions, third-party utility relocations, or other events beyond the reasonable control of the Parties, provided that the affected Party gives prompt written notice of the event and uses commercially reasonable efforts to mitigate its effects. A force majeure event under this subsection does not extend, toll, or modify any deadline imposed by federal law, regulation, or U.S. Department of the Treasury guidance for the expenditure or return of ARPA funds.

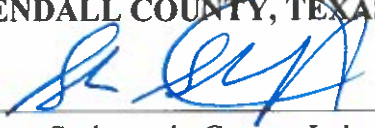
(5) Documentation. The City shall maintain a written record of all notices, corrective action plans, agreements, and unilateral actions taken under this Section 2.1(d), and shall provide copies to the County Auditor and County Judge upon request. Such records shall be retained for the period required by federal ARPA recordkeeping requirements.

2. Except as expressly provided herein, all terms and conditions of the Original Agreement, as previously amended by the First Amendment, shall remain in full force and effect and are incorporated herein by reference.

3. This Second Amendment may be executed in duplicate originals, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument.

EXECUTED IN DUPLICATE ORIGINALS ON THIS _____ DAY OF _____,
2026.

KENDALL COUNTY, TEXAS



Shane Stolarczyk, County Judge

Date: 6/17/26

ATTEST:



Denise Maxwell, County Clerk

APPROVED AS TO FORM:



County General Counsel

CITY OF BOERNE, TEXAS

Ben Thatcher, City Manager

Date: _____

ATTEST:

Lori A. Carroll, City Secretary

APPROVED AS TO FORM:

City Attorney

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$1,500,000.00 to accomplish and pay the obligation of Kendall County under this Agreement.



Corinna Speer, County Auditor