

CITY OF AUSTIN AND CITY OF PFLUGERVILLE

**INTERLOCAL AGREEMENT TO SUPPORT THE NEXT GENERATION
9-1-1 DATABASE PROGRAM**

This Interlocal Cooperation Agreement (“Agreement”) is between the City of Austin, a Texas home-rule and municipal corporation (“City”) and the City of Pflugerville, a Texas municipality that is located in Travis and Williamson County (“Pflugerville”). The City and Pflugerville may be referred to individually as “Party” and collectively as “Parties”.

Whereas, the City has entered into an Interlocal Contract for Next Generation 9-1-1 Database Program with the Capital Area Emergency Communications District (“District Interlocal”) to support the District’s Strategic Plan to establish and maintain the Next Generation 9-1-1 emergency communications services within the District;

Whereas, in the District Interlocal, the City agreed to perform several duties including contracting with public entities and private interests located within Travis County in order to obtain geographic information services (GIS) data and address related data to support 9-1-1 coverage in Travis County; and

Whereas, the Parties enter into this Agreement pursuant to the Interlocal Cooperation Act, Chapter 791 of the Government Code so Pflugerville is authorized to provide address related data on a routine basis to the City for updating the county-wide 911 addressing database.

Now Therefore, the Parties, in consideration of the obligations described in this Agreement, do agree as follows:

Section 1. Purpose

The purpose of this Agreement is for the City to obtain address related data from Pflugerville so the City can maintain the county-wide 9-1-1 addressing database to support 9-1-1 emergency service delivery throughout Travis County.

Section 2. Agreement Term

The term of this Agreement begins on _____, 2014 for a 12-month term and ends on _____, 2015 unless terminated in accordance with the provisions of this Agreement. This Agreement automatically extends for two (2) 12-month extension periods unless either party terminates this Agreement by providing written notice to the other party at least thirty (30) days prior to the preceding Term. The initial term or each extension term may be referred to “Term” under this Agreement.

Section 3. Pflugerville Cost

Pflugerville is responsible for any and all costs incurred to perform its obligations under this Agreement. The City will not be responsible for this cost.

Section 4. Designation of Contract Manager

4.1 The City Contract Manager is the current City of Austin 911 Addressing Supervisor. Correspondence should be sent to the following: Attention: City of Austin 911 Addressing Supervisor, PO Box 1088, Austin, TX 78767 or electronically to Addressing@AustinTexas.gov. The City's Contract Manager shall represent the interests of the City in resolving any and all issues that may arise under this Agreement and serve as the City's designated point of contact for the City Contract Manager.

4.2 Pflugerville's Contract Manager is the current Assistant City Manager for the Planning Department. Correspondence should be sent to the following: PO Box 589, Pflugerville, Texas 78691-0589 or electronically to Planning@PflugervilleTX.gov. This individual shall represent Pflugerville as the Contract Manager for this Agreement and be the County's designated point of contact for the City.

4.3 Should the identity of the City Contract Manager or Pflugerville Contract Manager change, each party will identify a qualified and competent replacement and promptly notify the other party of the change. No formal amendment is otherwise required for this section.

Section 5. City Duties

5.1 City agrees to update and maintain the Master Street Addressing Guide (MSAG) with the District data base provider for all identified addresses in Travis County.

5.2 City agrees to review and approve street names and street layout as it relates to addressing submitted through preliminary subdivision review in Pflugerville that Pflugerville submits to the City Contract Manager.

5.3 City agrees to review and approve street names and street layout submitted for new site plans in Pflugerville that Pflugerville submits to the City Contract Manager. This includes new site plans for street-like network of private driveways when the developer is naming the private driveways such as mixed-use developments, mobile home parks, and condominiums but excludes new site plans for developer named private driveways in apartment complexes.

5.4 City agrees to review and approve names submitted for street names changes in Pflugerville that Pflugerville provides the City Contract Manager.

5.5 City agrees to provide MSAG records specific to Pflugerville upon written request by the Pflugerville Contract Manager.

Section 6. Pflugerville Duties

6.1 Pflugerville agrees to provide all preliminary subdivisions that contain streets in review to the City Contract Manager. Under this Agreement, the City Contract Manager will review and confirm, if acceptable, all street names that are in compliance with the *Austin and Travis County Street Name Standards* (attached as **Exhibit “A”** to this Agreement and incorporated by reference) for Pflugerville prior to Pflugerville’s approval within 10 business days of receipt; if not received within 10 days street names are considered approved.

6.2 Pflugerville agrees to provide a copy of all newly recorded and addressed subdivision plats with addresses prominently displayed on the plats to the City Contract Manager within two weeks from the date of plat recordation with Travis County. Pflugerville may also provide the addresses and street centerlines in a GIS format to the City Contract Manager.

6.3 Pflugerville agrees to provide the City Contract Manager with documentation of address(s) assigned for each newly addressed property in Pflugerville within two weeks of the address assignment. For consistency it is recommended that the address(s) should comply with the *Capital Area Council of Governments (CAPCOG) Addressing Guidelines* attached as **Exhibit “B”** to this Agreement and incorporated by reference and the *City of Austin Addressing Standards* attached as **Exhibit “C”** to this Agreement and incorporated by reference.

6.4 Pflugerville agrees to coordinate with the City Contract Manager on all proposed Pflugerville street name changes and provide documentation of the final approved street name changes within two weeks of the street name effective date. For consistency it is recommended that street names must follow the *Austin and Travis County Street Name Standards*.

6.5 Pflugerville agrees to coordinate with the City Contract Manager on all proposed Pflugerville address changes and provide documentation of the final approved address changes within two weeks of the address effective date. For consistency it is recommended that address changes comply with the *CAPCOG Addressing Guidelines* or the *City of Austin Addressing Standards*.

6.6 Pflugerville agrees to provide its electronic copies of ordinances and resolutions pertaining to subdivision and street vacations to the City Contract Manager within thirty (30) days of approval.

6.7 Pflugerville agrees to provide notification of proposed annexations and disannexations within Travis County to the City Contract Manager no later than thirty

(30) days prior to the effective date of the annexation or disannexations, as applicable. Pflugerville may also provide the annexation boundaries in a GIS format. Pflugerville will provide prompt notification to the City Contract Manager upon approval of all annexations and disannexations.

6.6 Pflugerville agrees to provide the City Contract Manager with all signed ordinances and maps regarding boundary changes as described in the Local Government Code Chapter 41.

Section 7. Confidential and Proprietary Information

All material submitted to the City becomes public property and is subject to the Texas Public Information Act on receipt. If Pflugerville does not desire proprietary information to be disclosed, each page must be identified and marked proprietary at time of submittal. The City will, to the extent allowed by law, endeavor to protect such information from disclosure. The final decision as to what information must be disclosed, however, lies with the Texas Attorney General. If Pflugerville fails to identify proprietary information, it agrees that by submission of the information that the material shall be deemed nonproprietary and available upon public request.

Section 8. City Right to Audit

Pflugerville agrees representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine or reproduce, any and all documents of Pflugerville related to Pflugerville's performance under this Agreement upon City's advance written notice to Pflugerville and scheduling between the Parties. In no event will the City have the right to inspect records Pflugerville deems are confidential or proprietary. Audits shall be at the City's expense.

Section 9. Pflugerville Right to Audit

City agrees representatives of Pflugerville's Auditor's Office, or other authorized representatives of Pflugerville, shall have access to, and the right to audit, examine or reproduce, any and all documents of the City's performance under this Agreement upon Pflugerville's advance written notice to City and scheduling between the Parties. In no event will Pflugerville have the right to inspect records the City deems are confidential or proprietary. Audits shall be at Pflugerville's expense.

Section 10. Independent Contractor

This Agreement shall not be construed as creating an employer/employee relationship, a partnership, joint enterprise, or a joint venture between the parties. City and Pflugerville are independent contractors. The Parties agree and understand that this Agreement does not grant unto the other Party any rights or privileges established for employees of either the City or Pflugerville.

Section 11. Default

A Party to this Agreement shall be in default ("Event of Default") under this Agreement if the Party (a) fails to fully, timely and faithfully perform any of its material obligations under this Agreement; or (b) fails to provide adequate assurance of performance under Section 12.

Section 12. Right to Assurance

Whenever a Party to this Agreement in good faith has reason to question the other Party's intent to perform, demand may be made to the other Party for written assurance of the intent to perform. In the event that no assurance is given within ten working days after demand is made, the demanding Party may treat this failure as an anticipatory repudiation of the Agreement.

Section 13. Termination for Cause

If either Party commits an Event of Default, the non-defaulting Party shall deliver written notice of such Event of Default to the defaulting Party. Such notice must specify the nature of the Event of Default and inform the defaulting Party that unless the Event of Default is cured within thirty (30) days of receipt of the notice, additional steps may be taken to terminate this Agreement. If the defaulting Party begins a good faith attempt to cure the Event of Default within thirty (30) days, then and in that instance, the thirty (30) day period may be extended by the non-defaulting Party, so long as the defaulting Party continues to prosecute a cure diligently to completion and continues to make a good faith attempt to cure the Event of Default. If, in the opinion of the non-defaulting party, the defaulting Party does not cure the breach within thirty (30) days or otherwise fails to make any diligent attempt to correct the Event of Default, the defaulting party shall be deemed to be in default and the non-defaulting Party may terminate this Agreement. The Parties' rights and remedies under the Agreement are cumulative and are not exclusive of any other right or remedy provided by law.

Section 14. Termination without Cause

Either Party may terminate this Agreement without cause by providing thirty (30) days advance written notice to the other party.

Section 15. Dispute Resolution

15.1 If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either Party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each Party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the

dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below.

15.2 Negotiation may be waived by a written agreement signed by both Parties, in which event the Parties may proceed directly to mediation as described below. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Pflugerville agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the said agreement prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or an agreement interpretation expert. If the Parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The Parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Pflugerville will share the costs of mediation equally.

Section 16. Survival of Obligations

All provisions of this Agreement that impose continuing obligations on the parties, including but not limited agreement purpose, and confidentiality shall survive the expiration or termination of this Agreement.

Section 17. Texas Public Information Act

The Parties agree that this Agreement is subject to the Texas Public Information Act and the Act shall control to the extent of any conflict between the terms of this Agreement and the Act.

Section 18. Current Revenues

This Agreement is authorized by the Interlocal Cooperation Act of Chapter 791 of the Texas Government Code. This Agreement does not require payments from one party to the other. However, to the extent applicable, each party's monetary obligations hereunder are payable only and solely from the current revenues appropriated and available for the performance of such obligations.

Section 19. Assignment

A Party to this Agreement may not assign or transfer its interests under this Agreement.

Section 20. Entirety of the Agreement

This Agreement constitutes the entire Agreement and understanding between the Parties and supersedes all previous agreements, understandings, discussions, or representations concerning its subject matter. This Agreement may not be amended in whole or in part except in a written amendment executed by both Parties to this Agreement.

Section 21. Jurisdiction and Venue

The Parties agree that this Agreement is governed by the laws of the State of Texas and that venue for a dispute arising from this Agreement shall be in Austin, Travis County, Texas.

Section 22. Severability

If a term or provision of this Agreement is determined to be void or unenforceable by a court of competent jurisdiction, the remainder of this Agreement remains effective to the extent permitted by law.

Section 23. Notices

Any notice, request, or other communication required or appropriate to be given under this Agreement shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U. S. Postal Service Certified or Registered Mail Return Receipt Requested. Notices delivered by any other means (fax or courier) shall be deemed delivered upon receipt of a successful fax or courier confirmation report by the addressee. Routine communication may be made by first class mail, facsimile, or other commercially accepted means. Notices to the City and Pflugerville shall be addressed as follows:

City

**Mark Ott
City Manager
City of Austin
PO Box 1088
Austin, Texas 78767
(512)974-2200**

Pflugerville

**Brandon Wade
City Manager
City of Pflugerville
PO Box 589
Pflugerville, Texas 78691-0589
(512)990-6300
(512)990-4374
citymanager@pflugervilletx.gov**

Section 24. Governmental Immunity

Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or equity to either of the Parties nor to create any legal rights or claims on behalf of any third party. Neither the City nor Pflugerville waives, modifies, or alters

to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

Section 25. Execution of this Agreement

Parties to this Agreement shall submit certified documentation of approval by the governing body authorized to execute this Agreement. This Agreement may be executed (by original or facsimile) by the Parties in one or more counterparts, each of which shall be considered one and the same agreement.

Section 26. Force Majeure

Neither Party shall be liable for any default or delay in the performance of its obligations under this Agreement if, while and to the extent such default or delay is caused by acts of God, unusual weather conditions, fire, riots, sabotage, acts of domestic or foreign terrorism, or any other cause beyond the reasonable control of such Party ("Force Majeure"). Force Majeure does not include economic or market conditions, which affect a party's cost, but not its ability to perform. The Party invoking Force Majeure shall give prompt, timely and adequate notice to the other Party, by facsimile transmission or telephone confirmed promptly thereafter in writing, and shall use due diligence to remedy the event of Force Majeure, as soon as reasonably possible. In the event of default or delay in Agreement performance due to any of the foregoing causes, then the time for completion of the services will be extended by a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

Section 27. Agreement and Signatures

Each individual signing this Agreement on behalf of a Party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

This Agreement states the entire agreement of the Parties, and an amendment to it is not effective unless in writing and signed by all Parties.

This Agreement is executed in duplicate originals.

The Agreement is effective on the last date signed by the Parties.

CITY OF AUSTIN

CITY OF PFLUGERVILLE

By _____
Marc Ott
City Manager

By _____
Brandon Wade
City Manager

Date _____

Date _____

Exhibits

Exhibit A- Austin and Travis County Street Name Standards

Exhibit B- Capital Area Council of Governments Addressing Guidelines

Exhibit C- City of Austin Addressing Standards