

**AGREEMENT  
BETWEEN CITY OF PFLUGERVILLE, TEXAS AND PFLUGERVILLE COMMUNITY  
DEVELOPMENT CORPORATION FOR THE ISSUANCE OF COMBINATION TAX  
AND REVENUE CERTIFICATES OF OBLIGATION TO FUND INFRASTRUCTURE  
IMPROVEMENTS**

**THIS AGREEMENT** (hereinafter referred to as the "Agreement") is made and entered into by and between the CITY OF PFLUGERVILLE, TEXAS, a home-rule municipality and political subdivision of the State of Texas (hereinafter referred to as "Pflugerville") and the Pflugerville Community Development Corporation, a Section 4B corporation incorporated under the Development Corporation Act of 1979 (hereinafter referred to as "PCDC").

**WHEREAS**, Pflugerville and PCDC acknowledge that PCDC desires to further the improvements at the 130 Commerce Park (also known as Renewable Energy Park); and

**WHEREAS**, making roadway improvements and extending utility connects are essential to enhancing the land for economic development purposes within the city limits; and

**WHEREAS**, in order to reduce costs and preserve the PCDC's borrowing capacity, Pflugerville anticipates issuing combination tax and revenue certificates of obligation (the "Certificates") to loan funds for such projects, among other purposes, for the benefit of PCDC and the City; and

**WHEREAS**, for adequate mutual consideration which the parties hereby acknowledge as sufficient, the parties desire to set forth in writing the following agreed terms and conditions:

**NOW, THEREFORE**, Pflugerville and PCDC hereby agree as follows:

1. **Statement of Intent.** The purpose of this Agreement is to (i) provide for the construction and installation of certain street improvements, water and wastewater line extension by PCDC within the city limits of Pflugerville and ETJ, specifically being the construction of Impact Way, and (ii) provide for the Certificates by Pflugerville and the related debt service payments to be made by PCDC.

2. **PCDC's Duties and Responsibilities.** The parties agree that PCDC shall:

- (a) Construct certain street improvements, Impact Way, within the city limits of Pflugerville for the purpose improving connectivity within the 130 Commerce Park;
- (b) Construct certain water and wastewater and dry utility improvements within the city limits of Pflugerville to enhance the economic development of the city;

- (c) Timely submit construction drawings to Pflugerville, for Pflugerville's review and approval, of all proposed street improvements and construction relating to the improvement and connection of Impact Way; and the parties acknowledge that Pflugerville's approval of such submitted construction drawings shall not be unreasonably withheld;
- (d) Timely submit construction drawings to Pflugerville, for Pflugerville's review and approval, of all proposed water and waste water improvements and construction relating to the improvement and construction which is within Pflugerville's city limits and ETJ; and the parties acknowledge that Pflugerville's approval of such submitted construction drawings shall not be unreasonably withheld;
- (e) Pay for all costs associated with design and construction of the proposed improvements which are within Pflugerville's city limits and its ETJ;
- (f) Pay the debt service on all Certificates that are directly related to this project; and
- (g) Convey to Pflugerville any right-of-way or utility easements within Pflugerville's city limits that are necessary to accommodate the facilities installed, such conveyance to be finalized upon the completion of the improvements and the acceptance of the improvements by Pflugerville.

3. **Pflugerville's Duties and Responsibilities.** The parties agree that Pflugerville shall:

- (a) Issue up to \$5,300,000 in the principal amount of Certificates for such right of way and utility improvements on PCDC's land and associated issuing and other debt related costs.

4. **Payment of Amount Due by PCDC.** PCDC shall tender all debt service payments due on the Certificates delineated in Section 2(f) hereof to Pflugerville prior to each date that such payments come due in a manner and at the times determined by Pflugerville to allow for Pflugerville to make the debt service payments in full on such Certificates when due.

PCDC's obligations under this agreement shall not exceed the \$5,300,000 maximum aggregate principal amount of the Certificates plus the interest due thereon.

5. **Term of Agreement.** The term of this Agreement shall begin on the date of execution by both parties of this Agreement, and shall remain in full force and effect for a period not to exceed thirty (30) years or until all of the obligations required herein shall have been satisfied, whichever is the earlier date.

6. **General Provisions.** The following general provisions shall apply to this Agreement:

- (a) **Cooperation.** Pflugerville and PCDC agree to cooperate with each other in good faith at all times to effectuate the purposes and intent of this Agreement.
- (b) **Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes all prior and contemporaneous understandings or representations, whether oral or written, respecting the subject matter hereof.
- (c) **Amendments.** Any amendment hereof must be in writing and signed by the authorized representative(s) for each party.
- (d) **Certification of Essential Function and Interest.** The parties acknowledge that (i) the services specified in this Agreement are necessary and essential for activities that are properly within the statutory functions and programs of the affected local home-rule municipal government, and (ii) the proposed arrangements serve the interest of efficient and economical administration of the affected local home-rule municipal governments.
- (e) **Applicable Law.** This Agreement shall be construed under and in accordance with the laws of the State of Texas.
- (f) **Assignment.** Neither party may assign its rights and obligations under this Agreement.
- (g) **Other Necessary Actions and Instruments.** The parties agree that each will take such other and further actions and execute such other and further consents, authorizations, instruments or documents as are necessary or incidental to effectuate the purposes of this Agreement.
- (h) **No Third Party Beneficiaries.** Except as set forth herein, nothing herein shall be construed to confer upon any person or entity other than the parties hereto any rights, benefits or remedies under or by reason of this Agreement.
- (i) **No Joint Venture, Partnership, or Agency.** This Agreement shall not be construed in any form or manner to establish a partnership, joint venture or agency, express or implied, nor any employer-employee or borrowed servant relationship by and among the parties hereto.
- (j) **Venue.** Venue for any suit arising hereunder shall be in Travis County, Texas.

- (k) **Duplicate Originals.** This Agreement may be executed in duplicate originals, each of equal dignity.
- (l) **Effective Date.** This Agreement shall be effective from and after the date of due approval hereof by the respective governing bodies of Pflugerville and PCDC, and due execution hereof by their respective authorized representative(s).
- (m) **Representations and Warranties by PCDC.** PCDC warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of PCDC has been duly authorized to act for and bind PCDC.
- (n) **Franchise Tax Certification.** PCDC certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that the corporation is exempt from the payment of such taxes, whichever is applicable.

**IN WITNESS WHEREOF**, the authorized representative(s) of Pflugerville and PCDC have executed this Agreement on the dates set forth below.

**CITY OF PFLUGERVILLE, TEXAS**

**ATTEST:**

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
City Secretary

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**PCDC**

**ATTEST:**

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
Secretary

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_