

## COOPERATIVE PURCHASING AGREEMENT

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

This Cooperative Purchasing Agreement (“Agreement”) is made and entered into as of the date written below between the City of Pflugerville (“Pflugerville”) and the City of Baytown (“Baytown”).

WHEREAS, both Pflugerville and Baytown have each determined a need for a cooperative agreement to purchase like goods and services to avoid duplicate procurement efforts and obtain the benefits of volume purchasing; and

WHEREAS, Pflugerville and Baytown are authorized by Section 271.102 of the Local Government Code to pursue mutually beneficial and cooperative purchasing programs;

NOW, THEREFORE, for and in consideration of the mutual obligations and benefits contained herein, Pflugerville and Baytown agree as follows:

Section 1. The purpose of this Agreement is to provide Pflugerville and Baytown with additional purchasing options by satisfying the provisions of Section 271.102 of the Local Government Code.

Section 2. The parties agree that each of the parties shall respectively designate a person to act under the direction of, and on behalf of, the designating party (the “Designated Representative”).

Section 3. At the request of the other party, a party that enters into a contract with a vendor for goods or services (the “First Purchasing Party”) shall attempt to obtain the vendor’s agreement to offer those goods and services to the other party (the “Second Purchasing Party”) for the same price and on the same terms and conditions as have been offered to the First Purchasing Party. If the vendor so agrees, and if the Second Purchasing Party is agreeable to such terms and conditions, the Second Purchasing Party may enter into its own separate contract with the vendor for the purchase of such goods or services.

Section 4. Unless otherwise agreed between the Designated Representatives, payments for a purchase made by the Second Purchasing Party shall be paid directly to the vendor and not to the First Purchasing Party. The Second Purchasing Party shall have the responsibility of determining whether the vendor has complied with any provisions in its contract with the vendor, including, but not limited to, those relating to the quality of items and terms of delivery, and shall be responsible for enforcement of its contract against the vendor, including all cost of enforcement.

Section 5. Neither Pflugerville nor Baytown shall assume any responsibility or liability to pay for materials purchased or services performed for the benefit of the other party. All

payments required to be made pursuant to any contract entered into with a vendor pursuant to this Agreement shall be made from current, available revenues. In obtaining services of a vendor under this Agreement each party acknowledges that it has or will rely solely on its own inspections, investigations, research, and due diligence regarding the materials or services desired and not on any representations or warranties of the other party hereto.

Section 6. This Agreement will be subject to all applicable federal, state and local laws, ordinances, rules and regulations.

Section 7. This Agreement may be terminated by either party, without cause or penalty, upon not less than thirty (30) days' written notice to the other party.

Section 8. The parties acknowledge that each party and, if it so chooses, its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party must not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

Section 9. If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Harris County, Texas, or the United States District Court for the Southern District of Texas – Houston Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

Section 10. If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, the parties shall endeavor to agree to a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

Section 11. Execution of this Agreement does not obligate Pflugerville or Baytown to make any purchase, to pay any membership fee or to otherwise or in any manner incur any cost or obligation.

Section 12. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 13. The undersigned officers and/or agents are properly authorized to execute this Agreement on behalf of the parties hereto and each party hereby certifies to the other that any necessary actions extending such authority have been duly passed and are now in full force and effect.

Section 14. All notices, requests, demands, and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, to the respective city representative set out below, or his/her designee.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**CITY OF PFLUGERVILLE**  
**P.O. Box 589**  
**Pflugerville, TX 78691**

**CITY OF BAYTOWN**  
**2401 Market Street**  
**Baytown, TX 77520**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
RON BOTTOMS, Acting City Manager

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

ATTEST:

ATTEST:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
LETICIA BRYSCH, City Clerk

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
IGNACIO RAMIREZ, SR., City Attorney

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date