

AGREEMENT BETWEEN THE PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION, AND THE CITY OF PFLUGERVILLE, TEXAS

WHEREAS, the City of Pflugerville, Texas, A Texas home rule municipality (hereinafter referred to as the "City"), and the Pflugerville Community Development Corporation (hereinafter referred to as the "Corporation") a Texas non-profit corporation formed under the Texas Development Corporation Act Section, Texas Local Government Code Chapters 501, 502 (hereinafter referred to as the "Act") have joint and mutual interests in the economic development of the City of Pflugerville; and

WHEREAS, in August 2001 the citizens of Pflugerville voted for the adoption of a 4B Sales and Use Tax, in the amount of one-half cent, to be used for the purposes permitted by the Act; and

WHEREAS, pursuant to the Act, the City adopted articles of incorporation, creating the Corporation and collects the Sales and Use Tax; and

WHEREAS, Section 501.055(a) of the Texas Local Government Code defines a development corporation as a constituted authority and instrumentality that may act on behalf of the City for the specific public purpose authorized by the City; and

WHEREAS, the statutory purpose of a development corporation is to carry out the economic development efforts authorized by state law and the City; and

WHEREAS, Section 501.067 of the Texas Local Government Code generally provides that with the City's consent, a development corporation may obtain health benefits coverage, liability coverage, workers' compensation coverage, and property coverage under the city's coverages and may participate in the City's retirement benefit programs; and

WHEREAS, in August 2015, the City and the Corporation determined it was in the joint and mutual interest of both parties to continue to utilize certain administrative and professional services and entered into an agreement for administrative and support services including payroll, administrative, development services and human resources support; and

WHEREAS, the Corporation recognizes that Section 501.073(b) of the Texas Local Government Code already grants the City unrestricted access to books and records at all times; and

WHEREAS, the Corporation has previously requested the City's aid, and continues to request the City's support in certain general administrative duties, the administration of payroll, administration of human resources, development services and employee benefits; and

WHEREAS, the City, in aid of the Corporation has, and continues to, support the Corporation by entering into agreements to provide the necessary administrative and professional services in aid to, and in support of the Corporation; and

WHEREAS, the City has evaluated the existing practices, whether formal or informal, and finds that on agreement it serves a public purpose, saves the public funds, and instills cooperation and collaboration to aid and support the Corporation by providing assistance; and

WHEREAS, the Corporation is a financial component unit of the City, subject to the authority granted by City Council through the adoption of the annual budget, strategic plans, incentives and financial and employee policies of the City, receiving internal City services, and the City wishes to maintain consistency of City policies uniformly; and

WHEREAS, in February 2020 the agreement was updated, after determining that it would be a direct benefit to the City and enhance the economic development of the community for the City to provide administrative and support services and limit duplication of those services in support of the Corporation; and

WHEREAS, in May 2023 the agreement was amended to clarify roles, responsibilities and expectations of both parties related to financial advisors and bond counsel services, agenda and budget deadlines, use of software, and City compensation; and

WHEREAS, the City has determined that providing full financial services to PCDC would improve efficiency, transparency and collaboration by streamlining purchasing processes between the two entities, unifying the budget and audit processes and leveraging existing City resources and software to reduce administrative costs.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. City Obligations

The City agrees to:

- (a) Conform to the applicable provisions of the Corporation Bylaws, as authorized by the City Council, as they now exist and as may be amended from time to time. In the event the terms of the Corporation Bylaws conflict with State law, State law shall control.
- (b) Provide the services herein described, in a timely manner in compliance with best practices and procedures of the City.
- (c) Make all payments and execute all appropriate payment documents at the direction of the Executive Director.
- (d) Provide to the Corporation access to obtain health benefits coverage, liability coverage, workers' compensation coverage, and property coverage under the City's coverages and may participate in the City's retirement benefit programs.
- (e) Provide necessary legal services as requested by the Corporation.
- (f) Provide the following human resource services through the People and Culture Department (P+C) generally described as:
 - (i) Recruitment coordination.
 - (ii) New employee orientation.
 - (iii) Administration of all employee benefits (including open enrollment, changes to benefit plans, updates, communications and coordination of elections via the various benefit providers).

- (iv) Administer COBRA benefits.
 - (v) Manage personnel files, including pay amount and personnel changes.
 - (vi) Administer general HR support and consultation.
 - (vii) Advise on the administration of personnel policies.
 - (viii) Inclusion in City holidays and participation in city employee events and training.
 - (ix) Evaluation of employee eligibility for FLSA exempt or non-exempt status.
 - (x) Allow the Corporation to participate in training on performance evaluation and management practices and policies.
 - (xi) Provide compensation study services.
- (g) Provide the following financial services:
- (i) Full financial services generally described as:
 - (1) General accounting and audit services.
 - (2) Budget preparation and monitoring services.
 - (3) Investment management support.
 - (4) Provide software support and problem resolution services.
 - (5) Evaluation and selection of appropriate and cost-effective liability, property, and workers' compensation coverage.
 - (ii) Administer payroll services generally described as:
 - (1) Establishing and maintaining payroll records.
 - (2) Processing bi-weekly payroll and payroll deductions related to employee benefits or as required by law.
 - (3) Remitting payment to benefit providers for employee deductions and employer contributions.
 - (4) Processing quarterly and annual payroll returns and reports to TWC, IRS, TMRS, etc.
 - (5) Processing and filing annual W-2/W-3s.
 - (6) Administering and managing leave for employees.
 - (7) Providing payroll support and assistance to employees as necessary.
- (h) In order to foster communication, transparency, and efficiency, the City will provide the Corporation's use of relevant applications and software used by the City.
- (i) The city agrees to provide Development Services Support for the Corporation in accordance with this agreement. Development Services Support shall include City personnel working part-time performing development and land use support to the Corporation, on an as needed and availability basis, principally when the Corporation projects and negotiations need technical information and expertise in land use and planning to support the Corporation's mission.

Section 2. The Corporation Obligations

In consideration of the City's obligations and services rendered, the Corporation agrees to:

- (a) Follow the applicable provisions of the Corporation Bylaws, as they now exist and as may be amended from time to time. In the event the terms of the Corporation Bylaws conflict with State law, State law shall control.
- (b) Conform to the City's onboarding process for all new corporation employees. The Corporation agrees to incorporate their own employee handbook consistent with the

policies put forth in the City of Pflugerville Employee Handbook as amended.

- (1) The Corporation shall observe adopted City holidays and observe regular business hours.
- (c) Conduct payroll and financial operations in conformance with the City:
- (i) Payroll
 - (1) Follow the City's deadlines for processing payroll changes.
 - (2) Follow the City's deadline for any approved merit increases. No change requests will be applied to a prior payroll period without City Council approval.
 - (3) Follow the City's process for compensation and classification evaluation and implementation.
 - (4) Submit all change requests regarding the Corporation employee information, pay rate, benefits deductions or other related information in writing to the People and Culture Department.
 - (5) The Corporation's Employee Status Reports must reflect the approved budget. The number of positions and position titles must be included in the approved budget.
 - (ii) The Corporation's audit must be publicly accepted by the City Council. The Corporation shall conform to the City's annual audit schedule and the Corporation shall use the City's contracted audit firm to complete their annual audit.
 - (iii) The Corporation shall use the City's financial advisor and bond counsel.
 - (iv) The Corporation shall adhere to the same budget process and deadlines as directed by the City.
 - (v) Adopt and administer employee policies consistent with that of the City of Pflugerville which shall be approved by the City Manager prior to adoption by the Corporation.
- (d) Conform to the City's agenda setting process for all boards and commissions including but not limited to agenda format, item attachments, summary detail, and agenda deadlines. Agendas must be sent to the City Secretary one week prior to the meeting and approved by the City Secretary's office prior to posting.
- (e) All Corporation finalized and signed agreements will be sent to the City Secretary's Office no later than 15 days following/after final signatures.
- (f) All the Corporation media releases will be sent to the City at least 24 hours before the desired release. Media releases related to Projects that require approval by the City Council shall be reviewed and approved by the City prior to such release.
- (g) The Corporation agrees to provide the City the following compensation:
- (i) The Corporation shall reimburse the City for gross payroll and benefits, including all pay and employer contributions and taxes.
 - (ii) The Corporation shall reimburse the City for insurance premiums and costs for liability, workers' compensation, and property coverage.
 - (iii) An administrative fee will be charged for administrative services equal to 5% of the Corporation Personnel portion of the adopted annual budget for gross payroll and benefits.
 - (iv) The Corporation shall reimburse the City its actual costs for all other requested services under this Agreement.

Section 3. Term

- (a) This Agreement shall be effective on the date signed hereunder and both parties agree to take all reasonable steps necessary to implement this agreement as soon as possible. This Agreement shall continue for a period of one (1) year from the effective date of this Agreement, subject to the terms of this Agreement, the Bylaws of the Corporation and state law.
- (b) The Term will be renewed automatically for successive periods of one year each unless either party gives written notice of non-renewal to the other at least sixty (60) days prior to the expiration date of the Term as extended from time to time.
- (c) This Agreement may be terminated at any time by the City or the Corporation. Termination shall be effective sixty (60) days after delivery of Notice of Termination. All payment obligations within this agreement survive termination if not paid in full prior to the termination date.
- (d) This Agreement may be amended upon mutual agreement of the City and the Corporation. Any amendments would be effective upon action of the City and Corporation.

Section 4. Notices

Any notices required or desirable hereunder shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States Postal Service, postage prepaid, return receipt requested, addressed as follows:

Notice to the City:

City of Pflugerville Attention: City Manager
100 East Main Street, Suite 300
P.O. Box 589
Pflugerville, TX 78660/78691

Notice to the Corporation:

Pflugerville Community Development Corporation Attention: Executive Director
3801 Helios Way, Ste. 130
Pflugerville, TX 78660

Section 5. Miscellaneous Provisions

- (a) Neither party may assign this Agreement, or any interest in this Agreement.
- (b) All remedies permitted hereunder are cumulative, not alternative. Waiver of any default herein is not a waiver of the subsequent default.
- (c) This Agreement shall be binding upon and inure to the benefit of the parties.
- (d) This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.
- (e) This Agreement embodies the entire agreement between the parties. It shall not be modified or terminated except as provided herein or by other written agreement. If any provision herein is invalid, it shall be considered deleted here from, and shall not invalidate the remaining provisions. This agreement restates and supersedes any current existing agreements in their entirety.

- (f) The provisions of the Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.
- (g) To the fullest extent permitted by applicable law, the Corporation shall indemnify, protect, defend and hold harmless the City and each of its respective agents and employees from and against all liabilities, claims, damages, fines, penalties, losses, liens, causes of action, costs, and expenses (including court costs, attorneys' fees and costs of investigation) of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (in whole or in part), (1) the services or work performed hereunder, (2) this Agreement, or (3) any act or omission of the City and each of its respective agents and employees, anyone directly or indirectly employed by the City, or anyone that the Corporation controls or exercises control over. City shall promptly advise the Corporation in writing of any action, administrative or legal proceeding or investigation as to which this indemnification may apply, and the Corporation, at its expense, shall reimburse the City on demand any and all costs as described herein expended in connection with such matter. This indemnification shall not be limited to damages, compensation or benefits payable under insurance policies, workers' compensation acts, disability acts or other employees' benefit acts.
- (h) This Agreement shall be construed in accordance with the laws of the State of Texas, as may from time to time be amended, and venue for all purposes hereunder shall be in Travis County, Texas.

IN WITNESS WHEREOF, the Undersigned Corporation and City have executed this agreement by and through their duly authorized representatives effective as of the date signed below.

CITY OF PFLUGERVILLE, TEXAS

By: _____

Date: _____

PFLUGERVILLE COMMUNITY
DEVELOPMENT CORPORATION

By: _____

Date: _____