

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, the City collects the tax and allocates according to the budget authorized by the City Council; and

WHEREAS, Section 501.055(a) of the Texas Local Government Code defines an economic 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;

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

WHEREAS, due to the joint and mutual interests held by the City and the Corporation, the Corporation further desires to continue to utilize certain administrative and professional services of the City in furtherance of its work and the projects it undertakes in furtherance of its purpose and where efficiencies result; and

WHEREAS, Section 501.067 of the Texas Local Government Code generally provides that with the City's consent, an economic 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, the Corporation desires to continue to participate in the City's insurance coverages and employee benefit programs; 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, entering into this agreement builds cooperation between the City and the Corporation, eliminates duplication, promotes economy, and ensures the efficient use of the sales tax revenues that the Corporation receives; and

WHEREAS, the Corporation does not have allocated funding for internal resources to administer certain administrative and professional services determined necessary and beneficial to conduct the business of the Corporation; and,

WHEREAS, the City does have funding allocated for internal resources to administer certain necessary administrative and professional services determined necessary and beneficial to conduct the business of the Corporation; 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 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 the requested assistance; and

WHEREAS, the City and the Corporation have determined that providing the services will be mutually beneficial to the City and the Corporation, will promote local economic development, and will stimulate business and commercial activity within the City, all in furtherance of the purposes of the Corporation; and

WHEREAS, this agreement will result in increased public accountability and transparency for the Corporation; 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, the City has already provided substantially similar services in this and past years, necessitating the review of the Agreement for Administrative and Support Service in place prior to this new agreement; and

WHEREAS, the City has determined that it would be a direct benefit to the City of Pflugerville and enhance the economic development of the community for the City to provide such services in support of the Corporation;

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 the terms of this Agreement, the terms of this Agreement shall control. 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) 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.
- (d) Provide necessary legal services as requested by the Corporation.
- (e) 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 amounts and personnel changes
 - (vi) Administer access badges for city facilities
 - (vii) Manage workers' compensation matters
 - (ix) Administer general HR support and consultation
 - (x) Advise on the administration of personnel policies
 - (xi) Inclusion in City holiday and participation in city employee events and training
 - (xii) Evaluation of employee eligibility for FLSA exempt or non-exempt status
 - (xiii) Allow PCDC to participate in training on performance evaluation and management practices and policies
- (f) Provide the following financial services:
 - (i) 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.
- (ii) Administer other financial services generally described as:
- (1) General accounting and audit support.
 - (2) Budget preparation and monitoring support.
 - (3) Evaluation and selection of appropriate and cost-effective liability, property, and workers' compensation coverage.
- (g) In order to foster communication and efficiency the City will fund the Corporation's use of specific applications used by the City, currently including, Legistar, Slack, PMAM HCM, and as may change from time to time.

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 the terms of this Agreement, the terms of this Agreement shall control. 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 employees will agree to follow the policies put forth in the City of Pflugerville Employee Handbook, and all future revisions of the handbook.
 - (i) The Corporation employees will sign the Employee Handbook Acknowledgement form (attached hereto as Exhibit A) and shall follow PCDC practices for policy acknowledgement as stated in that Acknowledgement.
 - (ii) 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) Submit all change requests regarding the Corporation employee information, pay rate, benefits deductions or other related information in writing using the City approved form.

- (4) The Corporation's Employee Status Reports must reflect the approved budget. The number of positions, position titles, and annual salaries must be itemized in the approved budget.
 - (ii) The Corporation's audit must be accepted by the City Council. The Corporation will conform to the City's annual audit schedule and the Corporation will use the City's contracted audit firm to complete their annual audit.
 - (iii) The Corporation will use the City's financial advisor.
 - (iv) The Corporation must adhere to the same budget process as the City, including but not limited to, budget deadlines, budget format, and decisions of the City Council regarding the budget provided, however, that such deadlines or format shall be communicated to the Corporation by April 1 of each year and shall be accompanied by a briefing by City staff if requested by the Corporation.
 - (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) 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 review and approved by the City prior to such release.
- (e) The Corporation agrees to provide the City the following compensation:
- (i) The Corporation shall reimburse the City for gross payroll and benefits incurred during the payroll processing as defined above. In addition, an administrative fee will be charged for administrative services equal to 5% of the City Council Personnel portion of the adopted annual budget for gross payroll and benefits. The Corporation will be invoiced on a monthly basis, and must pay the entire amount of the invoice within 30 days of receipt. Gross payroll and benefits shall include 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.

Section 3. Term

- (a) This Agreement shall be effective on the date signed hereunder with implementation being fully executed on or before October 1 2020, concurrent with the commencement of FY21. 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, in whole, or from time to time, in part. Termination shall be effective sixty (60) days after delivery

of Notice of Termination, which shall specify to what extent services under this agreement shall be terminated. All payment obligations within this agreement survive termination if not paid in full prior to the termination date.

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, without the other party's prior written consent.
- (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 hereto and their successors and assigns where permitted by this Agreement.
- (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 herefrom, 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 have 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 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: _____
Victor Gonzales, Mayor

Date: _____

PFLUGERVILLE COMMUNITY
DEVELOPMENT CORPORATION

By: _____
Victor Johnson, President

Date: _____