

RESOLUTION NO. 24-R-135

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN INTERLOCAL PURCHASE AGREEMENT WITH THE CITY OF CIBOLO FOR COOPERATIVE PURCHASING SERVICES AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, Section 271.102 of the Texas Local Government Code authorizes local governments to participate in a cooperative purchasing program with another local government or local cooperative organization; and

WHEREAS, a local government that purchases materials, supplies, goods, services or equipment pursuant to a cooperative purchasing program with another local government satisfies the requirement of the local government to seek competitive bids for the purchase of the goods or services; and

WHEREAS, the City of Cibolo has requested to enter into an interlocal purchase agreement to access contracts negotiated and awarded by City of Schertz, pursuant to Subchapter F, Chapter 271 of the Texas Local Government Code;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to execute an interlocal purchase agreement with the City of Cibolo for cooperative purchasing services as set forth in Exhibit A.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject

matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this _____ day of _____, 2024.

CITY OF SCHERTZ, TEXAS

Mayor, Ralph Gutierrez

ATTEST:

City Secretary, Sheila Edmondson

(CITY SEAL)

EXHIBIT A

Interlocal Purchasing Agreement with the City of Cibola

**INTERLOCAL PURCHASE AGREEMENT
BETWEEN THE CITY OF CIBOLO
AND CITY OF SCHERTZ**

This Interlocal Purchase Agreement (the "Agreement") is entered into by the City of Cibolo ("City") and the CITY OF SCHERTZ acting by and through their respective signature authorities, pursuant to and under authority of the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Chapter 271 of the Texas Local Government Code, for the purpose of participating in cooperative purchasing. The undersigned Local Governments may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

RECITALS:

WHEREAS, this Agreement is authorized by Chapter 791 of the Texas Government Code and Subchapter F, Chapter 271 of the Texas Local Government Code; and

WHEREAS, the Parties are local governments as that term is defined in Section 271.101(2) of the Texas Local Government Code; and

WHEREAS, Section 271.102 of the Texas Local Government Code authorizes local governments to participate in a cooperative purchasing program with another local government or local cooperative organization; and

WHEREAS, a local government that purchases materials, supplies, goods, services or equipment pursuant to a cooperative purchasing program with another local government satisfies the requirement of the local government to seek competitive bids for the purchase of the goods or services; and

WHEREAS, local governments in the State of Texas have the ability to realize substantial savings and economies of scale by cooperatively procuring materials, supplies, goods, services or equipment; and

WHEREAS, the Parties desire to enter into a cooperative purchasing program which will allow Parties to purchase materials, supplies, goods, services or equipment pursuant to Subchapter F, Chapter 271 of the Texas Local Government Code; and

WHEREAS, the Parties, acting by and through their respective governing bodies, adopt the foregoing premises as findings of said governing bodies.

NOW, THEREFORE, in consideration of the mutual promises, inducements, covenants, agreements, conditions and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

**ARTICLE I.
PURPOSE**

1. The purpose of this Agreement is to establish a cooperative purchasing program between the Parties which will allow the Parties to realize savings when purchasing materials, supplies, goods, services or equipment, and which will facilitate the Parties' ability to satisfy state laws requiring the Parties to seek competitive bids for the purchase of goods and services. Each Party, in contracting for the purchase of supplies, materials, equipment, and services agrees, at its discretion, to extend competitively procured contracts for shared use to the extent permitted by law and agreed upon by those parties and vendors. This Agreement does not create a partnership, association, joint venture, or trust.

**ARTICLE II.
TERM**

2. This Agreement shall commence on the date on which all Parties have executed this Agreement ("Effective Date"). The term of this Agreement shall be for a period of one (1) year commencing on the Effective Date. Thereafter, unless sooner terminated or superseded by a supplemental agreement as provided herein, the term of this Agreement shall automatically renew for successive periods of one (1) year each pursuant to of the TEX. GOV'T CODE §791.011(f), each renewal period being under the same terms and conditions of this Agreement.

**ARTICLE III.
TERMINATION**

3. A Party may withdraw its participation from this Agreement by providing thirty (30) days prior written notice to the other Party. However, termination of this Agreement by a Party shall not terminate an existing contract between a Party and a vendor although the terms of the existing contract may not be revised once the withdrawal has occurred.

**ARTICLE IV.
PURCHASING**

4.A. **Vendor Consent to Cooperative Purchasing:** Each Party that enters into a contract with a vendor for goods and/or services ("Originating Party") may attempt to obtain the vendor's agreement to offer those goods and services to the other Party and other local governments for the same price and on the same terms and conditions as have been offered to the Originating Party. If the vendor so agrees, and if the Party is agreeable to such terms and conditions, the Party may enter its own separate contract with the vendor for the purchase of such goods or services ("Purchasing Party"). Execution of this Agreement does not obligate either Party to make any purchase, to pay any membership fee, or to otherwise in any manner incur a cost or obligation.

4.B. **Purchasing:** Each Party will designate a person to act on their behalf in all matters relating to the cooperative purchasing program. The Parties will make payments directly to vendors under the contracts made under Chapter 271, Subchapter F, Texas Local Government Code. The Purchasing Party shall be responsible for its own ordering, inspections, and acceptance of goods and services. The Purchasing Party shall have the responsibility of determining whether the vendor has complied with provisions in the Purchasing Party's contract with 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. The Originating Party is not responsible or liable for the performance of any vendor used by the Purchasing Party as a result of this Agreement.

4.C. **Freedom to Contract:** Nothing in this Agreement shall prevent a Party from advertising for and awarding contracts for goods or services separate and apart from this Agreement, nor shall either Party be obligated to purchase goods or services from a contract awarded pursuant to this Agreement.

4.D. **As Is:** The Purchasing Party takes all agreements, contract terms and procurement of the vendor by the Originating Party "as-is" and with all faults, and Originating Party makes no representation as to the validity or enforcement of any procurement method or contract.

ARTICLE V. CURRENT REVENUE

5. The Parties warrant that all payments, expenditures, contributions, fees, costs, and disbursements, if any, required of it hereunder or required by any other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit, attachment, addendum, or associated document, shall be paid from current revenues available to the paying Party. The Parties hereby warrant that no debt is created by this Agreement and that any debt created through a purchase shall be the sole obligation of the purchasing Party and no obligation or liability for such debt shall be a liability or obligation of the other Party.

ARTICLE VI. FISCAL FUNDING

6. The financial obligations of the Parties, if any, under this Agreement are contingent upon the availability and appropriation of sufficient funding. Any Party may withdraw from this Agreement without penalty in the event funds are not available or appropriated. However, no Party will be entitled to a refund of amounts previously contributed in the event of withdrawal for lack of funding.

**ARTICLE VII.
MISCELLANEOUS**

7.A. **Notice**: Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, or by hand-delivery or facsimile transmission addressed to the respective Party at the address set forth opposite the signature of the Party.

7.B. **Amendment**: This Agreement may be amended by the mutual written agreement of the Parties.

7.C. **Severability**: In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

7.D. **Governing Law**: The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas. Venue for any action concerning this Agreement shall lie in Guadalupe County, Texas.

7.E. **Entire Agreement**: This Agreement represents the entire agreement between the Parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement.

7.F. **Recitals**: The recitals to this Agreement are incorporated herein.

7.G. **Counterparts**: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original constituting one and the same instrument.

7.H. **No Assignment**: The Parties may not assign or transfer their rights under this Agreement.

7.I. **Compliance with Law**: Each Party is responsible for complying with any additional or varying laws and regulations regarding purchases.

7.J. **No Waiver of Rights**: Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or equity to a Party, including the defense of sovereign immunity, nor to create any legal rights or claims on behalf of a person not a party to this Agreement.

This Interlocal Agreement is executed to be effective the date of the last party to sign.

CITY OF CIBOLO

By: Wayne Reed
Printed Name: Wayne Reed
Title: City Manager
Date: July 24, 2024

CITY OF SCHERTZ

By: _____
Printed Name: _____
Title: _____
Date: _____