# INTERLOCAL PURCHASE AGREEMENT
# BETWEEN THE CITY OF GARLAND, TEXAS AND THE CITY OF AUSTIN, TEXAS

This Interlocal Purchase Agreement (the "Agreement") is entered into between the City of Garland, Texas, and the City of Austin, Texas, acting by and through their respective governing bodies, 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 ("Chapter 271"), 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 Gov't Code and Subchapter F of Chapter 271; and

**WHEREAS,** the Parties are local governments as that term is defined in Section 271.101(2) of the Texas Local Gov't Code; and

**WHEREAS,** Section 271.102 of the Texas Local Gov't 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 of Chapter 271; and

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

**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 contracts

for shared use to the extent permitted by law and agreed upon by those parties and vendors. This Agreement is not intended to create, nor should it be construed as creating a partnership, association, joint venture, or trust.

## ARTICLE II
## TERM

2. The term of this Agreement shall commence on the date on which all Parties have executed this Agreement ("Effective Date"). This Agreement shall renew annually, and remain in full force and effect unless superseded by a supplemental agreement or terminated as provided in 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 Parties. 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. Each Party shall designate a person to act on their behalf in all matters relating to the cooperative purchasing program. All purchases shall be effected by a contract or purchase order from the purchasing party and directed to the vendor(s). The Parties will make payments directly to vendors under the contracts or purchase orders issued between the parties. The purchasing party shall be responsible for its own ordering, inspections, and acceptance of goods and services. The purchasing Party will be responsible for the vendors' compliance with provisions relating to the quality of items and terms of delivery, and originating party does not accept responsibility or liability for the performance of any vendor. The originating contracting Party does not represent or warrant the quality or capability of the vendor, and is not responsible or liable for the performance of any vendor used by a purchasing Party as a result of this Agreement. The purchasing party shall not use this Agreement as a method for obtaining additional concessions or reduced prices for similar goods or services.

## ARTICLE V
## CURRENT REVENUE

5. The Parties represent 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 Parties.

## 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

7A. **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.

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

7C. **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.

7D. **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 Travis County, Texas.

7E. **Entire Agreement**: This Agreement represents the entire agreement among 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.

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

7G. **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.

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

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

7J. **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. Nothing in this Agreement shall be deemed to create any legal rights or claims on behalf of a person not a party to this Agreement.

7K. Each Party warrants that this Agreement has been authorized by their respective governing bodies, and the person signing below has authority to sign this Agreement.

**EXECUTED** this _____ day of _____, 2017.

**CITY OF GARLAND, TEXAS**

By: _____

Name: Gary L. Holcomb
Title: Director of Procurement
Date Signed: January 11, 2017
Address for Notice:
City of Garland Procurement
200 North Fifth Street
Garland, TX 75040

**ATTEST:**

By: _____
Secretary or other designated individual (if required)

**EXECUTED** this _____ day of _____, 2017.

**CITY OF AUSTIN, TEXAS**

By: _____

Name: _____
Title: _____
Date Signed: _____
Address for Notice:
James Scarboro
Purchasing Officer
P. O. Box 1088
Austin, TX 78767-8845

**FOR CITY, APPROVED AS TO FORM:**

By: _____
Assistant City Attorney