

INTERLOCAL AGREEMENT

This Interlocal Agreement (“Agreement”) is by and between MCLENNAN COMMUNITY COLLEGE, a public community college district established under Chapter 130 of the Texas Education Code and political subdivision of the State of Texas (“MCC”) and EL PASO COUNTY COMMUNITY COLLEGE DISTRICT, a public community college district established under Chapter 130 of the Texas Education Code and political subdivision of the State of Texas (“EPCC”), and shall become effective as of the date of the last signature below (“Effective Date”). MCC and EPCC may individually be referred to herein as “party” and collectively, “the Parties.”

RECITALS

WHEREAS, MCC and EPCC are both governmental entities authorized to enter into agreements in accordance with the Texas Interlocal Cooperation Act, Tex. Gov’t Code Section 791.001 et seq., for the purpose of achieving efficiency in the accomplishment of governmental administrative functions, including the purchase of goods and services; and

WHEREAS, the purpose of this Agreement is to facilitate compliance with the state procurement requirements, to relieve the burdens of the governmental purchasing function, and to realize the potential economies of scale available through cooperative purchasing, including administrative cost savings to the Parties; and

WHEREAS, Chapter 791 of the Texas Government Code (“Interlocal Cooperation Act”) increases efficiency and effectiveness of local governments by permitting governmental entities to contract with one another through interlocal agreements to perform a service or governmental function that each party is authorized to perform; and

WHEREAS, MCC and EPCC wish to enter into an Interlocal Contract pursuant to Chapter 791.003 of the Texas Government Code to set forth the terms and conditions upon which MCC and EPCC may purchase various goods and services commonly utilized by each entity; and

NOW, THEREFORE, in consideration of the mutual covenants, promises and obligations contained herein, the Parties agree as follows:

AGREEMENT

1. **Incorporation.** The above recitals are incorporated as part of the agreement between the Parties.
2. **Definitions.**
 - a. “Procuring District” shall mean the party which holds the underlying contract or solicitation agreement with the vendor and has satisfied the competitive procurement requirements of Chapter 44 of the Texas Education Code in procuring such goods, materials and services.
 - b. “Purchasing District” shall mean the party which seeks to purchase or purchases goods, materials or services under this Agreement utilizing the contracts, solicitation agreements or pricing competitively procured and negotiated by the Procuring District.

3. **Purpose.** The Parties competitively bid and award contracts for contracted purchases to awarded vendors in accordance with purchasing procedures mandated by Texas procurement laws and regulations. The Parties' contracts are available for use and benefit of all entities that must comply with Texas purchasing laws. This Agreement will allow the Parties to extend such contracts to each other to the extent permitted by law, and in a manner agreed upon by the Parties.
4. **Administration.** No separate and distinct legal entity shall be created to conduct this undertaking.
5. **Term.** This Agreement shall commence as of the Effective Date and shall continue in effect for a period of one year from that date. The Agreement will thereafter automatically renew for successive one-year terms on the anniversary of the initial term unless the Agreement is sooner terminated in accordance with the provisions herein.
6. **Termination.** This Agreement may be terminated by either MCC or EPCC, with or without cause, at any time, by providing thirty (30) days prior written notice by Certified Mail, Return Receipt Requested to the other party at the address provided for that party in the signature block of this Agreement or at such other address as is provided in writing by either party to the other during the term of this Agreement. Upon termination of the Agreement the Parties shall each bear the full financial responsibility for all its purchases made under or through this Agreement.
7. **Compliance with Applicable Laws.** The Parties agree to comply with all applicable laws relating to procurement of the contracted purchases.
8. **Respective Rights and Obligations of the Parties.**
 - a. MCC and EPCC agree to cooperate in the purchase of various goods and services commonly used by the Parties, where available and applicable, and may purchase goods and services competitively procured by the other, in compliance with Chapter 44 of the Texas Education Code, from vendors under present and future contracts with MCC or EPCC. There shall be no administrative fees associated with purchases made under this Agreement.
 - b. The Purchasing District, whether MCC or EPCC, agrees to make timely payments to the vendor for the goods, materials and services received in accordance with the contracts, terms and conditions of the bid invitation, instructions, and all other applicable procurement documents. Payment for goods, materials and services and inspections and acceptance of goods, materials and services ordered by the Purchasing District shall be the exclusive obligation of that District and not the Procuring District. Furthermore, the Purchasing District is solely responsible for negotiating and securing ancillary agreements from the vendor on such other terms and conditions, including provisions relating to insurance or bonding, that the Purchasing District deems necessary or desirable under state or local law, local policy or rule, or within its business judgment.
 - c. The terms and conditions contained in the Procuring District's contract between it and the

awarded vendor shall be incorporated into the contract between the Purchasing District and that vendor. Neither party shall be precluded from including in its contract with that vendor any supplemental terms and conditions so long as such provisions are not in conflict with those contained in the original Procuring District's contract.

- d. In the event of any dispute between the Procuring District and the awarded vendor, the respective Purchasing District will assist in resolving any issues and will make every effort to facilitate a favorable remedy.

9. General Provisions.

- a. MCC and EPCC each represent and warrant to the other that its respective governing body has duly authorized its participation in this Agreement and that it will comply with all state and local laws and local district policies pertaining to purchasing of goods and services through its participation in this Agreement.
- b. The Parties agree that they will cooperate in compliance with any reasonable requests for information and/or records made by the other for purposes of compliance with purchasing laws or their respective local policies.
- c. MCC and EPCC each represent and warrant to the other that each shall make its respective payments under this Agreement from current revenue available to the District.
- d. This Agreement supersedes all prior verbal and written agreements and understandings between the Parties with respect to the subject matter contained herein.
- e. This Agreement shall not be altered, changed or amended except by written revision or addendum executed by the Parties.
- f. This Agreement and all performance hereunder shall be governed by and interpreted in accordance with the laws of the State of Texas without regard to its choice of law or conflicts of law provisions.
- g. Each party warrants to the other the following:
 - i) It meets the definition of "Local Government" or "State Agency" under the Interlocal Cooperation Act ("Act"), Chapter 791 of the Texas Government Code;
 - ii) The functions and services to be performed under the Agreement will be limited to "Governmental Functions and services" as defined in the Act, which includes purchasing;
 - iii) Purchases made under this Agreement will satisfy all procedural procurement requirements that the purchasing party must meet under all applicable local policy, regulation, or state law; and
 - iv) All state, local or third-party requirements to approve, record or authorize the Agreement have been met.

- h. If 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 any other provisions, and the Agreement shall be construed as if such invalid, illegality, or unenforceable provision had never been contained in it.
- i. The Parties have participated fully in the review and revisions of this Agreement. Any rule of construction to then effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.
- j. Neither party waives or relinquishes any governmental, official, or other immunity or defense on behalf of itself, its officers, employees, and agents as a result of its execution of this Agreement or the performance under this Agreement. Further, any failure of either party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provisions of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged.
- k. This Agreement is not intended to waive, alter or reallocate any defense or immunity available to either party by law. Each party paying for the performance of governmental functions or services hereunder shall make such payments from current revenues available to then paying party, and all obligations entered into by the Parties in then future will be subjected to appropriation.
- l. This Agreement and all activities under this Agreement are solely for the benefit of the Parties and nothing contained herein should be construed or operate to create any third-party rights including those of a third party beneficiary.
- m. This Agreement may be executed in identical separate counterparts, each of which shall be deemed an original for all purposes. The Parties also agree that facsimile signatures shall have the same effect as original signatures.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties acting through their duly authorized representatives accept the Agreement as of the Effective Date:

MCLENNAN COMMUNITY COLLEGE

By: _____
Name
Title

Date: _____

Mailing Address:
McLennan Community College
1400 College Drive
Waco, TX 76708

EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

By: _____
Dr. William Serrata
President

Date: _____

Mailing Address:
El Paso County Community College District
PO Box 20500
El Paso, TMCC 79998