

RESOLUTION 2016-27

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE EDUCATION SERVICE CENTER, REGION 20 TO PURCHASE COMMODITIES OR SERVICES.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The Intergovernmental Agreement with the Education Service Center, Region 20, known as PACE Purchasing Cooperative (“PACE”), authorizing the Town to purchase commodities or services through PACE contracts (the “Agreement”) is hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, October 6, 2016.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:


Linda M. Kavanagh, Mayor


Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Grady E. Miller, Town Manager

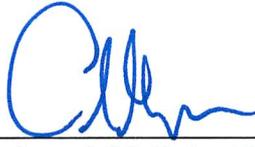

Andrew J. McGuire, Town Attorney

EXHIBIT A
TO
RESOLUTION 2016-27

[Agreement]

See following pages.

3. "Local public procurement unit" means any political subdivision, any agency, board, department or other instrumentality of such political subdivision and any nonprofit corporation created solely for the purpose of administering a cooperative purchase under this article.

4. "Nonprofit corporation" means any nonprofit corporation as designated by the internal revenue service under section 501(c)(3) through 501(c)(6) or under section 115, if created by two or more local public procurement units, includes certified nonprofit agencies that serve individuals with disabilities as defined in section 41-2636.

5. "Public procurement unit" means a local public procurement unit, the department, any other state or an agency of the United States.

ARIZ. REV. STAT. ANN. § 41-2632

A. Any public procurement unit may either participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any materials, services, professional services, construction or construction services with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. The cooperative purchasing may include joint or multi-party contracts between public procurement units and open-ended public procurement unit contracts that shall be available to local public procurement units. A nonprofit corporation may enter into an agreement pursuant to this section if one or more of the parties involved is a public procurement unit. ...

F. Parties under a cooperative purchasing agreement may:

1. Sponsor, conduct or administer a cooperative agreement for the procurement or disposal of any materials, services or construction.

2. Cooperatively use materials or services.

3. Commonly use or share warehousing facilities, capital equipment and other facilities.

4. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.

5. On request, make available to other public procurement units informational, technical or other services or software that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational, technical or other services or software has the right to request reimbursement for the reasonable and necessary costs of providing these services or software.

ARIZ. REV. STAT. ANN. § 11-952

A. If authorized by their legislative or other governing bodies, two or more public agencies or public procurement units by direct contract or agreement may contract for services or jointly

exercise any powers common to the contracting parties and may enter into agreements with one another for joint or cooperative action or may form a separate legal entity, including a nonprofit corporation, to contract for or perform some or all of the services specified in the contract or agreement or exercise those powers jointly held by the contracting parties.

Effective:

This Interlocal Agreement (hereinafter referred to as the "*Agreement*") is effective _____ and shall be automatically renewed annually unless either party gives sixty (60) days prior written notice of non-renewal. This Agreement may be terminated without cause by either party upon sixty (60) days prior written notice, or may also be determined for cause at any time upon written notice stating the reason for and effective date of such terminations and after giving the affected party a thirty (30) day period to cure any breach.

Statement of Services to be Performed:

Education Service Center, Region 20 by this *Agreement*, agrees to provide competitively bid cooperative purchasing services to the above-named public entity through a program known as PACE Purchasing Cooperative.

Role of the PACE Purchasing Cooperative:

1. Provide organizational and administrative structure of PACE.
2. Provide Administrative and Support Staff necessary for efficient operation of PACE.
3. Provide marketing of the PACE to expand membership, awarded contracts and commodity categories.
4. Initiate and implement activities required for competitive bidding and vendor award process including posting, advertising, collecting proposals, scoring proposals, and awarding of vendor contracts.
5. Provide members with current awarded vendor contracts, instructions for obtaining quotes and ordering procedures.
6. Maintain filing system for all competitive bidding procedure requirements.
7. Provide Reports as requested.

Role of the Education or Government Entity:

1. Commit to participate in PACE.
2. Designate a Primary Contact for the entity to be responsible for promoting PACE within the organization.
3. Commit to purchase products and services from PACE Vendor Awarded Contracts when in the best interest of the entity.
4. Accept shipments of products ordered from Awarded Vendors in accordance with standard purchasing procedures.
5. Pay Awarded Vendors in a timely manner for all goods and services received.
6. Report any vendor issues that may arise to the PACE Cooperative Contact.

General Provisions:

Both Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations in connection with the programs contemplated under this Agreement. This Agreement is subject to all applicable present and future valid laws governing such programs.

This Agreement shall be governed by the laws of the State of Texas and venue shall be in the county in which the administrative offices of Education Service Center, Region 20 are located which is Bexar County, Texas.

It is the responsibility of the Entity purchasing from PACE Purchasing Cooperative awarded vendors to insure that the respective State purchasing laws are being followed.

This Agreement contains the entire agreement of the Parties hereto with respect to the matters covered by its terms and it may not be modified in any manner without the express written consent of the Parties.

If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect.

Before any party may resort to litigation, any claims, disputes or other matters in question between the Parties to this Agreement shall be submitted to the nonbinding mediation.

No Party to this Agreement waives or relinquishes any immunity or defense on behalf of themselves, their directors, officers, employees, and agents as a result of its execution of this Agreement and performance of the functions and obligations described herein.

This Agreement may be negotiated and transmitted between the Parties by means of a facsimile machine and the terms and conditions agreed to are binding upon the Parties.

Authorization:

Education Service Center, Region 20 and PACE Purchasing Cooperative have entered into an Agreement to provide competitively bid cooperative purchasing opportunities to entities as outlined above.

The Interlocal Agreement process was approved by the governing boards of the respective Parties at meetings that were posted and held in accordance with the respective STATE Open Meetings Act, for Texas it was Government Code Ch.551.

The individuals signing below are authorized to do so by the respective Parties to this Agreement.

INTERLOCAL COOPERATION AGREEMENT

Please send a signed Interlocal Agreement to (or fax to 210-370-5776 or e-mail to jim.metzger@esc20.net):

Education Service Center, Region 20
Attn: PACE Coop
1314 Hines Ave
San Antonio, TX 78208.

Public Entity

Education Service Center, Region 20

BY: 
Authorized Signature

BY: _____
Authorized Signature

Town Manager
Title

Purchasing Coordinator
Title

10-6-16
Date

Date

Craig Rudolphy
Contact Person

Jim Metzger
Contact Person

Finance Director
Title of Contact Person

Purchasing Coordinator
Title of Contact Person

16705 E Ave of the Fountains
Street Address

210-370-5204
Phone Number

Fountain Hills, AZ 85268
City, State, Zip

210-370-5776
Fax Number

480-816-5100 / 480-837-3145
Phone/Fax Number

jim.metzger@esc20.net
E-mail Address

cRudolphy@Fh.az.gov
E-mail Address