

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BRYAN
AND FIRST CHOICE COOPERATIVE**

WHEREAS, Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, authorizes all local governments to contract with each other to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing of necessary equipment, supplies and services;

WHEREAS, City of Bryan and First Choice Cooperative desire to enter into this Agreement for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs and services;

WHEREAS, the City of Bryan is a Home Rule Municipal Corporation organized under the laws of Texas and is authorized to enter into this Agreement;

WHEREAS, The City of Bryan and First Choice Cooperative represent that each are independently authorized to perform the functions or services contemplated by this Agreement;

WHEREAS, each party has sufficient funds available from current revenues to perform the functions contemplated by this Agreement;

WHEREAS, it is deemed in the best interest of all participating governments that said governments do enter into a mutually satisfactory agreement for the purchase of necessary equipment, supplies and services;

WHEREAS, the participating governments are of the opinion that cooperation in the purchasing of equipment, supplies and services will be beneficial to the taxpayers of the City of Bryan through the efficiencies and potential savings to be realized.

NOW THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as to each of the other as follows:

1. City of Bryan and First Choice Cooperative agents shall be authorized to jointly prepare bid solicitations, proposal solicitations, requests for qualifications and other procurement activity for the purchase of equipment, supplies, services, insurance, high technology, professional services and expenditures that may be exempt from competitive bidding/proposals.
2. The Buyers shall fairly distribute the bid solicitations, proposal solicitations, requests for qualifications and other purchases to be made and the cost of advertising shall be borne equally by each entity, whenever joint purchasing is undertaken.
3. The City of Bryan and First Choice Cooperative buyers shall agree on who is responsible for all such administrative duties as may be necessary to lawfully

facilitate processing and preparation of any bid solicitations, proposal solicitations and request for qualifications and other procurement activity as may be required for the purchase of any equipment, supplies, services, insurance, high technology, professional services and other expenditures that may be exempt from competitive bidding/proposals. The City of Bryan and First Choice Cooperative shall share equally any and all cash rebates related to any joint purchases pursuant to this Agreement.

4. Each entity shall pay invoices directly to the providers of goods and services that are invoiced and delivered directly to each respective entity.
5. Participation of either entity in any cooperative purchasing activity is strictly voluntary. Nothing in this Agreement shall prevent either entity from purchasing and/or accepting and awarding bids, proposals and contracts subject to this Agreement on its own behalf.
6. Each entity shall ensure that all applicable laws and ordinances have been satisfied.
7. **Effective Date and Term.** This Agreement shall be effective when signed by the last party who's signing makes the Agreement fully executed and will remain in full force and effect unless terminated in accordance with the provisions of this Agreement. The conditions set forth below shall apply to the initial term and all renewals. Notwithstanding this provision, any party may modify or terminate this Agreement as provided in Paragraph(s) 8 or 9.
8. **Modification.** The terms and conditions of this Agreement may be modified upon the mutual consent of all parties. Mutual consent will be demonstrated approval of each governing body of each party hereto. No modification to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of all parties.
9. **Termination.** This Agreement may be terminated at any time by the **City of Bryan or First Choice Cooperative**, with or without cause, upon thirty (30) days written notice to the other parties in accordance with Paragraph 12 herein.
10. **Hold Harmless.** To the extent permitted by law the City of Bryan and the First Choice Cooperative agree to hold each other harmless from and against any and all claims, losses, damages, causes of action, suits and liabilities of every kind, including all expenses of litigation, court costs and attorney's fees, for injury or death of any person, for damage to any property, or for any breach of contract, arising out of or in connection with the negligence or other wrongful act in the performance of work done by the indemnifying party under this Agreement.
11. **Invalidity.** If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.
12. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein.

City of Bryan:

Purchasing Department
City of Bryan
1309 E. MLK. St
Bryan, Texas 77803

First Choice Cooperative:

First Choice Management Services
First Choice Cooperative
4815 Troup Hwy.
Tyler, Texas 75703

13. **Entire Agreement.** It is understood that this Agreement contains the entire agreement between the parties and supercedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. Nor oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.
14. **Amendment.** No Amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.
15. **Texas Law.** This Agreement has been made under and shall be governed by the laws of the State of Texas.
16. **Place of Performance.** Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.
17. **Authority to Enter Contract.** Each party has the full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.
18. **Waiver.** Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.
19. **Agreement Read.** The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.
20. **Assignment.** This Agreement and the rights and obligations contained herein may not be assigned by any party without the prior written approval of the other parties to this Agreement.

21. **Multiple Originals.** It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

CITY OF BRYAN

First Choice Cooperative

BY: _____
Jason P. Bienski, Mayor

BY: _____
_____, COO

DATE:

DATE:

ATTEST:

Mary Lynne Stratta, City Secretary

NOTARY:

APPROVED AS TO FORM:

Janis Hampton, City Attorney
