

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Financial Services – Purchasing Division

AGENDA DATE: December 13, 2011

CONTACT PERSON NAME/PHONE: Bruce D. Collins (915) 541-4313.

DISTRICT(S) AFFECTED: ALL

SUBJECT:

Approve an Interlocal Agreement and Resolution authorizing the City of El Paso to participate in the PEPPM Technology Bidding and Purchasing Program administered by the Central Susquehanna Intermediate Unit (CSIU/PEPPM).

BACKGROUND / DISCUSSION:

The City of El Paso has the general authority to access the contracts of other governmental agencies cooperative purchasing programs. The goal is to combine the City of El Paso purchasing requirements with other agencies to achieve discount pricing which results in direct cost and administrative savings. The PEPPM Technology Bidding and Purchasing Program offer various contracts that have been competitively solicited for use by other governmental agencies. The program is non-exclusive, voluntary, and there is no charge to participate. The City of El Paso can use those contracts that offer the best fit and overall value based on the City's specific needs and requirements.

SELECTION SUMMARY

N/A

PRIOR COUNCIL ACTION:

The Cooperative Purchasing Network (Approved 3/27/07); Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program (Approved 5/8/07); Texas Association of School Boards, Inc. (TASB, Inc.) (Approved 8/21/07); ESC-Region 19 Cooperative Purchasing Program (Approved 3/4/08); Harris County Department of Education Cooperative Purchasing Program (Approved 8/18/09); and the Tarrant County Cooperative Purchasing Program (Approved 11/10/09).

AMOUNT AND SOURCE OF FUNDING:

There is no cost to participate in this program. Staff believes participation in this program will produce cost and administrative savings and will provide the best value to the agency/taxpayers of the City of El Paso.

BOARD / COMMISSION ACTION: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Information copy to appropriate Deputy City Manager

**COUNCIL PROJECT FORM
(COOPERATIVE CONTRACT)**

*******POSTING LANGUAGE BELOW*******

Please place the following item on the **CONSENT** agenda (under **RESOLUTIONS**) for the Council Meeting of **DECEMBER 13, 2011**.

That the City Manager is hereby authorized to sign the Interlocal Cooperative Purchasing Agreement with Central Susquehanna Intermediate Unit/PEPPM in order to participate in their cooperative purchasing program.

Districts: ALL

*******ADDITIONAL INFO BELOW*******

RESOLUTION

WHEREAS, the City of El Paso (the "City") may participate in cooperative purchasing agreements with other governmental entities pursuant to the authority granted in the State of Texas Statutes Government Code, Title 7, Chapter 791 Interlocal Cooperation Contracts, Subchapter B and Subchapter C, and Local Government Code, Title 8, Chapter 271, Subchapter F, Section 271.101 and Section 271.102;

WHEREAS, City staff has recommended that the City participate in the PEPPM Technology Bidding and Purchasing Program, administered by the Central Susquehanna Intermediate Unit, hereinafter called "CSIU/PEPPM," an intermediate unit established by and existing under Chapter 11 of the Pennsylvania Public School Code of 1949, as amended, 24 P.S. §§9-951 et seq., for the purpose of fulfilling and executing its respective governmental purposes, goals objectives, programs and functions;

WHEREAS, the City seeks to utilize the contracts offered through CSIU/PEPPM Interlocal Cooperative Purchasing Agreement to obtain substantial savings for the City; and

WHEREAS, the City has reviewed the benefits of participating in this program and based on this review has concluded that the program will benefit City of El Paso taxpayers through anticipated procurement savings.

NOW AND THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager is hereby authorized to sign the Interlocal Cooperative Purchasing Agreement with Central Susquehanna Intermediate Unit/PEPPM in order to participate in their cooperative purchasing program.

ADOPTED this _____ day of _____ 2011.

CITY OF EL PASO

John Cook, Mayor

ATTEST:

Richarda D. Momsen
Municipal Clerk

APPROVED AS TO FORM:

Elizabeth M. Ruhmann
Assistant City Attorney

APPROVED AS TO CONTENT:

Bruce Collins
Purchasing Manager

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CITY CLERK DEPT.

Interlocal Cooperative Purchasing Agreement
by and between the City of El Paso, Texas and the
Central Susquehanna Intermediate Unit/PEPPM Cooperative Purchasing Program

THIS AGREEMENT ("the Agreement"), made and entered into this ____ day of _____, 2011, by and between the City of El Paso, a Texas home rule municipal corporation ("City"), and the Central Susquehanna Intermediate Unit ("CSIU") t/d/b/a PEPPM ("PEPPM"), an intermediate unit established by and existing under Chapter 11 of the Pennsylvania Public School Code of 1949, as amended, 24 P.S. §§9-951 et seq., with its principal place of business located at 90 Lawton Lane in the Borough of Milton, Northumberland County, Pennsylvania and having as its mailing address 90 Lawton Lane, Milton, Pennsylvania 17847.

WHEREAS, City has investigated and determined that it would be advantageous and beneficial to City to enhance purchasing power through PEPPM; and

WHEREAS, PEPPM will organize and administer a cooperative purchasing program the goal of which is to obtain substantial savings on technology commodity items for members through competitive bidding and volume purchasing.

WHEREAS, Chapter 791 (Interlocal Cooperation Contracts) of the Texas Government Code (the "Code") authorizes local governments to contract with one another in order to increase their efficiency and effectiveness. Section 791.025(a) of the Code authorizes local governments to contract with one another to purchase goods and services. A local government that purchases goods and services under Section 791.025(a) satisfies the requirement of the local government to seek competitive bids for the purchase of the goods and services.

WHEREAS, a governmental entity of Texas or another state that makes purchases or provides purchasing services under an interlocal contract for a state agency, as that term is defined by Section 771.002, must comply with Chapter 2161 of the Texas Government Code (regarding historically and underutilized businesses) in making the purchases or providing the services.

WHEREAS, Pursuant to Article IX- A of the Pennsylvania Public School Code of 1949, as amended, 24 P.S. §§9- 951 et seq. and to other provisions of law, Central Susquehanna Intermediate Unit, the administering agency for the PEPPM Technology Bidding and Purchasing Program, hereinafter called "CSIU/PEPPM" and the City, hereby agree to cooperative governmental purchasing upon the following terms and conditions:

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, City and the CSIU/PEPPM agree as follows:

General Provisions

1. CSIU/PEPPM, in contracting for the purchase of goods and services for itself agrees to seek the same or similar terms for the City, where appropriate in CSIU/PEPPM 's sole discretion, to the extent permitted by law.
2. The method of financing or payment of purchases pursuant to this agreement shall be through budgeted funds or other available funds of the City. Any services or goods procured by the City under these contracts shall remain the exclusive property of or under control of said City.

3. Whenever CSIU/PEPPM has included in contracts with any vendor the authority for the purchase of goods and/or services by city, the City may purchase on the same terms and conditions as CSIU/PEPPM. Such purchase may be affected by a direct contract between the City and the vendor. CSIU/PEPPM accepts no responsibility for the performance or suitability of any good or service to be provided by the vendor; and CSIU/PEPPM accepts no responsibility for the payment of the purchase price by the City.
4. Each party reserves the right to contract independently for the acquisition of goods or services or disposal of any property without notice to the other party and shall not bind or otherwise obligate the other party to participate in the activity. CSIU/PEPPM and the City each reserve the right to exclude the other from any particular purchasing contract, with or without notice.
5. Each party shall be liable and responsible for the consequence of any negligent or wrongful act or failure to act on the part of itself and its employees. Neither party assumes responsibility to the other party for the consequences of any act or omission of any person, firm or corporation not a party to this agreement.
6. CSIU/PEPPM will contract for the purchase of goods and services according to the laws and regulations governing purchases by and on behalf of CSIU/PEPPM. The City accepts responsibility for compliance with any additional or varying laws and regulations governing purchases by or on behalf of the City in question.
7. PEPPM's standard bid and contract terms and conditions shall apply to all of City's purchases made using PEPPM contracts and procedures.

Role of PEPPM

1. Provide for the organizational and administrative structure of the program.
2. Provide staff time necessary for efficient operation of the program.
3. Provide the list of commodity items to participating members for purposes of obtaining quantity requests.
4. Receive quantity requests from members and prepare appropriate tally of quantities.
5. Provide members with procedures for ordering, delivery and billing.
6. City will not be billed any membership fees from PEPPM to purchase from this program.
7. PEPPM will not be responsible for product warranties, product qualities, failure to deliver by vendors, or failure of payment to vendors by members.

Role of City

1. Commit to participate in the program by an authorized signature in the appropriate space below.
2. Designate a contact person for the cooperative.
3. Prepare purchase orders issued to the appropriate vendor from the official award list provided by PEPPM.
4. Fax all purchase orders to PEPPM for processing.
5. Accept shipments of products ordered from vendors in accordance with standard purchasing procedures.
6. Pay vendors by designated dates, unless other prior arrangements have been made between the City and the vendor(s). All deliveries must be made as long as this contract is in effect.
7. No annual membership fee is required in order to participate in the PEPPM Program.

Miscellaneous Provisions

1. Term/Termination. The term of this Agreement shall commence on the date established above and shall continue in effect until either party terminates the Agreement by providing notice to the other party.
2. Notice. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Mail, postage pre-paid, certified mail, return receipt requested, addressed to either party, as the case may be, at the addresses contained below:

City: The City of El Paso, Texas
 Attn: City Manager
 2 Civic Center Plaza
 El Paso, TX 79901

PEPPM: PEPPM/Central Susquehanna Intermediate Unit
 Attn: Executive Director
 P.O. Box 213
 Lewisburg, PA 17837

3. Assignment. This Agreement is not assignable without the prior written consent of the Parties.
4. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties hereto.
5. Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
6. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
7. Authority to Execute. The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
8. Savings/Severability. In case 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 provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
9. Representations. Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel.

10. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.
11. Pursuit of a Governmental Function. Both City and the CSIU/PEPPM have determined by their execution of this Agreement that this Agreement and the obligations of the parties contained herein are in discharge of a governmental function as set forth in the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, and the participation by either party in the terms of this Agreement shall not make such party an agent or representative of the other party.
12. Sovereign Immunity. The parties agree that neither City nor the CSIU/PEPPM has waived its sovereign immunity by entering into and performing their respective obligations under this Agreement.
13. Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. No third party shall have any rights herein.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest date as reflected by the signatures below.

The City of El Paso, Texas

By: _____ Date: _____

Name: Joyce Wilson

Title: City Manager

CENTRAL SUSQUEHANNA INTERMEDIATE UNIT

By: Charles E. Peterson Jr. Date: 9/28/11

Name: Charles E. Peterson Jr.

Title: Director of Cooperative Business Services

STATE OF TEXAS
COUNTY OF EL PASO

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BEFORE ME, the undersigned authority, on this day personally appeared John Cook, El Paso City Mayor, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the City of El Paso and he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____ 2011.

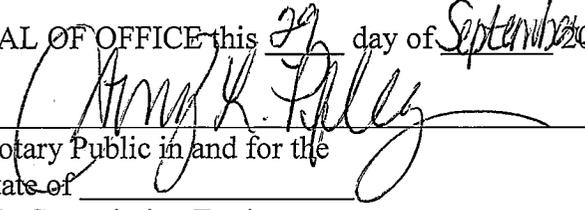
Notary Public in and for the
State of Texas
My Commission Expires:

CITY CLERK DEPT.
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STATE OF PENNSYLVANIA *
COUNTY OF UNION *

BEFORE ME, the undersigned authority, on this day personally appeared Charles Peterson, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me he/she is the duly authorized representative for the PEPPM/CENTRAL SUSQUEHANNA INTERMEDIATE UNIT, and he/she executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 29 day of September 2011.



Notary Public in and for the
State of _____
My Commission Expires: _____



NOTARIAL SEAL
AMY L PFLEEGOR
Notary Public
MILTON BOROUGH, NORTHUMBERLAND COUNTY
My Commission Expires Aug 27, 2014

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