

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE _____ AND
THE NAVARRO INDEPENDENT SCHOOL DISTRICT**

This Memorandum of Understanding (“**Agreement**”) is made and entered into by and between the _____ (“**PFC or Public Facility Corporation**”), and the Navarro Independent School District, a political subdivision of the State of Texas (“**District**”). The PFC and the District are sometimes referred to collectively as the “**Parties**” or individually as a “**Party**.”

PURPOSE

The purpose of this Agreement is to set forth the understanding between PFC and the District regarding certain revenue sharing obligations between the Parties as a direct result of the _____.

Section 1. TERM

The term of this Agreement shall be for seventy-five (75) years, subject to any subsequent extensions permitted under Chapter 303 of the Texas Government Code. Should the PFC wish to extend the term, the PFC shall provide the District with six (6) months advanced written notice before the end of the initial term of its intent to extend.

Section 2. REVENUE SHARING PAYMENTS AND DISTRICT IMPROVEMENT FEE

The District and the PFC covenant and agree that, while this Agreement is in effect, they shall comply with the following terms and conditions:

A. Revenue Payments. The PFC, pursuant to the terms of its contract with _____, will collect certain annual revenue payments.

B. Division of Revenue Payments. The PFC, upon receipt of those certain annual revenue payments, shall pay to the District two thirds (2/3) of any and all annual revenue payments collected by the PFC (“Revenue Sharing Payment(s)”). Such Revenue Sharing Payment(s) shall be made to the District no later than _____ of the following year.

C. Detailed accounting statement. The PFC, in addition to its required Revenue Sharing Payment(s) to the District, will also provide the District with a detailed accounting statement of the annual revenue payments collected for the relevant year.

D. One-Time District Improvement Fee. In addition to the Revenue Sharing Payment(s) outlined the above, the PFC further agrees to make a one-time payment to the District in the amount of FIVE HUNDRED AND NO/100 DOLLARS (\$500,000.00) for the purpose of making certain improvements to the District (“District Improvement Fee”). Such District Improvement Fee shall be paid to the District no later than _____.

Section 3. DELIVERY OF PAYMENT

The PFC will deliver any and all payments due to the District under the terms of this Agreement to the District's Administrative Office, c/o Chief Financial Officer, located at 6450 N State Hwy 123 Seguin, Texas 78155, either in person or by certified mail.

Section 4. DEFAULT

In the event the PFC fails to make prompt payment to the District of the agreed upon Revenue Sharing Payment(s) and/or District Improvement Fee, or in any way fails to comply with the terms or conditions of this Agreement, the District may, upon written notice of default to the PFC exercise any and all rights, remedies or privileges which may be available to it under applicable law of the State of Texas and any other applicable law or proceed by appropriate court action to enforce the provisions of this Agreement, or to recover damages for the breach of any agreement being derived from the terms of this Agreement. The exercise of any of the foregoing remedies will not constitute a termination of the Agreement unless the District notifies the PFC in writing prior to the exercise of such remedy. The PFC shall remain liable for all covenants under the Agreement.

Section 5. MEDIATION

Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the initiation of litigation.

- A. Mediation stipulations.** Unless the parties mutually agree otherwise, mediation shall be administered in accordance with the following:

 - a. Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon agreement of both parties.
 - b. In the event the District and the PFC are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) days following the date of the request for mediation, all conditions precedent in this article shall be deemed to have occurred.
 - c. At all times during the course of any dispute resolution process, the PFC shall continue diligently and without delay to perform the services and obligations of the Agreement.
- B. Mediation fees.** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Guadalupe County, Texas, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- C. Binding dispute resolution.** If the parties do not resolve a dispute through mediation pursuant to this Section 6.C., the method of binding dispute resolution shall be litigation in a court of competent jurisdiction.

Section 6. MISCELLANEOUS PROVISIONS

A. **Effective Date.** The effective date of this Agreement shall be the date the PFC and _____ entered into the _____ (the “**Effective Date**”), specifically, _____, 20__.

B. **Entire Agreement.** This Agreement represents the entire agreement between PFC and District and supersedes all prior negotiations, representations and/or agreements, either written or oral regarding this subject matter. This Agreement may be amended only by written instrument signed by the governing bodies of both the PFC and District or those authorized to sign on behalf of those governing bodies.

C. **Immunity and Defenses.** It is expressly understood and agreed that, in the execution of this Agreement, no Party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

D. **Notice.** All notices required by this Agreement shall be addressed to the following, or other such Party or address as either Party designates in writing, by certified mail, postage prepaid, or by hand delivery:

PFC:

Attn: _____
PFC
205 N River Street
Seguin, Texas 78155
Telephone: _____
E-mail: _____

Navarro Independent School District:

Attn: Mandy Epley, Superintendent
Navarro Independent School District
6450 N State Hwy 123
Seguin, Texas 78155
Telephone: 830-372-1930
E-mail: mandy.epley@nisd.us

E. **Severability Clause.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

F. **Successors and Assigns.** This Agreement shall be binding upon the Parties hereto, their successors, and assigns. Neither of the Parties will assign nor transfer an interest in this Agreement without the written consent of the other Party.

G. **Venue.** The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Agreement. The Parties agree that this Agreement is

performable in Guadalupe County, Texas, and that exclusive venue shall lie in Guadalupe County, Texas.

H. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same Agreement, and facsimile, electronic and pdf signatures shall be just as binding as original signatures.

I. Attorneys' Fees. In the event any Party to this Agreement should bring suit against another Party in respect of any matters provided for herein, the prevailing Party shall be entitled to recover from any non-prevailing Party its costs of court, legal expenses and reasonable attorneys' fees in connection with such suit.

J. Waivers. Any waiver by any Party of any violation of, breach of or default under any provision of this Agreement shall not be construed as, or constitute, a continuing waiver of such provision, or waiver of any other violation of, breach of or default under any other provision of this Agreement.

[Signature Pages Follow]

APPROVED by the PFC, in its meeting held on the _____ day of _____, 20____, and executed by its authorized representative.

PFC

By: _____

Printed Name: _____

Title: _____

ATTEST:

PFC Secretary

ACKNOWLEDGMENT

STATE OF TEXAS

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COUNTY OF GUADALUPE

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This instrument was acknowledged before me on the ____ day of _____, 20__ by _____, _____ of the **PFC**, a home-rule municipality, on behalf of said municipality.

Notary Public in and for the State of Texas

APPROVED by the Board of Trustees of the Navarro Independent School District, in its meeting held on the ____day of _____, 20____, and executed by its authorized representative.

NAVARRO INDEPENDENT SCHOOL DISTRICT

By: _____
Mandy Eply, Superintendent

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF GUADALUPE §

This instrument was acknowledged before me on the ____ day of _____, 20____ by Mandy Eply, Superintendent of the **NAVARRO INDEPENDENT SCHOOL DISTRICT**, a political subdivision of the State of Texas, on behalf of said independent school district.

Notary Public in and for the State of Texas