

SERVICE AGREEMENT

**Between
The Southeast Texas Emergency Services Purchasing Cooperative
and
Southeast Texas Trauma Regional Advisory Council (SETTRAC)**

This Service Agreement ("Agreement"), made and entered into as of _____, by and between The Southeast Texas Emergency Services Purchasing Cooperative ("Cooperative"), and the Southeast Texas Trauma Regional Advisory Council ("SETTRAC"), each acting through their duly authorized representatives do hereby agree as follows:

WHEREAS, the Cooperative in assisting its membership, operates to perform governmental functions of its respective local government members, including efforts to comply with state bidding requirements, identify qualified vendors of goods and services, relieve the burdens of the governmental purchasing function, and realize the various potential economies, including administrative cost savings for Cooperative Members and may, from time to time, offer other related services or products; and

WHEREAS, SETTRAC shares the goals and interests of the Cooperative in supporting effective governance and administration of the public emergency services of Texas; and

WHEREAS, the Cooperative desires to contract with SETTRAC to act as its servicing contractor in the support, maintenance, administration, and delivery of its purchasing programs; and

WHEREAS, SETTRAC agrees to continue providing such services to the Cooperative and its participating members;

NOW, THEREFORE, in consideration of the mutual covenants, promises and obligations contained herein, SETTRAC and the Cooperative each agree to the following terms and conditions:

I. DEFINITIONS.

- A. "SETTRAC" shall mean the Southeast Texas Trauma Regional Advisory Council, with offices at _____, Texas _____.
- B. "Cooperative" shall mean the Southeast Texas Emergency Services Purchasing Cooperative, a Purchasing Cooperative made up of cooperating local governments formed in accordance with applicable Texas law, with offices at _____.

Effective

- C. "Cooperative Member" shall mean any eligible local government or public entity of the State of Texas that has elected membership in the Cooperative.
- D. "Services" shall mean those management, administrative, and operational tasks which SETTRAC shall render under this Agreement in support of the purchasing program and services offered by Cooperative.
- E. "Board" shall mean the duly constituted Board which governs the Cooperative in accordance with its bylaws.

II. DUTIES AND RESPONSIBILITIES OF SETTRAC

SETTRAC shall:

1. Provide the overall administration of the day-to-day activities required for the bidding, vendor selection, purchasing, and related issues of the Cooperative.
2. Counsel and advise the Cooperative concerning new program development, program enhancements, strategic planning, and such other vital matters related to purchasing services;
4. Provide training to Cooperative Members concerning how best to maximize the benefits of Cooperative membership;
5. Communicate with all regulatory agencies and bodies having interest in the purchasing related operations of the Cooperative;
6. Market the programs of the Cooperative to all eligible entities and oversee the membership renewal process;
7. Maintain current membership lists of all Cooperative Members;
8. Staff the meetings of the Board;
9. Provide such other services as the parties hereto may agree from time to time.

III. DUTIES AND RESPONSIBILITIES OF COOPERATIVE.

The Cooperative shall:

- A. Provide authority to SETTRAC in accordance with the duties contractually assumed by SETTRAC in this Agreement;

- B. Monitor the performance of SETTRAC under this Agreement.

IV. **ERRORS AND OMISSIONS.**

No accidental errors or omissions upon the part of either party shall relieve the other party of its responsibilities under this Agreement, provided such errors or omissions are rectified as soon after discovery as possible.

V. **RECORDS.**

The Cooperative shall at all times during this Agreement and within one (1) year after its termination have free access to the books, records, and files of the Cooperative and any purchasing related files which are maintained by SETTRAC

VI. **COMMENCEMENT, AMENDMENT AND TERMINATION.**

- A. Term. This Agreement shall continue until terminated by one of the parties.
- B. Amendment. This Agreement may not be modified or amended in any manner other than by means of a written agreement containing such modification or amendment signed by both parties.
- C. Termination. If, at any time, either party wished to cancel this Agreement, it may do so by giving the other party written notice one hundred eighty (180) days in advance of such termination.
- D. Termination Upon Breach. Either party may terminate this Agreement for material breach of obligations hereunder, including without limitations failure to pay compensation due and owing, by mailing written notice of the alleged breach to the other party and giving to the breaching party twenty days from the date of receipt of the notice to cure the alleged breach. If the alleged breach is not cured within twenty days for the date of receipt of the notice of breach, the party giving notice may mail notice of termination of this Agreement, which shall be effective upon the date received by the breaching party.
- E. Procedure Upon Termination. Upon termination, SETTRAC, consistent with its obligations under Article V, above, shall deliver to the Cooperative all files, with such delivery to be made as promptly as prudent handling of files will permit. Payment, non-payment, adjudication, satisfaction or compromise or other disposition of claims of any kind against the Cooperative shall be the sole responsibility of the Cooperative.

VII. **COMPENSATION**

A. In consideration of the services performed by SETTRAC under this Agreement, the Cooperative agrees to allow SETTRAC to assess a fee to selected vendors based on purchases made by each individual Cooperative Member. The fee is payable to SETTRAC in accordance with terms agreed to with the contracted vendors. The Cooperative will not be directly responsible to SETTRAC for such fees.

VIII. DISPUTE RESOLUTION

A. Should a dispute arise out of this Agreement, the Parties shall first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the Parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by SETTRAC and Cooperative within fifteen (15) days after written notice by one of them demanding mediation under this Section. By mutual agreement, the Parties may use a non-binding form of dispute resolution other than mediation. The purpose of this Section is to reasonably ensure that the Parties shall in good faith utilize mediation or another non-binding dispute resolution process before pursuing litigation. Neither Party's participation in, or the results of any mediation or another non-binding dispute resolution process under this Section or the provisions of this Section shall be construed as a waiver by either Party of (1) any rights, privileges, defenses, remedies or immunities available to a Party; (2) its termination rights; or (3) other termination provisions or expiration dates of this Agreement.

IX. MISCELLANEOUS.

- A. Assignment. Neither party may assign rights under this Agreement without the prior written consent of the other party.
- B. Honorable Undertaking. This Agreement shall be considered an honorable undertaking and shall be subject to liberal construction for the purpose of giving effect to the intentions of the parties hereto; the purposes of the Agreement are not to be defeated by a narrow or technical construction of its provisions.
- C. Law and Venue. This Agreement shall be governed by the laws of the State of Texas, and venue for any cause of action arising hereunder shall lie in the courts of Travis County, Texas. Should there be a change in law that materially alters the rights or obligations of either party under this Agreement during the term hereof, the parties will attempt to equitably adjust the terms of this Agreement to take into account such change in law. If the parties are unable to agree upon an equitable adjustment within sixty days after either party notifies the other of such a change in law, this Agreement will automatically terminate.
- D. Entire Agreement. This Agreement is the entire agreement between the parties and may be amended only in accordance with the provisions hereof.

- E. Severability. If any term or provision of this Agreement is 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 and shall in no way be affected, impaired, or invalidated.

EXECUTED by the Parties on the dates entered below, to be effective on the day and time entered above.

THE SOUTH EAST TEXAS EMERGENCY SERVICES PURCHASING COOPERATIVE
(Cooperative)

By: _____ Date: _____
Authorized Representative

SOUTHEAST TEXAS TRAUMA REGIONAL ADVISORY COUNCIL (SETTRAC)

By: _____ Date: _____
Authorized Representative

Effective