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AGREEMENT CONCERNING IMPLEMENTATION OF THE EAST 11TH AND 12TH STREETS URBAN RENEWAL PLAN

Effective Date: **1 JANUARY 2012**

This Agreement Concerning Implementation of the East 11th and 12th Streets Urban Renewal Plan (the "**Agreement**") executed on the Effective Date is made and entered into by and between the **CITY OF AUSTIN, TEXAS**, a Texas home-rule city and municipal corporation (the "**City**"), and the **URBAN RENEWAL AGENCY OF THE CITY OF AUSTIN,** a Texas Urban Renewal Agency (the "**UR Agency**") (collectively referred to as the "Parties" and individually as "Party" in this Agreement.

The City desires to enter into this Agreement with the UR Agency to support the UR Agency's coordination and implementation of the East 11th and 12th Streets Urban Renewal Plan (the "**UR Plan**"), and the UR Agency desires to contract with the City to coordinate and implement the UR Plan.

Background

The Texas Urban Renewal Law, currently codified as Texas Local Government Code chapter 374, provides municipalities with urban renewal powers and also provides that municipalities may create urban renewal agencies through which certain urban renewal powers may be exercised. As such, the voters of the City of Austin ("City"), pursuant to the Urban Renewal Law, in an election held December 5, 1959, authorized the City Council to create Urban Renewal Agency of the City of Austin.

This Agreement clarifies the roles and responsibilities of the City and the UR Agency in carrying out the UR Plan.

The Parties therefore agree as follows:

1. **Terms and Funding**

1.1 **Term**.

(1) This Agreement shall begin on the Effective Date and end on **30 September 2012 (the "Initial Term")**.

(2) This Agreement shall automatically renew in one-year extension terms for no more than five extension terms following the Initial Term unless either Party provides notice of its intent to cancel the Agreement by delivering written notice to the other Party between ninety (90) calendar days and thirty (30) calendar days prior to the date the then current Initial Term or Extension Term otherwise terminates (each an "**Extension Term**" and collectively the "**Term**").

(3) Upon expiration of the Term of this Agreement and upon any renewal, UR Agency agrees to continue to perform under the terms and conditions of this Agreement for such period of time as is necessary to satisfactorily complete all work in progress.

(4) Either Party has the right to request a renegotiation of the terms of this Agreement upon written notice to the other Party between one-hundred eighty (180) calendar days and ninety (90) calendar days prior to the end of the then current Term.

1.2 **City Services to UR Agency**.

City shall make available to the UR Agency designated City employees for the administration of the UR Agency's day to day operations. Without limiting the foregoing, City staff services shall include general administration services, real estate negotiation, disposition and relocation services, eminent domain acquisition and legal services, accounting and auditing services, purchasing and bid solicitation services of the UR Agency and other activities and functions that may be necessary or required to carry-out the operations and activities of the UR Agency. The City agrees to provide City employees who are knowledgeable in processes, requirements, and compliance issues associated with Code of Federal Regulations ("**CFR**") Title 24 and the U.S. Department of Housing and Urban Development ("**HUD**") to the extent the City requires the UR Agency to ensure compliance with said requirements, including but not limited to 24 CFR Part 58 and 24 CFR Part 570

1.3 **Work to be Performed**. UR Agency shall carryout the work described in the attached Statement of Work which is set forth as **Exhibit A** and by this reference incorporated in this Agreement.

2. **UR Agency's Representations.** The UR Agency represents as follows:

2.1. The UR Agency possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

2.2. The person(s) executing this Agreement on behalf of UR Agency has been fully authorized by UR Agency to execute this Agreement on its behalf and to legally bind UR Agency to all the terms, performances and provisions of this Agreement.

2.3. No litigation or proceedings are presently pending or threatened against UR Agency.

2.4. None of the provisions of this Agreement contravenes or is in conflict with the authority under which UR Agency is doing business or with the provisions of any existing indenture or agreement of UR Agency.

2.5. No public official or employee of UR Agency or City has, other than a non-voluntary acquisition, acquired any direct or indirect interest in an urban renewal project, in any property included or planned to be included in an urban renewal project or plan, or in any contract, or contract proposed, in connection with an urban renewal project. Any non-voluntary acquisition has been disclosed in the minutes of the governing body and the UR Agency. Any official or employee of UR Agency or City who owned or controlled any direct or indirect interest in property that the person knows is included or planned to be included in any urban renewal project, or if the person owned or controlled any direct or indirect

interest in any property at any time during the two-year period preceding the inclusion of the property in an urban renewal project, the official or employee shall immediately disclose that fact in the minutes of the governing body or the UR Agency as applicable. No commissioner or other officer of UR Agency holds any other public office with the City.

3. **UR Agency's Covenants.** The UR Agency covenants as follows:

3.1. **General Limitations of UR Agency Authority**. The UR Agency is subject to the restrictions identified in Texas Local Government Code Chapter 374 and the limitations set forth in this Agreement.

3.2. **Acquisition and Disposition of Property.**

(1) All real properties owned by the UR Agency on the Effective Date and as set forth on **Exhibit B** and by this reference incorporated in this Agreement were either transferred to the UR Agency from the City or acquired with federal funds provided UR Agency by the City for the express purpose of facilitating the implementation and completion of urban renewal projects.

(2) Upon expiration of this Agreement, any City funds, federal grant funds or federal Program Income (defined below) funds previously made available to the UR Agency by the City under this Agreement or prior agreements (the "**Agency City Funds**") which are then on hand and any accounts receivable attributable to the use of Agency City Funds owned or under the control of UR Agency shall revert to City and UR Agency shall cause all Agency City Funds and accounts receivable to be transferred to the City.

(3) All real properties currently owned by the UR Agency (the "**URA Current Property**") shall have a reversionary interest provision granted to the City and a first lien deed of trust granted to the City, both in a form acceptable to City in City's sole discretion. In addition, UR Agency agrees that any real property subsequently acquired with Agency City Funds shall have a reversionary interest provision granted to the City and a first lien deed of trust granted to the City, both in a form acceptable to City in City's sole discretion (the "**URA Future Property**"; the URA Current Property and URA Future Property are referred to collectively in this Agreement as the "**URA City Funded Property**").

(4) The UR Agency shall not sell or otherwise dispose of any URA City Funded Property held in its name unless at the direction of the City and in accordance with Section 374.017, Texas Local Government Code. Also, the UR Agency shall not acquire title to any real property unless such acquisition is approved by the City.

3.3. **Modifications to the Urban Renewal Plan.**

Any person may submit a proposed modification to the Urban Renewal Plan to the City. The City, before approving the plan, must comply with all requirements of Texas Local Government Code, Section 374.014.

3.4 **Environmental clearance**. If required, prior to commencing any performance allowable under this Agreement, UR Agency shall obtain evidence from City that City has received written assurance from HUD that City has fulfilled its environmental responsibilities described in 24 §570.604 and 24 CFR Part 58.

3.5 **Notice of claims**

(1) The UR Agency shall give to the City written notice of any claim, demand, suit, or other action in excess of $10,000 which is made or brought against the UR Agency within ten calendar days after being notified of such claim, demand, suit, or action.

(2) The notice shall state the date and hour of notification of any such claim, demand, suit, or other action; the names and addresses of the person, firm, corporation, or other entity making such claim or that instituted or threatened to institute any type of action or proceeding; the basis of such claim, action, or proceeding; and the name of any person against whom such claim is being made or threatened. Such written notice shall be delivered either personally, by mail, or by facsimile and shall be directly and simultaneously sent to City.

3.6 **Subcontracting**. The UR Agency may not subcontract any of the work covered by this Agreement without the prior written approval of City.

3.7 **Conflict of interest**.

(1) No member of UR Agency's governing body presently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. UR Agency further covenants that in the performance of this Agreement no person having such interest shall be employed by UR Agency.

(2) No member of the UR Agency's governing body or subcontractors shall possess any interest in or use their position for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves, or those with which they have family, business, or other ties.

(3) No officer, member, or employee of City and no member of its governing body who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement, shall (1) participate in any decision relating to this Agreement which affects the person's personal interest or the interest of any corporation, partnership, or association in which the person has a direct or indirect interest; or (2) have any interest, direct or indirect, in this Agreement or the proceeds thereof.

(4) UR Agency may request a determination from HUD that it is excepted from the conflict of interest provisions of this section by submitting documentation required by 24 CFR § 570.611(d) to the City and the City may forward that documentation to HUD for review of the UR Agency's requested exception. HUD's determination shall be conclusive for the Parties.

3.8 **Other Program Requirements and Uniform Administrative Requirements**. The UR Agency shall comply with all Federal laws and regulations, including Title 24 CFR, part 570, carrying out the requirements of this Agreement in compliance with all Federal laws and regulations described in subpart K of Title 24 CFR, part 570 except the UR Agency does not assume the City's responsibilities described at 24 CFR section 570.604 and the City's responsibilities for initiating the

review process under the provisions of 24 CFR part 52, and the applicable uniform administrative requirements as described in 24 CFR section 570.502.

3.9 **Publicity**. The City may require the UR Agency to publicize the activities conducted by the UR Agency under this Agreement. Any news release, sign, brochure, or other advertising medium disseminating information prepared by or distributed for UR Agency, related to an urban renewal project made possible by Agency City Funds, shall contain a statement that the project is made possible by funding from the U.S. Department of Housing and Urban Development through the City of Austin or from the City of Austin, as appropriate.

3.10 **Insurance**. UR Agency shall carry insurance, at the expense of the City, in the types and amounts and in accordance with the procedures and requirements described in the Insurance Requirements attached as **Exhibit C** and by this reference incorporated in this Agreement for the duration of this Agreement. Any exceptions to the requirements must be approved by the City's Risk Management Division.

4. **Ownership of Property and Program Income**

4.1. **Ownership of property**

(1) Immediately upon termination of this Agreement, unless otherwise provided for by the City in writing, title to any URA City Funded Property shall revert to the City without any cost to the City other than the transfer costs associated with the reversion and UR Agency agrees that it shall execute and deliver a special warranty deed transferring any URA City Funded Property to the City that does not revert to the City automatically.

(2) The City shall retain a first lien position on any and all real property purchased with funding from HUD or the City in support of the East 11th and 12th Street Urban Renewal Plan, unless otherwise provided for by the City. UR Agency shall take all necessary and reasonable steps to ensure the City a first lien position.

(3) The UR Agency shall maintain and provide all necessary insurance coverage for the URA City Funded Property at the expense of the City.

4.2. **Program Income**.

(1) "**Program Income**" means all earnings the UR Agency realizes from the sale, lease or other disposition of URA City Funded Property whether in furtherance of the Urban Renewal Plan or otherwise, or from the UR Agency's management of HUD funding provided by the City. Program Income includes but is not limited to income from interest, usage or rental fees, income produced from the use of equipment or facilities of the UR Agency, payments from clients or third parties for services rendered by the UR Agency, revenue received from the sale or transfer of Property and any other amounts defined at 24 CFR §570.500(a)(2). The City has final authority to make a determination as to whether such income is program income or not.

(2) The UR Agency must maintain records of the receipt and disposition of Program Income and report to the City in the format prescribed by the City. The UR Agency shall report and remit to the City for

deposit on a monthly basis all Program Income received or accrued during the applicable period. The City may use the remitted Program Income for any Community Development Block Grant eligible activity as provided in 24 CFR §570.504(b)(2), but subject to any security requirements in the HUD Documents.

(3) The UR Agency shall include, in a form provided by the City, a notice of the UR Agency's obligations relating to Program Income in all of its contracts, as that term is defined in 24 CFR Section 570.500, which involve income-producing services or activities.

(4) It is UR Agency's responsibility to obtain from the City a prior determination as to whether or not income arising directly or indirectly from this Agreement, or the performance of any obligations under this Agreement, is Program Income. City has final authority to make a determination as to whether such income is Program Income or not. UR Agency is responsible to City for the repayment of any and all amounts determined by City to be Program Income, unless otherwise approved in writing by City.

(5) UR Agency shall include this provision describing Program Income in its entirety in all of its leases or subcontracts which involve other income-producing services or activities.

5. **Monitoring, Budget, Records, and Auditing**

5.1. **Monitoring**.

(1) City and/or HUD shall monitor UR Agency's performance under this Agreement.

(2) UR Agency shall cooperate with the City or HUD in the development, implementation and maintenance of record-keeping systems and to provide data reasonably determined by the City or HUD to be necessary for the City or HUD to effectively fulfill its monitoring and evaluation responsibilities.

(3) The City shall provide the UR Agency with a written report of monitoring findings. The UR Agency shall provide within ten working days a written response and documentation as required to address any cost listed in the City's written report that the City or HUD identifies as questionable.

5.2. **Auditing**.

(1) The UR Agency, at the City's request and expense, shall submit to the City a complete set of audited financial statements and the auditor's opinion and management letters in accordance with OMB Circular No. A-133, the OMB Circular A-133 Compliance Supplement, and the Single Audit Act of 1984, as amended, for each UR Agency fiscal year until the termination of this Agreement. In the event the City, at the direction of its auditors, determines, in writing, that any audit of the UR Agency should be performed as part of the single audit of the City with additional agreed upon procedures in compliance with OMB Circular A-133, then the audit otherwise required of the UR Agency by this subsection shall not be required:

i. Unless the UR Agency's operations are included in the City's

annual consolidated audit, the UR Agency, at the expense of the City, shall contract with an independent auditor utilizing a letter of engagement. The auditor must be a Certified Public Accountant recognized by the regulatory authority of the State of Texas.

ii. Unless the UR Agency's operations are included in the City's annual consolidated audit, the City shall provide the UR Agency's auditor a copy of the appropriate OMB Circular prior to the beginning of said audit. Prior to the start of the audit, a letter of engagement between the UR Agency and their respective auditor that details the services to be provided, including the audit requirements of this section must be executed. The UR Agency must provide the City three copies of a complete financial audit and the auditor's opinion and management letters within one hundred-eighty (180) calendar days of the end of the UR Agency fiscal year, unless alternative arrangements are approved by the City.

6. Termination, Default and Remedies

6.1. **Events of Default**. If an Event of Default occurs and is not cured within the time set forth in section 6.2 of this Agreement, the City may take any or all of the actions set out in section 6.3 of this Agreement. Except in those instances where the alleged default is caused by the action or inaction of the City employees provided to UR Agency for administrative support under this Agreement, Event of Default means, whether the occurrence is voluntary or involuntary, or caused by the operation of law, the following:

(1) UR Agency Fails to comply with any representation, covenant, or other term of this Agreement;

(2) UR Agency makes any representation or warranty in this Agreement or makes any representation or statement in any certificate, statement or opinion delivered to City pursuant to this Agreement that is incorrect in any material respect as of the date made;

(3) Any obligation of the UR Agency (other than its obligations under this Agreement) is unpaid at its maturity or any such obligation becomes or is declared, pursuant to its terms, to be due and payable prior to express maturity thereof by reason of default or other violation of the terms thereof;

(4) UR Agency admits in writing its inability to pay its debts generally as they become due, make an assignment for the benefit of creditors, file a petition in bankruptcy, be adjudicated insolvent or bankrupt, petition or apply to any tribunal for the appointment of any receiver or trustee thereof or of any substantial part of its property or commence any proceedings under any arrangement, readjustment of debt, or statute of any jurisdiction, whether now or hereafter in effect; or there is commenced against UR Agency any such proceeding which remains undismissed for a period of thirty (30) calendar days;

(5) UR Agency consents to the appointment of any receiver or of any trustee for UR Agency with respect to a substantial part of its property;

(6) Any final judgment rendered against UR Agency for the payment of money that is not fully covered by liability insurance and is in excess of $10,000.00 and is not discharged within thirty (30) calendar days

from the date of final disposition thereof including the exhaustion of all appellate rights;

(7) UR Agency takes or fails to take any action contained in this Agreement that results, or may result in the sole determination of City, in a sanction being imposed upon City as allowed by 24 CFR §§ 570.911, 579.012, or 570.913, as applicable;

(8) UR Agency effects a change in ownership or control of its corporate organization or its assets, to a legal entity wholly owned by persons other than the UR Agency without prior written consent of the City;

(9) UR Agency does not timely provide the data or reports required by this Agreement;

(10) UR Agency does not keep in full force and effect any insurance policies required by this Agreement; or

(11) UR Agency assigns or sells its rights under this Agreement to any other party without the prior written consent of the City.

6.2. **Notice and Cure Period**.

(1) Unless City issues a notice of default to UR Agency, UR Agency must notify the City in writing of any Event of Default within three (3) calendar days of learning of the Event of Default.

(2) The City will notify the UR Agency of any Event of Default of which it has knowledge.

(3) The City will not declare any default if the Event of Default is fully cured within thirty (30) calendar days after notice of such default or breach is given to UR Agency.

(4) If the UR Agency commences the process of curing such default and notifies City of such action within the thirty (30) calendar day period described in the preceding subsection 6.2(3), and UR Agency proceeds diligently and continuously toward fully curing such default, the UR Agency shall have an additional period of thirty (30) calendar days to fully cure the default. The City may grant an additional thirty (30) calendar day period to allow the UR Agency to cure the default; provided, however, the UR Agency shall not have more than ninety (90) calendar days to fully cure the default.

6.3. **Remedies for Default**. Upon the occurrence of any Event of Default and failure by UR Agency to cure or correct such Event of Default within the times and in the manner required to cure or correct such event of default by UR Agency as described in Section 6.2 of this Agreement, City may at any time, and without further notice, take any or all of the following actions:

(1) cancel, suspend or terminate payment of any funds due UR Agency under this Agreement;

(2) cancel, suspend or terminate the right of UR Agency to incur any additional obligations under this Agreement in whole or part;

(3) cancel, suspend or terminate the right of UR Agency to continue any performance under this Agreement in whole or part;

(4) cancel, suspend or terminate this Agreement in whole or part;

(5) initiate legal action and foreclose under any security agreement;

(6) pursue such other measures as may be lawful, including suing for specific performance, for the recovery of damages and for the release

or return of all or part of the funds committed in this Agreement; and

(7) upon the occurrence of any material Event of Default the City may, in accordance with 24 CFR §85.43, suspend or terminate this Agreement.

6.4. **Termination for Convenience**. Notwithstanding anything in this Agreement to the contrary, City or UR Agency in accordance with 24 CFR §85.44 may terminate this Agreement for convenience upon written notice to UR Agency.

7. **General Conditions**

7.1. **Fees**. The UR Agency shall not have as its purpose in calculating the amount of any fee it will charge in furtherance of this Agreement the restriction of competition as between any other firm or organization.

7.2. **Indemnity**. To the extent allowed by law, each Party will be responsible to the other Party, to the exclusion of any such responsibility of the other Party, for its own proportionate share of any liability for property damage, including environmental liability, and personal injury or death arising out of or connected to the Party's negligent acts or omissions in the exercise or forbearance of the rights granted hereunder, as determined by a court of competent jurisdiction.

7.3. **Interpretation of federal regulations**. The City's interpretation of the federal laws or regulations governing this Agreement shall prevail over the UR Agency's interpretations of the same laws or regulations. The UR Agency shall not be liable for relying on such interpretation if such interpretation is in writing and is later found to be incorrect. To the extent allowed by law, City will hold harmless UR Agency, its officers and employees from any and all liability of any nature or kind on account of any claims, audit exceptions, demands, suits, or damages, including reasonable attorney's fees and court costs arising or resulting from injuries or damages sustained by any person or property directly resulting in whole or in part from a City employee written interpretation of the federal laws or regulations governing this Agreement, as determined by a court of competent jurisdiction.

7.4. **Rights to material produced under Agreement**.

(1) Unless protected as attorney/client communications under the Chapter 552, Texas Government Code, all reports, charts, schedules, data stored on computer disk, or other appended documentation to any proposal, content of basic proposal, or contracts and any responses, inquiries, correspondence, and related material prepared or submitted by the UR Agency (including, without limitation, the UR Agency's independent professional associates, consultants and subcontractors), shall become the property of the City, whether this Agreement has expired or not. Upon the expiration or termination of this Agreement, the City may require any or all of these items to be delivered to the City upon written notice to the UR Agency. The UR Agency and UR Agency's independent professional associates, consultants and subcontractors have the right to use such proposal and contractual material.

(2) When activities supported by this Agreement result in the production of original computer programs, writings, sound recordings, pictorial reproduction, drawings, or other graphical representation and works of any similar nature (the term "**computer program**" includes

executable computer programs and supporting data in any form), the City has the right to use, duplicate, and disclose, in whole or in part, in any manner, for any purpose whatsoever and have others do so, such works and materials. If the material is copyrightable, the UR Agency may copyright such, and the City reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish and use such materials, in whole or in part and to authorize others to do so.

(3) All published material and written reports submitted under this Agreement must be originally developed material unless otherwise specifically provided. When material, not originally developed, is included in a report, it shall have the source identified. This identification may be in the body of the report or by footnote. This provision is applicable when the material is in a verbatim or extensive paraphrase format.

7.5. **Contact with HUD.** The UR Agency understands and agrees that all direct contact with HUD over any matter related to an urban renewal project under this Agreement, without the written consent of City, shall be made solely by City.

7.6. **Termination for convenience**. This Agreement may be terminated for convenience by either City or UR Agency in accordance with 24 CFR §85.44.

7.7. **No assignment**. UR Agency shall not transfer, pledge or otherwise assign this Agreement or any interest therein, or any claim arising under the Agreement to any party or parties, bank, trust company or other financial institution without the prior written approval of City.

7.8. **Modification of Agreement**. The Parties may not add to, delete from, or make substitutions for any condition of this Agreement without entering into a written amendment executed by both Parties.

7.9. **Forbearance is not a waiver**. Forbearance by City or UR Agency with respect to any provisions of this Agreement shall in no way constitute a waiver of any of City's or UR Agency's rights or privileges hereunder.

7.10. **Survival of terms**. The provisions of this Agreement that pertain to the payment of accounts receivable to City, the reversion of any of UR Agency's assets to City, the ownership of any property after termination, the submission of audited financial statements to City, the insurance coverage, the bonding coverage, the City's rights following termination, and the enforcement of these provisions shall survive the suspension, termination or expiration of this Agreement, and UR Agency must comply with all the obligations imposed above until such obligations are completed in full.

7.11. **Effect of determination by court**. If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, that holding 1) shall not invalidate the remainder of this Agreement, 2) shall be limited to the specific parts of the Agreement described in that holding, and 3) shall not affect the validity of this Agreement in any way or in any other instance. The provisions of this Agreement are intended to be severable for this purpose. All other provisions shall remain in full force and effect.

7.12. **Choice of law**. This Agreement is to be governed by the laws of the State of Texas. Venue and jurisdiction of any litigation, or right of cause of action under or in connection with this Agreement shall be exclusively in Travis County, Texas.

7.13. **Responsibility to HUD**. In the event any disagreement or dispute should arise between the Parties hereto pertaining to the interpretation or meaning of any part of

this Agreement or its governing rules, codes, laws, ordinances or regulations, the City as the party ultimately responsible to HUD for matters of compliance will have the final authority to render or to secure an interpretation and the UR Agency shall not be liable for relying on such interpretation if such interpretation is in writing and is later found to be incorrect.

7.14. **Complete and entire agreement**. This Agreement contains the complete and entire agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understandings, if any, between the Parties respecting the subject matter hereof. The terms and conditions set forth in this Agreement constitute the entire agreement between the Parties and any oral representations on the part of either City or UR Agency, their representatives or assigns, shall have no force or effect whatsoever. This Agreement shall be binding upon the Parties, their successors, and assigns.

7.15. **Notice**. All notices or communication between the Parties and from any insurance company or surety relating to this Agreement shall be sufficiently given or delivered if dispatched by certified mail, postage prepaid, return receipt requested, as follows:

Notice of communication to the UR Agency shall be directed to:

Urban Renewal Agency of the City of Austin
Attention: Sandra Harkins, Program Coordinator
1000 East 11th Street, Suite 200
Austin, TX 78702

Urban Renewal Agency of the City of Austin
Attention: Board Chair
1000 East 11th Street, Suite 200
Austin, TX 78702

Notice of communication to the City shall be directed to:

City of Austin Neighborhood Housing and Community Development
Attention: Project Manager East 11th and 12th Streets Revitalization
1000 East 11th Street, Suite 200
Austin, TX 78702

IN WITNESS WHEREOF, the Parties have executed this Agreement effective upon the Effective Date first above stated.

CITY: **City of Austin, Texas**

By: _____
NAME: ELIZABETH A. SPENCER
TITLE: DIRECTOR, NEIGHBORHOOD HOUSING AND COMMUNITY DEVELOPMENT OFFICE

UR AGENCY: **Urban Renewal Agency of the City of Austin**

By: _____
NAME: ANDREW BUCKNALL
TITLE: BOARD CHAIR

Exhibits:

Exhibit A – Statement of Work
Exhibit B – Property List
Exhibit C - Insurance Requirements

PREPARED IN THE LAW OFFICE OF:

City of Austin
Law Department
P.O. Box 1088
Austin, Texas 787676-1088

APPROVED AS TO FORM:

_____
James M. Williams, Sr.
Assistant City Attorney
Texas State Bar Number 21549500

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EXHIBIT A

STATEMENT OF WORK and BUDGET

January 1, 2012 – September 30, 2012

CFDA #14.218

A. PROGRAM SOURCE OF FUNDING

U.S. Department of Housing and Urban Development Section 108 Guaranteed Loan and/or Community Development Block Grant Funds (CDBG) were utilized for the acquisition of the properties identified in Exhibit B.

No funding is budgeted for this Agreement.

B. STATEMENT OF PURPOSE:

The Urban Renewal Agency of the City of Austin (URA) was created in 1959 to exercise the powers granted to the City of Austin by Texas Local Government Code, Chapter 374. URA's primary role is to acquire and dispose of acquired properties within the redevelopment area, in addition to, review and approve all projects in accordance with the East 11th and 12th Street Urban Renewal Plan.

Acquisition and disposition of any property within the identified boundaries of the East 11th and 12th Streets Urban Renewal Plan shall only be done at the direction of the City.

C. PERFORMANCE MEASURE

1. Comply with all applicable provisions within the Agreement.
2. At the direction of the City, assist with tasks that support the goals of the East 11th and 12th Street Revitalization

Urban Renewal Agency
Property List
October 1, 2011

Urban Renewal Agency Properties

	Property Address	Fund Source	Federal Status	National Objective Met? Y/N
	East 11th - Block 16			
1	916 E. 11th St.	CDBG	Y - S/B	
2	920 E.11th St.	Section 108	Y - S/B	
3	907 Juniper St.	Section 108	Y - S/B	
4	909 Juniper St.	Section 108	Y - S/B	
5	911 Juniper St.	Section 108	Y - S/B	
6	913 Juniper St.	Section 108	Y - S/B	
	East 11th - Block 17			
7	1005 Juniper St.	Section 108	Y - S/B	
8	1007 Juniper St.	CDBG	Y - S/B	
9	1009 Juniper St.	Section 108	Y - S/B	
10	1011 Juniper St.	Section 108	Y - S/B	
11	1013 Juniper St.	CDBG	Y - S/B	
12	1015 Juniper St.	CDBG		N
13	1017 Juniper St.	CDBG		N
14	1019 Juniper St.	CDBG		N
15	1021 Juniper St.	CDBG		N
16	1023 Juniper St.	CDBG		N
17	1155 Curve St.	Section 108	Y - S/B	
18	1157 Curve St.	Section 108	Y - S/B	
19	1159 Curve St.	Section 108	Y - S/B	
20	1154 Waller St	CDBG		N
21	1156 Waller St.	CDBG		N
22	1158 Waller St.	CDBG		N
	East 11th - Block 18			
23	1100 E. 11th St.	Section 108	Y - S/B	
24	1106 E. 11th St.	CDBG		N
25	1112 E. 11th St	CDBG		N
26	1114 E. 11th St	CDBG		N
27	1103 Juniper St	CDBG		N
28	1105 Juniper St	CDBG		N
29	1107 Juniper St	CDBG		N
30	1109 Juniper St.	Section 108	Y - S/B	
31	1159 Waller St	CDBG		N
	East 12th - Tract 5			
32	1120 E. 12th St.	CDBG		N
33	1322 E. 12th St.	CDBG		N
34	1324 E. 12th St.	CDBG		N
35	1326 E. 12th St.	CDBG		N
36	1328 E. 12th St.	CDBG		N
37	1330 E. 12th St.	CDBG		N
38	1332 E. 12th St.	CDBG		N
39	1334 E. 12th St.	CDBG		N
40	1336 E. 12th St.	CDBG		N

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Exhibit C

INSURANCE REQUIREMENTS

(a) If UR Agency's employees are working on City property, Statutory Workers' Compensation and Employers Liability coverage with minimum policy limits for Employers' Liability of $100,00 bodily injury each accident, $500,000 bodily injury by disease policy limit and $100,000 bodily injury by disease each employee shall be provided. The policy shall contain the following endorsements in favor of City:

(1) Waiver of Subrogation (Form WC 42304); and

(2) 30-Day Notice of Cancellation (Form WC 420601)

(b) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $500,000 for coverages A & B. The policy shall contain the following provisions:

(1) Blanket Contractual liability coverage for liability assumed under this contract;

(2) Products and completed operations coverage;

(3) Independent contractors' coverage;

(4) Additional Insured endorsement in favor of the City (Form CG 2010);

(5) Waiver of Subrogation endorsement in favor of the City (Form CG 2404); and

(6) 30 Day Notice of Cancellation endorsement in favor of the City (Form CG 0205).

(7) If coverage is written on a claims-made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. UR Agency shall maintain coverage for the duration of this Agreement and for twenty-four (24) months following completion of the construction improvements associated with this Project. UR Agency shall pay for this extended reporting period coverage.

(c) Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a limit of $500,000 per occurrence for bodily injury and property damage liability per accident. The policy shall contain the following endorsements in favor of the City.

(1) Additional Insured endorsement (Form TE 9901B);

(2) Waiver of Subrogation endorsement (Form TE 2046A); and

(3) 30 Day Notice of Cancellation endorsement (Form TE 0202A).

(d) All risk property coverage including but not limited to fire, wind, hail, theft, vandalism, and malicious mischief for all real and personal property owned and/or acquired by UR Agency for this Agreement. The coverage shall be at replacement cost with a 100% coinsurance clause. The City shall be a Named Insured on the policy As Their Interest May Appear.

(e) Directors and Officers coverage with a minimum of not less than $250,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such. Coverage shall be continuous for not less than twenty-four (24) months following completion of services under this Agreement. Coverage, including renewals, shall have a retroactive date coincident with or prior to the date of this Agreement.

(f) If insurance policies are not written for the amounts specified in this section, UR Agency shall carry umbrella or excess liability insurance for any differences in amounts

specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

(g) UR Agency shall provide City at least thirty (30) calendar days written notice of erosion of the aggregate limit below the minimum required combined single limit of coverage.

(h) UR Agency shall provide that all provisions of this Agreement concerning liability, duty, and standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.

(i) UR Agency shall not commence work under this Agreement until it has obtained all required insurance and until such insurance coverage has been reviewed by the Purchasing Office of City of Austin.

(j) City prefers that the required insurance be written by a company licensed to do business in the State of Texas at the time the policy is issued. In any event, the company must be rated by A.M. Best at B+ VII or better and acceptable to City.

(k) All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the following information:

(1) Names City at the address set forth in Section 45 of this Agreement and covers UR Agency's volunteers as additional insures (except for Workers' Compensation and Employees Liability coverage), with right of subrogation against City waived.

(2) That the insurance company is obligated to notify the City at its notice address of any non-renewal, cancellation or material change to the policy, at least thirty (30) calendar days before the change or cancellation.

(l) The "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and UR Agency, shall be considered primary coverage, as applicable.

(m) UR Agency shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of this Agreement or the twenty-four month period following completion, in the case of a claims-made policy.

(n) City reserves the right to review the insurance requirements of this Section 30 during the effective period of this Agreement and to make reasonable adjustments to insurance coverages and their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company, as well as that of UR Agency. City shall be entitled, upon request, and without expense to City, to receive copies of the requisite insurance policies and all endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions. (Except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any of such policies.)

Actual losses, deductibles and self-insured retentions stated in policies, if any, which are not covered by insurance as required by this Section 30, are not allowable costs under this Agreement.