

**AMENDMENT NO. 3 TO THE AGREEMENT BETWEEN  
THE CITY OF AUSTIN AND CENTRAL TEXAS FOOD BANK**

This Extension and Amendment No. 3 ("Amendment") to the Agreement between the City of Austin and Central Texas Food Bank, formerly known as Capital Area Food Bank of Texas, ("Agreement") is by and between the City of Austin ("City"), a Texas home-rule municipal corporation, and Central Texas Food Bank ("Contractor"), having offices at 6500 Metropolis Drive, Austin, TX 78744, collectively referred to as the "Parties" or individually referred to as a "Party."

**RECITALS**

1. The Parties entered into the Agreement with an initial term extending from January 1, 2014 to December 31, 2014.
2. The Parties, by Extension and Amendment No. 1, extended the term of the Agreement to January 1, 2015 to December 31, 2015.
3. The Parties, by Extension and Amendment No. 2, extended the term of the Agreement to January 1, 2016 to December 31, 2016.
4. The Parties wish to extend the Agreement in accordance with its original terms for an additional term extending from January 1, 2017 to December 31, 2017, and to make certain amendments.

In consideration of the mutual benefits to be received through the following changes, the parties therefore hereby agree as follows:

- A. Any and all references to "Capital Area Food Bank of Texas" is hereby deleted in its entirety and replaced with "Central Texas Food Bank."
- B. Any and all references to "Health and Human Services" is hereby deleted in its entirety and replaced with "Austin Public Health."
- C. Any and all reference to Central Texas Food Bank's offices is hereby amended by deleting "8201 S. Congress Avenue" and replacing it with "6500 Metropolis Drive, Austin, TX 78744," including such reference in Section 3.6 Notices.
- D. Section 1.1. Section 1.1 is hereby amended by deleting "Hank Perret" and replacing it with "Derrick Chubbs."
- E. Section 3.1. Term. In accordance with Section 3.1, the Parties agree that execution of this Amendment acts as the written request and agreement to extend the Agreement for the second extension option, beginning January 1, 2017 and continuing through December 31, 2017.

All other terms and conditions of the Agreement remain the same.

This Amendment may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

By the signatures affixed below, this Amendment is hereby incorporated into and made a part of the Agreement. This Amendment has an effective date of December 30, 2016.

**CITY OF AUSTIN**

BY: 

Printed

Name: MARTIN JAMES BUYER II

Title: FINANCIAL SERVICES

**CENTRAL TEXAS FOOD BANK**

BY: 

Printed

Name: Alan Robinson

Title: Chief Financial Officer

## **EXTENSION AND AMENDMENT NO. 2 TO THE AGREEMENT BETWEEN THE CITY OF AUSTIN AND CAPITAL AREA FOOD BANK OF TEXAS**

This Extension and Amendment No. 2 ("Amendment") to the Agreement between the City of Austin and Capital Area Food Bank of Texas ("Agreement") is by and between the City of Austin ("City"), a Texas home-rule municipal corporation, and Capital Area Food Bank of Texas ("Contractor"), having offices at 8201 South Congress Avenue, Austin, Texas 78745, collectively referred to as the "Parties" or individually referred to as a "Party."

### **RECITALS**

1. The Parties entered into the Agreement, the initial term in effect as of January 1, 2014, which would terminate December 31, 2014.
2. The Parties, by Extension and Amendment No. 1 extended the term of the Agreement to January 1, 2015 to December 31, 2015.
3. The Parties wish to extend the Agreement in accordance with its original terms for an additional term of January 1, 2016 to December 31, 2016 and to make certain amendments.

In consideration of the mutual benefits to be received through the following changes, the parties therefore hereby agree follows:

- A. Section 2.0. Section 2.0 is hereby amended by deleting the first sentence of that Section in its entirety and replacing it with the following:

"The Contractor shall not bill the City for handling fees for food provided to the six neighborhood centers (Blackland, East Austin, Montopolis, Rosewood-Zaragosa, South Austin and St. John Community Center)."

- B. Section 3.1, Term. Per Section 3.1 of the Agreement, the Parties agree that execution of this Amendment acts as the written request and agreement to extend the Agreement for the first extension option, beginning January 1, 2016, and continuing through December 31, 2016.


- C. Section 3.10. The Agreement is hereby amended by adding Section 3.10, *Food Handler's Permit*, which shall read in its entirety as: "The Contractor or Subcontractor(s) seeking an exemption for a food handler's permit fee must present this signed and executed social services contract upon request to the City."

All other terms and conditions of the Agreement remain the same.

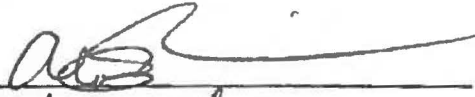
This Amendment may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

By the signatures affixed below, this Amendment is hereby incorporated into and made a part of the Agreement. This Amendment has an effective date of December 30, 2015.

**CITY OF AUSTIN**

BY:   
Printed  
Name: MARTY JAMES  
Title: BURER II

**CAPITAL AREA FOOD BANK OF TEXAS**

BY:   
Printed  
Name: Alan Robinson  
Title: Chief Financial Officer

## **EXTENSION AND AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF AUSTIN AND CAPITAL AREA FOOD BANK OF TEXAS**

This Extension and Amendment No. 1 ("Amendment") to the Agreement between the City of Austin and Capital Area Food Bank of Texas ("Agreement") is by and between the City of Austin ("City"), a Texas home-rule municipal corporation, and Capital Area Food Bank of Texas ("Contractor"), having offices at 8201 South Congress Avenue, Austin, Texas 78745, collectively referred to as the "Parties" or individually referred to as a "Party."

### **RECITALS**

1. The Parties entered into the Agreement, the initial term in effect as of January 1, 2014, which would terminate December 31, 2014.
2. The Parties agreed that the City would pay Contractor a not-to-exceed amount of \$13,000 in exchange for Contractor distributing food and other grocery products to five neighborhood centers and one recreation center.
3. The Agreement allows the Parties to renew the Agreement with written approval of the Parties.

In consideration of the mutual benefits to be received through the following changes, the parties therefore hereby amend the Agreement as follows:

- A. Section 2.0. Section 2.0 is hereby amended to read in its entirety as follows:

The Contractor shall not bill the City for handling fees for food provided to the five neighborhood centers (Blackland, East Austin, Montopolis, Rosewood-Zaragosa and South Austin) and one recreation center (Dove Springs). The City will pay the Contractor a not-to-exceed amount of \$13,000 to underwrite a portion of the salary of the Contractor's Senior Director of Programs for this calendar year and for each of the three (3) extension options, if exercised, in Section 3.1. The Contractor shall continue to distribute food and other grocery products to the five neighborhood centers and one recreation center listed above at no additional cost. Ownership of the food shall not transfer to the City and all liability for the food shall remain with the Contractor.

- B. Section 3.1, Term. Per Section 3.1 of the Agreement, the Parties agree that execution of this Amendment acts as the written request and agreement to extend the Agreement for the first extension option, beginning January 1, 2015, and continuing through December 31, 2015.
- C. Section 3.6, Notices. Section 3.6 is hereby amended by replacing "David Davenport" with "Hank Perrett" in the address to which notices to the Contractor shall be given.

All other terms and conditions of the Agreement remain the same.

This Amendment may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

By the signatures affixed below, this Amendment is hereby incorporated into and made a part of the Agreement. This Amendment has an effective date of December 30, 2014.

**CITY OF AUSTIN**

BY: 

Printed

Name: Erin Vincent

Title: Gr. Transfer Specialist

**CAPITAL AREA FOOD BANK OF TEXAS**

BY: 

Printed

Name: Alan Robinson

Title: Chief Financial Officer



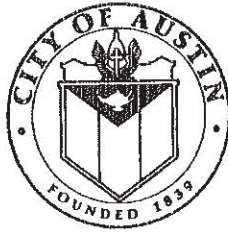
## **M E M O R A N D U M**

**City of Austin  
Financial & Administrative Services Department  
Purchasing Office**

**DATE:** September 5, 2014  
**TO:** Memo to File  
**FROM:** Erin D'Vincent, Senior Buyer Specialist  
**RE:** MA 9100 NG140000039

This MA has been created as a payment mechanism only. The Law Department wrote this contract.





Agreement Between The  
City of Austin  
and  
Capital Area Food Bank of Texas

This Agreement is made between the City of Austin (City), a home-rule municipality incorporated by the State of Texas, and Capital Area Food Bank of Texas (Contractor), having offices at 8201 South Congress Avenue, Austin, Texas 78745.

The City has designated the Health and Human Services Department (HHSD) as the department responsible for the administration of this Agreement and the Purchasing Office of the Financial Services Department as the department responsible for the execution of Agreement documents.

**SECTION I. GRANT OF AUTHORITY, SERVICES AND DUTIES**

- 1.0 Engagement of the Contractor. Subject to the general supervision and control of the City, as exercised by the Contract Manager, and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services forth in Section II, the Scope of Work and Fees.
- 1.1 Designation of Key Personnel. The primary contact for the Contractor shall be Hank Perret, President & CEO, Phone: (512) 282-2111. The City's Contract Manager shall be Maria Allen, Phone: (512) 972-5064.
- 1.2 Responsibilities of the Contractor. The Contractor shall promptly inform the Contract Manager of any problems encountered that might threaten the adequacy of results obtained in executing the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and Contract Manager will negotiate mutually agreeable terms and compensation for completing additional services
- 1.3 Responsibilities of the Contract Manager. The Contract Manager will be responsible for exercising general oversight of the Contractor's efforts in completing the Scope of Work. Specifically, the Contract Manager will be available to the Contractor to discuss and resolve any contractual issues that might arise during the term of the Agreement, shall participate regularly in conference calls or meetings for status reporting, and shall promptly review any reports or deliverables submitted by the Contractor.

**SECTION II. SCOPE OF WORK AND FEES**

- 2.0 The Contractor shall not bill the City for handling fees for food provided to the five neighborhood centers (Blackland, East Austin, Montopolis, Rosewood-Zaragosa and South Austin) and one recreation center (Dove Springs). The City will pay the Contractor a not-to-exceed amount of \$13,000 to underwrite a portion of the salary of the Contractor's Senior Director of Programs for this calendar year. The Contractor shall continue to distribute food and other grocery products to the five neighborhood centers and one recreation center listed above at no additional cost. Ownership of the food shall not transfer to the City and all liability for the food shall remain with the Contractor.
- 2.1 The Contractor shall track the amount of food distributed and the shared



maintenance cost that would have been charged if the centers were traditional non-profit agencies. The Contractor shall provide a maintenance cost report to the City by the 15th day of each month.

- 2.2 The not-to-exceed amount will not change during the course of this calendar year even if the amount of food distributed exceeds or falls behind expectations. The amount in succeeding years, if any, may be adjusted based on the actual amount of food distributed.
- 2.3 Invoices. The Contractor shall submit a single invoice for the not-to-exceed amount of \$13,000 to the Contract Manager. The invoice shall be mailed to: City of Austin, Human Services Division, HHSD, Attn: Maria Allen, P.O. Box 1088, Austin, Texas 78767.
- 2.4 Payment. The invoice received by the Contract Manager will be paid within 30 days of the receipt of the invoice. The Contract Manager may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
  - 2.4(a) third party claims are filed or reasonable evidence indicating probable filing of such claims;
  - 2.4(b) damage to City property by the Contractor;
  - 2.4(c) failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
  - 2.4(d) failure of the Contractor to comply with any material provision of this Agreement.

### SECTION III. MISCELLANEOUS TERMS AND CONDITIONS

- 3.1 Term. This Agreement shall be in effect during the period of January 1, 2014 to December 31, 2014 and may be extended up to three (3) additional twelve (12) month periods subject to the prior written agreement of the parties. Upon expiration of the initial term of the Agreement or any extension thereof, the Contractor agrees to hold over under the terms and conditions of this Agreement for such time as is reasonably necessary to re-solicit or to extend the Agreement term. Any hold-over period shall not exceed 120 days unless it is mutually agreed to in writing.
- 3.2 Right to Assurance. Whenever one party to the Agreement in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Agreement.
- 3.3 Default. The Contractor shall be in default under the Agreement if the Contractor fails to fully, timely and faithfully perform any of its material obligations under the Agreement, becomes insolvent or seeks relief under the bankruptcy laws of the United States.
- 3.4 Indemnity.
  - 3.4(a) The Contractor shall indemnify the City for any and all indemnified claims.

"Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and, including all costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

    - (i) damage to or loss of the property of any person (including, but not limited to, the City, the Contractor, their respective agents, officers, employees

and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and or

- (ii) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including, but not limited to, the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors and third parties).

"Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard. Contractor shall defend (at the option of the City), indemnify, and hold the City, its successors, officers, employees and elected officials harmless from and against all Indemnified Claims to the extent they resulted from the Fault of the Contractor, or the Contractor's agents, employees or subcontractors, in the performance of the Contractor's obligations under the Agreement. Nothing herein shall be deemed to limit the rights of the City or the Contractor (including, but not limited to, the right to seek contribution) against any third party who may be liable for an Indemnified Claim.

- 3.5 Jurisdiction and Venue. The Agreement is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter I, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Agreement shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts.
- 3.6 Notices. Any notice, request, or other communication required or appropriate to be given under this Agreement shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Routine communications may be made by first class mail, facsimile or other commercially accepted means. Notices to the Contracting Agency and the Contractor shall be addressed as follows:

To the City:

City of Austin Purchasing Office  
ATTN: Tracy Franklin  
P.O. Box 1088  
Austin, Texas 78767

To the Contractor:

Capital Area Food Bank of Texas  
ATTN: David Davenport, Executive Director  
8201 S. Congress Avenue  
Austin, Texas 78745

### 3.7 Insurance

- 3.7(a) General Requirements. See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.
  - i. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Agreement execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award.
  - ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
  - iii. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an

extension option or holdover period is exercised, as verification of continuing coverage.

- iv. The Certificate of Insurance, and updates, shall contain the solicitation number and the Buyer's name and shall be mailed to the following address:

City of Austin Purchasing Office  
P. O. Box 1088  
Austin, Texas 78767

- 3.7(b) Specific Coverage Requirements. The Contractor shall, at a minimum, carry insurance in the types and amounts indicated below for the duration of the Agreement, including extension options and hold over periods.

- i. Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries).

- (1) The policy shall contain the following provisions:

- (a) Blanket contractual liability coverage for liability assumed under the Agreement and all other Contracts related to the project.
    - (b) Independent Contractor's Coverage.
    - (c) Products/Completed Operations Liability for the duration of the warranty period.
    - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and Underground Coverage (X,C,U).

- (2) The policy shall also include these endorsements in favor of the City of Austin:

- (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
    - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage

- 3.7(c) Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

- 3.6(d) Certificate: The following statement or its equivalent must be shown on the Certificate of Insurance, "The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies."

- 3.8 This Agreement sets forth the entire agreement between the parties and there are no agreements or understandings between the parties except those set forth herein.

- 3.9 Each party warrants that they are fully informed of, and fully understand, the terms, conditions, and effects of this Agreement; that no promise or inducement has been offered or made to them except as stated in this Agreement; and that they have executed this Agreement voluntarily for the purposes and considerations set forth in this Agreement.

By the signatures affixed below this amendment is hereby incorporated into and made a part of the above-referenced Agreement.

**CITY OF AUSTIN**

BY: *[Signature]*  
Name: *John D Vincent*  
Title: *Senior Buyer Specialist*  
Date: *9.5.14*

**CAPITAL AREA FOOD BANK OF TEXAS**

BY: *[Signature]*  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



# PURCHASE ORDER

PO CITY SINGLE

PAGE NO: 1

REFERENCE NUMBER: DO 9100 14090520190

P.O DATE: 09/05/14

PRICE AGREEMENT #: MA 9100 NG140000039

V JUDY CARTER  
E CAP0946000 1  
N CAPITAL AREA FOOD BANK OF TEXAS INC  
D 8201 S CONGRESS AVE  
O  
R AUSTIN TX 78745-7305

S  
H  
I  
P  
T  
O

B Health & Human Services Dept  
I  
L ACCOUNTING SERVICES  
L PO BOX 1088  
Austin TX 78767  
T  
O

Requestor: Maria Allen, 972-5086  
Buyer: See Solicitation, 512-974-2500

The City's standard purchase terms and conditions are hereby incorporated into this order by reference, with the same force and effect as if they were incorporated in full text. The full versions are available at [https://www.austintexas.gov/financeonline/vendor\\_connection/index.cfm#STANDARDBIDDDOCUMENTS](https://www.austintexas.gov/financeonline/vendor_connection/index.cfm#STANDARDBIDDDOCUMENTS) or call the Purchasing Office at (512) 974-2500. Please include above reference number on all packages, deliveries, and invoices.

Line	Quantity	Unit	Commodity Information / Description (s)										Unit Price	Extended Amount
1			Commodity: 95243 Food Distribution										0.000000	\$ 13,000.00
	Line	Fund	Dept	Unit	Objt	Actv	Func	Rept	Task	Ord	Prog	Prog Period	Line Amount	
	1	1000	4700	6201	6825								\$ 13,000.00	

Order Total: \$ 13,000.00

## VENDOR INSTRUCTIONS:

1. SEND ORIGINAL INVOICE WITH DUPLICATE COPY TO THE CITY DEPARTMENT TO WHICH THE GOOD(S) WERE DELIVERED.
2. SHIPPING INSTRUCTIONS: F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED.
3. NO FEDERAL OR STATE SALES TAX SHALL BE INCLUDED IN PRICES BILLED. LIMITED SALES TAX #74-6000085.

Erin D'Vincent

Digitally signed by Erin D'Vincent.  
DN: cn=Erin D'Vincent, o=City of Austin, ou=Purchasing Office,  
email=erin.dvincent@austintexas.gov, c=US  
Date: 2014.09.05 10:09:52 -05'00'

## Authorized Agent for City Manager

By acceptance of this purchase order, you agree to comply with the terms and conditions incorporated herein by reference and made a part of this order.

Date