



Amendment No. 1
to
Contract No. NA160000081
For
South Congress Improvement Association
Between
South Congress Improvement Association
and the
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor information as requested and documented by the vendor.

	From	To
Vendor Name	South Congress Improvement Association	South Congress Improvement Association
Vendor Code	V00000935054	V00000935054
FEIN	[REDACTED]	[REDACTED]

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

3.0 Vendor FEIN initially input incorrectly. This vendor change corrects only that error.

BY THE SIGNATURE affixed below, this Amendment No. 1 is hereby incorporated into and made a part of the Contract.

A handwritten signature in cursive script that reads "Linell Goodin-Brown".

Linell Goodin-Brown
Contract Management Supervisor II
City of Austin, Purchasing Office

8-14-18

Date



MEMORANDUM

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

DATE: March 23, 2016
TO: Memo to File
FROM: Claudia Rodriquez
RE: MA 5500 NA160000081

This agreement was created by Economic Development Department and is administered and maintained by same.

According to Texas Local Government Code, Chapter 380, Section 380.001 regarding Economic Development Programs,

The governing body of a municipality may establish and provide for the administration of one or more programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality.

City of Austin Administrative Bulletin Number 84-07 states the authority granted to the Economic Development Department (formerly EGRSO).

Procurement authority for certain economic development contracts as described in Local Government Code, Chapter 380 is delegated to the Director of EGRSO.

There is no procurement function other than the creation of the payment vehicle.

ORDINANCE NO. 20160303-xxx

APPROVE AN ORDINANCE AMENDING THE FISCAL YEAR 2015-2016 ECONOMIC DEVELOPMENT DEPARTMENT OPERATING BUDGET SPECIAL REVENUE FUND (ORDINANCE NO. 20150908-001) TO ADOPT A BUDGET FOR THE SOUTH CONGRESS PRESERVATION AND IMPROVEMENT DISTRICT (PID), WITH A BEGINNING BALANCE OF \$88,247, REVENUE OF \$112,090, AND REQUIREMENTS OF \$191,515.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Council amends the Fiscal Year 2015-2016 Economic Development Department Operating Budget Special Revenue Fund (Ordinance No. 20150908-001) to adopt a budget for the South Congress Preservation Public Improvement District budget with a beginning balance of \$88,247, revenue of \$112,090, and requirements of \$191,515.

PART 2. This ordinance takes effect on _____ 2016.

PASSED AND APPROVED

_____, 2016 §
 §
 §
 § _____
Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk



**MANAGEMENT AGREEMENT BETWEEN THE
CITY OF AUSTIN AND SOUTH CONGRESS IMPROVEMENT ASSOCIATION
RELATING TO THE
SOUTH CONGRESS PRESERVATION AND IMPROVEMENT DISTRICT**

This **MANAGEMENT AND IMPROVEMENT SERVICES AGREEMENT** ("**Agreement**") is made and entered into by and between the **CITY OF AUSTIN** (the "**City**"), a home rule municipal corporation located in Travis, Hays, and Williamson Counties, and **South Congress Improvement Association**, a Texas nonprofit corporation authorized to do business in Texas ("**Contractor**").

RECITALS

1. Pursuant to Chapter 372 of the Texas Local Government Code (the "**Code**") on October 16, 2014, the City Council of the City of Austin (the "**City Council**") adopted Resolution No. 20141016-062 authorizing the creation of the South Congress Preservation and Improvement District (the "**District**") pursuant to a valid petition submitted by property owners within the District (the "**Petition**");
2. On December 11, 2014, the City Council authorized the City Manager to negotiate and execute an agreement with the Contractor;
3. The City is authorized to utilize the District to undertake improvements and/or services that confer special benefits on the properties located within the District;
4. The City is authorized to levy and collect special assessments on property located within the District boundaries and use the assessments to pay for the cost of such special services and improvements conferred on the properties within the District; and
5. The City desires to enter into a written agreement with Contractor, and Contractor desires to provide for the management and/or installation of certain improvements and services in the District in accordance with applicable law.

NOW, THEREFORE, the City and Contractor agree as follows:

1. **ENGAGEMENT OF CONTRACTOR.**

The City agrees to engage the Contractor, and the Contractor agrees to provide, furnish, oversee or perform in accordance with this Agreement, the improvements and/or services described in this Agreement and subsequent Service Plans adopted by City Council.

2. **IMPROVEMENTS AND SERVICES FOR THE DISTRICT.**

2.1. **Scope of Contractor's Duties.**

2.1.1 Service Plan and Budget. Thirty days after Contractor receives the preliminary accounting of the District revenue for the upcoming year, Contractor shall submit to the City a proposed Service Plan and Budget pursuant to the parameters established in the Code, or as may subsequently be amended.

2.1.2 The Contractor will provide or cause to be provided the improvements and services (the "**Improvements and Services**"), described in the Service Plan and Budget for the District prepared by Contractor and approved by the City Council for each contract year covered by this Agreement (the "**Service Plan and Budget**"). Prior to implementation or construction of improvements on public property or right-of-way, Contractor shall submit detailed plans including design, dimension and materials for approval by the City. Contractor is responsible for securing all applicable permits, licenses or permission to construct or maintain improvements.

2.1.3 The ordinance adopted by the City Council levying assessments on properties in the District for such Improvements and Services (which ordinance is a public document on file in the City Clerk's Office and is hereby incorporated for all purposes). The Service Plan and Budget approved by the City Council on November 6, 2014, is attached hereto as **Exhibit "A."** So long as this Agreement is in effect, each time the City Council approves an annual update to the Service Plan and Budget, that Service Plan and Budget shall be deemed attached hereto as **Exhibit "A"** and made a part hereof.

2.1.4 Attached is an amended Budget amending the Service Plan shown in Exhibit "A" for the remaining District contract year to be defined as January 1, 2016 through March 31, 2016, attached and labeled **Exhibit "A-1."**

2.1.5 Modification of Service Plan and Budget. Once a Service Plan and Budget is established and approved, Contractor may modify the proposed expenditures in any given category, by no more than twenty percent (20%) for the applicable contract year, provided that the total projected assessment revenue and the total projected expenditure will not change. Any other modifications to the Service Plan and Budget during any particular contract year will require approval of City Council.

2.1.6 Contractor is expressly prohibited from using any funds received under this Agreement for purposes outside of the scope of the purpose and needs of the District, whether it



be on the local, state or federal level. This prohibition includes, but is not limited to, using funds to support "Political Committees," as defined in the Texas Elections Code.

2.1.7 Annual Approved Budget. The Contractor's budget shall be submitted to the City within thirty (30) days after receipt of the preliminary accounting of the District revenue for the upcoming year, and is subject to approval by the City Council, in their sole discretion, on an annual basis. Subject to approval and appropriation by City Council of "Exhibit A-1," the permissible administrative costs for the start-up of the PID ("start-up costs") shall not exceed \$56,740.00. For all subsequent years beginning in April 1, 2016, the budget for the relevant term-year shall not include any start-up costs; and, administrative or overhead costs, including legal fees, shall not exceed twenty-five percent (25%) of the total PID budget, as described and allocated in the Administration section of the District's Five-Year Service Plan. Nothing in this Agreement prohibits the City from making additional contributions to the District, and expenditure of any such funds by the Contractor subject to Council appropriation, District plan and budget amendments approved by the City Council, formal amendment of this Agreement executed by both parties and applicable state law.

2.1.8 Reporting.

i. Quarterly Reporting. On a quarterly schedule agreed to by Contractor and the City, the Contractor will present to the Administrator a report of the improvements and Services provided by Contractor since (i) for the first report under this Agreement, the Effective Date and (ii) for all subsequent reports, the date of the previous report. This work report will detail all of the Contractor's significant work activities in the District. The format of the report shall be mutually agreed upon by the Contractor and the Administrator. Each report, when submitted to the City, shall include a verified statement by Contractor's that all funds received by Contractor under this agreement that have been spent, have been spent only for the purposes stated in Chapter 372.003 of the Texas Local Government Code, as may be subsequently amended, and each PID budget approved by the City Council. Notwithstanding anything to the contrary, the City will not be required to pay Contractor any amount that exceeds the then-current balance of District revenues or that is not in accordance with the Service Plan and Budget for the then-current contract year.

ii. Annually, Contractor will submit an audited financial report to the City Administrator within 120 days of the end of the Contractor's contract year.

2.1.9 Invoices and Account Reserve. Contractor shall submit to the City quarterly invoices detailing the actual cost of goods and services and administrative costs incurred in the previous quarter. Contractor shall not allow funds exceeding twenty-five percent (25%) of the annual budget to be held in reserve without consulting with the City and detailing the need for maintaining a reserve.

2.2. Standard of Care: Nature of Relationship. Contractor will commence, carry on, and provide the Improvements and Services in a commercially reasonable manner, in accordance with this Agreement and its attachments and all applicable laws. Contractor

will endeavor to ensure that any work on the Improvements and Services is properly coordinated with related work being performed by the City. Contractor will use the special assessments collected by the City to provide the Improvements and Services. Unless otherwise specifically provided, all of the Improvements and Services will be performed by the Contractor or under the Contractor's supervision.

3. CITY'S DUTIES AND BUDGETARY RESPONSIBILITIES.

3.1. City Duties

The City will perform the following duties in connection with operation of the District and the Contractor's performance under this Agreement:

- (a) Levy and collect assessments in accordance with the Code and as called for in the Petition (the total collected assessments for any contract year, hereafter "Total Collected Assessments");
- (b) Make payments to Contractor from special assessment revenues, minus ten percent (10%) of the total assessments which the City shall retain, within 30 days of the Contractor's submission of each quarterly report, required by Section 2.1.8 above;
- (c) Maintain throughout the Term of this Agreement at least the same level of services in the District as the City provides as of the Effective Date of this Agreement;
- (d) Produce an annual assessment roll of property owners and property within the District in accordance with the Code and delivering a copy of the assessment roll to the Contractor within five business days of the City's production of the assessment roll.

3.2. City Contributions and Costs

3.2.1 Invoices. Along with the quarterly report, Contractor shall submit to the City an invoice detailing the costs of goods and services and administrative costs incurred in the previous quarter. Except with the prior approval of the City, the invoice shall not exceed one-quarter of the total budget approved by City Council. Upon acceptance of the invoice and report, City shall pay Contractor within thirty days. For significant projects or needs Contractor may advise City thirty days in advance of the next quarterly payment date of the need for the payment to exceed twenty-five percent of the District budget.

3.2.2 Subject to City Council approval and appropriation of an amended Service Plan and Budget as reflected in Exhibit A-1, the City agrees to amend its Fiscal Year ("FY") 2015 budget and the District's Contract Year 2015 budget, and to include in all future budgets pursuant to this Agreement, a contribution equal to the amount that would be assessed for the City's property located at 1705 South Congress Avenue, Austin, Texas. If Council approves amending the Service Plan and Budget, as it determines in its sole discretion, for FY 2015 the assessment for that property, and the corresponding contribution, will be \$3,600.



3.2.3 Subject to City Council approval of an amended Service Plan and Budget as reflected in Exhibit A-1, the City agrees to amend the Contract Year 2015 PID budget to delete the expenditure of \$5,000 for City staff expenses.

4. AMENDMENTS.

This Agreement may not be amended unless executed in writing by both parties.

5. CONTRACT YEAR AND TERM.

The first contract year shall be January 1, 2016 through March 31, 2016. Subsequent contract years shall run April 1 through March 31st. Except as specified otherwise, all reports, budgets and plans shall be based on the contract year as defined herein. This Agreement shall commence January 1, 2016 (the "Effective Date"), and, unless terminated earlier in accordance with this Agreement, expire March 31, 2020 (the "Term"). Subject to the City approval of the Contractor's performance, the Agreement may be renewed for a term corresponding with the extension or renewal of the District, if any. City will provide notice ninety (90) days prior to the expiration of the Term of its intent to renew this Agreement and if any changes are needed to the terms of this Agreement.

6. DISCRIMINATION PROHIBITED.

Contractor, in the execution, performance, or attempted performance of this Agreement, will not discriminate against any person or persons because of sex, race, religion, color, national origin, sexual orientation or familial status, nor will the Contractor permit its officers, agents, employees or subcontractors to engage in such discrimination. This Agreement is made and entered into with reference specifically to the ordinances codified at Title 5 (Civil Rights of the Code of the City of Austin, or as may subsequently be amended. Contractor hereby covenants and agrees that Contractor, and its officers, agents, employees, and subcontractors, have fully complied with all provisions of same and that no employee or applicant for employment has been discriminated against under the terms of such ordinances by either Contractor, or its officers, agents, employees, or subcontractors.

7. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.

This Agreement will be subject to all applicable federal, state, and local laws, ordinances, rules, and regulations, including, but not limited to, all provisions of the City's Charter and ordinances, as amended. Further, Contractor, its contractors and subcontractors must comply with the following resolutions and state law, or as they may subsequently be amended, in the design and construction of public improvements:

- a. Resolution No. 20120112-058 which imposes the City's minority-owned and women-owned business enterprise Program described in chapters 2-9A-D in the City Code;
- b. Resolution No. 20110728-106 regarding worker safety; and,
- c. Chapter 2258 of the Texas Government Code regarding prevailing wage rates.



Compliance by Contractor with applicable law and above referenced resolutions is mandatory; failure by the Contractor to comply with these policies shall constitute a breach of this Agreement and grounds for termination of this Agreement by the City.

8. **CONTRACTOR LIABILITY.**

Contractor assumes legal liability for any damages to any public or private property due to the negligence of Contractor, or its subcontractors, agents, or assigns.

9. **LIABILITY OF CITY; PERSONAL LIABILITY OF PUBLIC OFFICIALS.**

No employee of the City, nor any other agent of the City, shall be personally liable for any damages caused by Contractor, or its officers, agents, servants, employees, contractors and subcontractors or any other liabilities of Contractor under this Agreement or otherwise related to this Agreement. It is further expressly agreed that the City shall not be liable or responsible for any damages caused by Contractor, or its officers, agents, servants, employees, contractors and subcontractors or any other liabilities of Contractor under this Agreement or otherwise related to this Agreement, nor shall the City be liable or responsible to Contractor or any other person for or on account of any stoppage or delay in the work herein provided for by injunction or other legal or equitable proceedings, or from or by or on account of any delay for any cause over which the City has no control.

10. **INDEMNIFICATION.**

CONTRACTOR COVENANTS AND AGREES TO, AND DOES HEREBY, INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL SUITS OR CLAIMS FOR DAMAGES OR INJURIES, INCLUDING DEATH, TO ANY AND ALL PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH ANY NEGLIGENT ACT OR NEGLIGENT OMISSION ON THE PART OF THE CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, OR SUBCONTRACTORS, AND THE CONTRACTOR DOES HEREBY ASSUME ALL LIABILITY AND RESPONSIBILITY FOR INJURIES, CLAIMS OR SUITS FOR THE DAMAGES TO PERSONS OR PROPERTY, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, OCCURRING DURING OR ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT AS A RESULT OF ANY NEGLIGENT ACT OR NEGLIGENT OMISSION ON THE PART OF THE CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, OR SUBCONTRACTORS. SUCH INDEMNIFICATION SHALL INCLUDE WORKERS' COMPENSATION CLAIMS OF OR BY ANYONE WHOMSOEVER IN ANY WAY RESULTING FROM OR ARISING OUT OF CONTRACTOR'S WORK, SERVICES AND OPERATIONS IN CONNECTION HERewith, INCLUDING OPERATIONS OF SUBCONTRACTORS.

CONTRACTOR SHALL LIKEWISE INDEMNIFY AND HOLD HARMLESS THE CITY FOR ANY AND ALL INJURY OR DAMAGE TO CITY PROPERTY ARISING OUT OF OR IN CONNECTION WITH ANY AND ALL NEGLIGENT ACTS OR



NEGLIGENT OMISSIONS OF CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, OR INVITEES.

Insurance coverage specified herein constitutes the minimum requirements and such requirements shall in no way lessen or limit the liability of Contractor under the terms of this Agreement.

11. INDEPENDENT CONTRACTOR.

It is expressly understood and agreed that Contractor will perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the City; that Contractor will have exclusive control of the details of the services and work performed, and all persons performing the same; that Contractor will be solely responsible for the negligent acts and negligent omissions of its officers, agents, employees, contractors, and subcontractors; that the doctrine of *respondeat superior* will not apply as between City and Contractor, its officers, agents, employees, contractors, and subcontractors; and that nothing herein will be construed as creating a partnership or joint enterprise between City and Contractor. No person performing any of the work and services described in this Agreement will be considered an officer, agent, servant, or employee of the City.

12. INSURANCE.

Contractor will not commence work under this Agreement until it has obtained and received approval from the City of all insurance coverage required hereunder. Contractor will be responsible for delivering to the Administrator a certificate or certificates of insurance demonstrating that Contractor has obtained the coverage required under this Agreement, that all insurance policies provided pursuant to this Agreement are endorsed to name the City as an additional insured, and that all such insurance policies cover not only Contractor, but also Contractor's contractors and subcontractors. The minimum insurance required of Contractor is as follows:

WORKER'S COMPENSATION INSURANCE: Contractor shall maintain throughout the Term of this Agreement statutory Worker's Compensation Insurance on all of its employees to be engaged in undertaking any Improvements or Services hereunder. In case any class of employees engaged in hazardous work under this Agreement is not protected under the state's Worker's Compensation statutes, Contractor shall provide adequate employer's general liability insurance for the protection of such employees not so protected.

COMPREHENSIVE GENERAL LIABILITY INSURANCE: Contractor shall maintain throughout the Term of this Agreement a commercial general liability insurance policy in an amount of not less than \$1,000,000 covering each occurrence with an aggregate limit of not less than \$2,000,000.

AUTOMOBILE INSURANCE - BODILY INJURY AND PROPERTY DAMAGE: Contractor shall maintain throughout the Term of this Agreement comprehensive automobile liability coverage in an amount not less than \$1,000,000 for each accident. This policy shall cover any automobile used in the provision of Improvements and Services under this Agreement.

The insurance company with whom Contractor's insurance is written will be represented by an agent or agents having an office located within the Austin metropolitan area. The name of the agent or agents shall be set forth on all certificates of insurance. All policies must provide that they may not be changed or canceled by the insurer in less than five (5) days after the City had received written notice of such change or cancellation.

13. TAXES.

Contractor will pay all federal, state, and local taxes that may be chargeable on any Improvements and Services provided hereunder or otherwise in relation to Contractor's duties and obligations hereunder.

14. PERMITS.

Contractor will cause any of its contractors and subcontractors to obtain and pay for any necessary permits and licenses, whether issued by the state, county, or City, before proceeding with any work that requires any such permits.

15. ASSIGNMENT AND SUBCONTRACTING.

Contractor will have the right to subcontract for the provision of any Improvements and Services authorized hereunder. The existence of a subcontract will not relieve Contractor of any responsibility or liability to the City under this Agreement. Otherwise, Contractor may not assign, transfer, or convey any of its duties and responsibilities under this Agreement to another party without the advance written approval of the City and execution by such party of a written agreement with the City under which such party agrees to be bound by the duties and obligations of Contractor under this Agreement.

16. DEFAULT, REMEDIES AND TERMINATION RIGHTS.

16.1 EVENTS OF DEFAULT

A. Contractor will be deemed to be in default of this Agreement upon the occurrence of any of the following:

1. The failure or omission by Contractor to perform its obligations under this Agreement or the breach of any terms, conditions and covenants required herein unless cured under applicable time lines.

2. The appointment of a Trustee, custodian, or receiver of all or a substantial portion of Contractor's assets and failure to discharge such trustee within sixty (60) days.

3. The insolvency of Contractor; or if Contractor will take the benefit of any present or future insolvency statute, will make a general assignment for the benefit of creditors, or will seek a reorganization or the readjustment of its indebtedness under any law or statute of the United States or of any state thereof including the filing by Contractor of a voluntary petition of



bankruptcy or the institution of proceedings against Contractor for the adjudication of Contractor as bankrupt pursuant thereto.

16.2 CONTRACTOR REMEDIES

A. Upon 30 days' written notice to City, Contractor may terminate this Agreement hereunder for convenience. Contractor and City will remain liable for all payments or other sums and services due and undisputed under this Agreement. Upon 30 days' written notice to City, Contractor may terminate this Agreement and all of its obligations hereunder, if Contractor is not in default of any term, provision, or covenant of this Agreement and cannot operate its business for a period longer than 90 consecutive days due to war, terrorism, or the issuance of any order, rule or regulation by a competent governmental authority or court having jurisdiction over City; provided, however, that such inability or such order, rule or regulation is not due to any fault or negligence of Contractor.

16.3 CITY REMEDIES

A. In the event of any of the foregoing events of default of Contractor, and following thirty (30) days' notice by City, or reasonable time period depending on the type of default, and Contractor's failure to cure, City, at its election, may exercise any one or more of the following options or remedies, the exercise of any of which will not be deemed to preclude the exercise of any other remedy herein listed or otherwise provided by statute or general law:

B. Terminate Contractor's rights under this Agreement. Contractor and City will remain liable for all payments or other sums due under this Agreement and Contractor will remain liable for all damages suffered by City because of Contractor's breach of any of the covenants of this Agreement; or

1. Treat the Agreement as remaining in existence, and cure Contractor's default by performing or paying the obligation which Contractor has breached to the extent permitted in the District budget and available District funds paid to the Contractor, if any. In such event all sums paid or expenses incurred by City directly or indirectly in curing Contractor's default will become immediately due and payable.

2. Declare Agreement to be terminated, ended, null and void.

C. Upon 30 days' written notice to Contractor, City may terminate this Agreement hereunder for convenience. Contractor and City will remain liable for all payments or other sums and services due and undisputed under this Agreement.

D. City may terminate this Agreement without notice to Contractor due to a public health safety or welfare emergency.

E. No delay, failure, or omission of City or Contractor to exercise any right, power, privilege, or option arising from any default will impair any such right, power, privilege, or option, or be construed to be a waiver of any such default. No option, right, power, remedy, or privilege of City or Contractor will be construed as being exhausted or discharged by the

Handwritten signature and initials, possibly "B" or "S", with a large "1" written below it.

exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options, or remedies given to the parties by this Agreement are cumulative and that the exercise of one right, power, option, or remedy by either party will not impair its rights to any other right, power, option, or remedy available under this Contract or provided by law.

17. COOPERATION.

Contractor will, at such time and in such form as the City may require, furnish periodic information concerning the Improvements and Services and other statements, certificates, and approvals relative to the Improvements and Services as requested by the City. Contractor and the Administrator or other City officials will meet as requested to discuss any aspect of this Agreement.

18. BOOKS AND RECORDS; AUDITING RIGHTS.

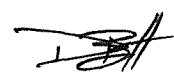
Contractor will maintain complete and accurate records with respect to all expenditures and costs incurred for all Improvements and Services provided hereunder in accordance with the Service Plan and Budget. All such records will be maintained based upon generally accepted accounting principles and will be clearly identified and readily accessible to the City. Contractor will provide representatives of City or its appointees free access to such books and records, during regular business hours, in order that they may examine and audit the same and make copies. Contractor will further allow the City and its representatives to make inspections of all work data, documents, proceedings and activities related to this Agreement. Such right of access and audit will continue for a period of three (3) years from the date of final payment under this Agreement. The City will also have the right to conduct a performance audit and evaluation of Contractor at such times as the City deems necessary. Contractor will fully cooperate with any such performance audit. The City may employ consultants at the City's expense to assist City in such performance audit. Contractor agrees to give the City and its consultants access to all reports, data, schedules, and other relevant information which may be required to conduct such performance audit.

19. NOTICES.

Any notices, bills, invoices or reports required by this Agreement will be conclusively determined to have been delivered: (i) three business days after deposit in the United States mail, in a sealed envelope with sufficient postage attached or (ii) via hand delivery, to the addresses listed below or such other addresses as may from time to time be provided to the other party:

City:

City of Austin
Attn: South Congress PID Administrator
Economic Development Department
301 W. 2nd Street
Austin, TX 78701



Contractor:

South Congress Improvement Association
1704 1/2 South Congress Avenue
Austin, Texas 78704

20. PUBLIC INFORMATION ACT.

Further, Contractor acknowledges that City is required to comply with Chapter 552 of the Texas Government Code (Public Information Act or Act). Under the Public Information Act, this Agreement, and documents related to this agreement, which are in City's possession, or to which City has access, are presumed to be public and the City may release these records to the public unless an exception described in the Act applies to a document. Contractor agrees it will cooperate fully with the City as needed in order for the City to comply with the requirements of the Act.

21. GOVERNMENTAL POWERS.

It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

22. NO WAIVER.

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder will not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

23. VENUE AND JURISDICTION.

If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action will lie in state courts located in Travis County, Texas or the United States District Court for the Western District of Texas - Austin Division. This Agreement will be construed in accordance with the laws of the State of Texas.

24. NO THIRD PARTY RIGHTS.

The provisions and conditions of this Agreement are solely for the benefit of the City and Contractor and are not intended to create any rights, contractual or otherwise, to any other person or entity.

25. INTERPRETATION.

In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement will be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement.



26. **CAPTIONS.**

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

27. **ENTIRETY OF AGREEMENT.**

This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Contractor as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared void to the extent in conflict with any provision of this Agreement.

28. **COUNTERPARTS.**


This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

EXECUTED as of the last date indicated below:

CITY OF AUSTIN:

SOUTH CONGRESS IMPROVEMENT
ASSOCIATION:



 Brandon Hodge, vice president

Date: 2-16-2016

Date: 5 February 2016

APPROVED AS TO FORM:




EXHIBITS:

Exhibit A – Resolution No. 20141106-019

Exhibit A-1 – Proposed Service Plan and Budget for the first contract year

Exhibit A

City of Austin Resolution No. 20141106-019

A handwritten signature in black ink, appearing to be "JD" with a long horizontal stroke extending to the right.

RESOLUTION NO. 20141106-019

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The South Congress Preservation and Improvement District Service Plan and Budget for 2015, attached as Exhibit A, are hereby approved.

ADOPTED: November 6, 2014

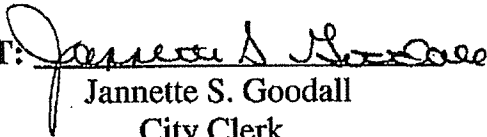
ATTEST: 
Jannette S. Goodall
City Clerk



EXHIBIT A

South Congress Preservation and Improvement District 2015 Service Plan

INTRODUCTION

In 2014, property owners on South Congress Avenue petitioned the City Council to establish the South Congress Preservation and Improvement District (PID). The property owners incorporated as a nonprofit 501(c)(6) organization as the South Congress Improvement Association to contract with the City to manage the PID. Over 50 percent of property owners representing over 50 percent of the property valuation have signed petitions to establish the PID.

During Fiscal Year 2015, South Congress Improvement Association will initiate and implement its mission to:

- Protect and strengthen the business, culture, arts, and entertainment environment of South Congress;
- Preserve South Congress as a vibrant mixed use district so that locals and visitors will utilize its diverse offerings;
- Communicate the concerns of the South Congress community to local and state entities;
- Support initiatives on issues of public policy that affect the community; and
- Continue to grow South Congress in its stature as an important economic and cultural asset to the community for today and future generations.

SERVICE PLAN

The FY 2015 PID budget is \$75,825, based on City of Austin estimate of PID assessment collections of \$77,825 minus \$2,000 required by the City for reserve.

FY 2015 Preliminary Budget Revenues PID Assessments at 90% Collection

\$75,825

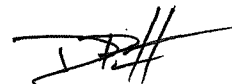
For the PID's inaugural year the mission is executed in four program areas:

FY 2015 Preliminary Budget Expenditures (by Program Area)

- | | |
|--|----------------|
| • Public Safety | \$15,165 (20%) |
| • Infrastructure / Physical Environment (Maintenance & Improvements) | \$15,165 (20%) |
| • Marketing/Fundraising/Economic Development | \$15,165 (20%) |
| • Administration (including \$5,000 requirement for City staff expenses) | \$30,330 (40%) |

Total

\$75,825 (100%)



Public Safety

Work with the City to identify, communicate, and address issues of concern to the District. The focus will include programs to:

- Enhance vehicular and pedestrian safety
- Improve public event security
- Create safety partnerships in the public and private sectors
- Advocate for a neighborhood watch program that can work in concert with community policing patrols and circulation
- Raise the bar on standards to reduce risks and encourage responsible operations within the district

Infrastructure and Physical Environment (Focus on Maintenance and Near-Term and Longer-Term Improvements)

Coordinate strategies, plans, and partnerships for physical improvements in the district such as signage, sidewalks, gateways, etc. The focus will include programs to:

- Clean the structures and surface infrastructure (public and private space)
 - Provide daily litter removal services, periodic sidewalk washing and prompt, efficient graffiti removal throughout the District
 - Encourage higher standards of private signage and ATM placement
- Create systems of order to unify the district
 - Public area lighting (street lighting)
 - Signage and Banners
 - Gateways
 - Transportation systems (taxis, valets)
 - Vendors
 - Public Restrooms
- Advocate for longer-term improvements
 - Develop a specific consensus plan and identify funding for South Congress streetscape that respects the unique nature of the district, including vehicle lanes and flow; sidewalk width and material; and street parking
 - Enhance landscaping, scenic areas, and parks
 - Maintain coordination with the City on physical infrastructure upgrades, such as utility lines and alleys
 - Collaborate with other organizations to create programs that encourage public (or alternative) transportation methods to the district

Marketing/Fundraising/Economic Development

Promote the economic health of the district and the association through strategic partnerships, marketing and public relations, and events and other fundraising opportunities.

- Collaborate with property owners to create an informational website
- Promote the district with the South Congress (SoCo) brand, and events that bring a diverse market to, and take advantage of, the unique nature of the district
- Share information and tools with property and business owners to help diversify the district mix
 - Encourage business-to-business mentorships
 - Host forums for business success, education, and self-enforcing standards



- Promote existing resources and incentives for business success
- Serve as an ombudsman for businesses and property owners within the district
- Pursue financial sustainability to increase resources and effectiveness
 - Produce new events and help add value to current events within the district
 - Develop and maintain current partnerships with other organization and businesses for promotional and funding opportunities
 - Improve the district's common area management, such as sidewalk vendors, parking, and valet parking options

Administration, including Communications/Membership

- Contract oversight
- Communications/Membership
 - Create and maintain communication for effective interaction with members, the City, and the community at large, including the following methods:
 - Monthly e-mails
 - Quarterly newsletters
 - Quarterly forums (informational and educational meetings)
 - Regular committee meetings
 - Special-topic meetings
 - Annual membership meeting
 - Direct outreach to owners & operators
 - Website updates, highlighting important issues, current events, businesses, and other items of interest
 - Media relations that educate
 - A complete and current database of property owners, both members and nonmembers
 - Membership program expansion for nonproperty owners with an interest in the district

SUMMARY

With the initiatives described in this service plan South Congress will continue to progress toward realizing the vision of a vibrant, mixed-use district offering shopping, restaurants, and entertainment that is a source of cultural and economic pride for Austinites.

