

**INTERLOCAL COOPERATION AGREEMENT
FOR THE PROCUREMENT OF CONSULTING SERVICES RELATED TO
A COMPREHENSIVE HOUSING MARKET ANALYSIS
BY AND AMONG
CITY OF AUSTIN, TEXAS, TRAVIS COUNTY, TEXAS, HOUSING AUTHORITY OF
THE CITY OF AUSTIN, TRAVIS COUNTY HOUSING FINANCE CORPORATION,
AND HOUSING AUTHORITY OF TRAVIS COUNTY**

This INTERLOCAL COOPERATION AGREEMENT FOR THE PROCUREMENT OF CONSULTING SERVICES RELATED TO A COMPREHENSIVE HOUSING MARKET ANALYSIS (the "**Agreement**") is entered into by the following parties: the City of Austin, Texas, a municipal corporation and political subdivision of the state of Texas ("**Austin**"), Travis County, Texas, a political subdivision of the State of Texas ("**Travis County**"), Travis County Housing Finance Corporation, a Texas nonprofit corporation and a public instrumentality of Travis County, Texas, organized and existing under the Texas Housing Finance Corporations Act, Chapter 394, Texas Local Government Code of Travis County ("**Travis County HFC**"), the Housing Authority of the City of Austin ("**Austin HA**"), and the Housing Authority of Travis County ("**Travis County HA**"). Collectively, Austin, Travis County, Travis County HFC, Austin HA, and Travis County HA shall be referred to as the "**Parties**," individually a "**Party**."

RECITALS

In order to acquire federal funding from the U.S. Department of Housing and Urban Development (HUD), participating jurisdictions must submit a consolidated plan that describes activities and resources used to meet the needs of low- and moderate-income families. The consolidated plan is designed to help states and local jurisdictions assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. A required component of a consolidated plan is the completion of a housing market analysis (HMA) (24 CFR §91.210). The HMA shall yield critical analysis to be included in the Parties' Fiscal Year (FY) 2019-2023 consolidated plans and shall be expected to satisfy the conditions of HUD consolidated planning requirements.

The Parties have the authority to enter into this Agreement through Texas Constitution, Article 3, Sec. 64, and "The Interlocal Cooperation Act," Texas Government Code, Chapter 791.

The Parties desire to combine their purchasing efforts in order to achieve greater efficiency and cost-savings to all entities; to minimize duplication and maximize efficiency by coordinating their efforts; and to eliminate multiple government solicitations and reduce related expenses.

Travis County has the authority to provide for the care of indigents and other qualified recipients (Tex. Loc. Gov't Code § 81.028, and other statutes) and for public health, education, and information services (Tex. Health & Safety Code Chapters 121 and 122, and other statutes). Travis County desires to further those services through the information to be collected under the HMA, thus achieving a public purpose.

Pursuant to Texas Local Government Code, Chapter 392, housing authorities established by municipalities and counties are authorized to enter into this Agreement.

In consideration of the agreements, covenants, and payments set forth in this Agreement, the sufficiency of which are acknowledged, the Parties mutually agree to the following terms and conditions.

AGREEMENT

1.0 DEFINITIONS. In this Agreement,

1.01 "**Agreement Term**" means the Initial Term and any subsequent Renewal Term(s) or other period of time designated in writing as an Agreement Term by the Parties.

1.02 "**Austin Council**" means the City Council of the City of Austin.

1.03 "**Austin Department**" means Austin's Neighborhood Housing and Community Development Department or successor department or office.

1.04 "**Austin Purchasing Officer**" means Austin's Purchasing Office Officer, or the officer's successor or designee.

1.05 "**Austin Risk Manager**" means Austin's Risk Manager, or the manager's successor or designee.

1.06 "**Bid Specifications**" means the documents prepared by the City to solicit consultant(s) from whom to purchase services under this Agreement.

1.07 "**Travis Commissioners Court**" means the Commissioners Court of Travis County.

1.08 "**Consultant**" means the individual/company providing goods or services related to the Analysis under a contract entered into pursuant to this Agreement.

1.09 "**Fiscal Year**" means that time period which begins October 1 and ends on the next following September 30.

1.10 "**Analysis**" or "HMA" means the completion of the work described in this Agreement, including Austin's costs to procure the Consultant and administer the Consultant contract and this Agreement, and costs of the specific services provided and fees paid or payable in the contract with the Consultant.

1.11 "**Representative**" means each Parties' initially or subsequently authorized representative assigned by an authorized official of each Party to serve as the single point of

contact to coordinate procurement of the Consultant with the Austin Department; individually, a “Representative.”

2.0 TERM

2.01 **Agreement Term.** This Agreement will commence when executed by all Parties, and terminate on the earlier of (a) Parties’ acceptance of the Analysis, or (b) **September 30, 2019.**

3.0 ADMINISTRATION AND SUPPORT

3.01 **Administration and Issuance of Solicitation.** The Parties agree that Austin will be the Party entering into the contract for the Analysis with the Consultant. Austin's procurement policies and procedures will apply to this procurement. Austin designates the Austin Department as the department responsible for Austin's administration of this Agreement and all matters pertaining to this Agreement.

3.02 **Insurance.** The Parties acknowledge and agree that each Party is self-insured and will cover the needs of each Party respectively, pursuant to applicable generally accepted business standards. Each Party shall require all subcontractors providing services under this Agreement to have insurance coverage sufficient to cover the needs of the Parties and/or subcontractor pursuant to applicable generally accepted business standards. The Austin Risk Manager will determine and review the insurance requirements of any Consultant.

4.0 SCOPE OF AGREEMENT

4.01 **Purpose.** The Parties agree to work cooperatively to develop the terms of a mutually agreed Contract which will be released and processed by Austin to procure the Consultant services necessary to perform the Analysis described in this Agreement in order to achieve cost savings and efficiencies by reducing administrative and overhead costs of both suppliers and Parties. The Parties agree that the Analysis will provide information necessary for all Parties to better provide the services and activities which each entity is authorized to provide. The Analysis will meet all requirements set forth in the Federal Register, Part III, Consolidated Plan Revisions and Updates; Final Rule, 24 CFR Part 91, and any other relevant HUD guidelines.

4.02 **Applicable Law.** All procurement under this Agreement shall be conducted in accordance with all applicable statutes, ordinances, rules and regulations, and policies that govern Austin's procurement practices.

4.03 Solicitation.

4.03.1 **Coordination.** Each Representative will coordinate all procurement efforts under this Agreement with the Austin Department, primarily focused on the development of the scope of work.

4.03.2 Notice. The Austin Department shall provide the Representatives with notice of the initiation of the procurement process with sufficient time for each Representative to respond with input as to the particular procurement.

4.03.3 Information.

(a) Opportunity to Provide Information. Upon reasonable request by a Representative, and subject to convenience, each Representative shall have the opportunity to make available and provide information and requirements relating to the procurement which is the subject of this Agreement to the Austin Department upon notice that such procurement has been initiated.

(b) Review. Each Representative shall have the opportunity to review and comment on any procurement documents, including the scope of work, prior to release. Austin must not release any bid document until all Representatives have approved the content in writing. Parties will be given the opportunity to review and approve the final document, including all attachments, prior to release of the bid document, to ensure that all appropriate provisions required by each Representative have been included.

4.03.4 Issuance Procedure. Austin shall coordinate all procurement processes through the Austin Purchasing Officer, including the posting of advertisements and receiving of all responses. Copies of any advertisements and other related documents shall be provided to each Party in a timely manner.

4.03.5 Review of Response(s). The Austin Department shall provide opportunity for each Representative to have input concerning responses to the procurement issuance and final award of contract(s) as a result of that procurement process. Austin must not award a contract under this Agreement until all Representatives have agreed in writing on the Consultant to be awarded the contract and the terms of that contract.

4.03.6 Materials and Publications. The Parties agree that any publications or other materials produced pursuant to this Agreement and the resulting Analysis will be jointly owned by all Parties. All Parties and the Consultant will comply with the applicable standard patent rights clauses in 37 Code of Federal Regulations, Section 401.13 or Federal Acquisition Regulations, Section 52.227.1. All reports, charts, schedules, or other materials submitted by Consultant under the terms of this Agreement, and all work performed under this Agreement shall be the property of all Parties. Any Party may publish the results of this Agreement performance at their own expense. Any publication or other use shall include acknowledgement of any support received from the other Parties and the appropriate reference to any copyright. Subject to rights of third parties and compliance with confidentiality or privacy laws, each Party hereby grants the other Parties an irrevocable, non-exclusive, non-transferable and royalty-free license to use, reproduce, publish, revise and make disposition of, prepare derivative works from, distribute to the public, to perform and display publicly, for or on behalf of that Party according to law, any material (including software) that may be developed as part of the

work under this Agreement, provided that it is an original work of authorship under the U. S. Copyright Act.

4.04 Analysis Costs and Payment.

4.04.1 Joint Costs. Parties agree to share the costs for the Analysis' Consultant fees as stated more particularly below. Each Party will make payments of those costs from current revenues available to each Party. The Parties agree that the total cost of the Analysis will not exceed \$215,000, with each Party paying a specific prorated amount based on the percentages and not to exceed the maximum amounts which are both set forth in Section 4.04.2.

4.04.2 Share of Total Costs. Each Party is obligated to pay the following amounts:

4.04.2.1 City of Austin Costs. Austin agrees to pay the lesser of: 37.21 % of the total actual costs of the Analysis, or \$80,000.

4.04.2.2 Travis County Costs. Subject to Section 4.04.1 above, Travis County agrees to reimburse Austin the lesser of: 37.21 % of the total actual costs of the Analysis, or \$80,000.

4.04.2.3 Travis County Housing Finance Corporation. Subject to Section 4.04.1 above, Travis County HFC agrees to reimburse Austin the lesser of: 6.98 % of the total actual costs of the Analysis, or \$15,000.

4.04.2.4 Housing Authority of the City of Austin Costs. Subject to Section 4.04.1 above, Austin HA agrees to reimburse Austin the lesser of: 6.98 % of the total actual costs of the Analysis, or \$15,000.

4.04.2.5 Housing Authority of Travis County Costs. Subject to Section 4.04.1 above, Travis County HA agrees to reimburse Austin the lesser of: 11.63 % of the total actual costs of the Analysis, or \$25,000.

4.04.3 Payment. Each Party shall make payments for a final invoice for performance of governmental functions and services under this Agreement and the resulting Consultant contract from current revenue funds available to each Party and set aside for this purpose. The Parties agree that the payment made under this Contract is in an amount that will fairly compensate Austin for services provided, either directly by Austin or indirectly by subcontract. Each Party will pay Austin within forty-five (45) calendar days of receipt of a full and complete invoice for services provided by Austin and Consultant under this Agreement.

4.04.4 Invoice Content. The invoice will show, at a minimum:

- (i) total costs billed by Consultant,
- (ii) Austin's services provided related to those costs,
- (iii) amount paid or obligated to be paid by Austin; and
- (iv) amount due from each Party based on the prorated percentage share each Party is obligated to pay, subject to each Party's maximum payment amount, all as set forth in Section 4.04.2 of this Agreement.

4.05 **Monitoring.** Each Party shall allow the regular monitoring of operation of any services provided pursuant to this Agreement by the other Parties; and each Party shall have the right to conduct periodic on-site monitoring of the other's compliance with the terms of this Agreement. Monitoring by any Party shall be accomplished with as little disruption to the operation of the other Party as possible. After any monitoring visit, a written report may be provided if any deficiencies are noted, with provision for correction of such deficiencies within thirty (30) calendar days of receipt of such notice.

5.0 RETENTION AND ACCESSIBILITY OF RECORDS

5.01 **Austin Retention.** Unless otherwise specified herein, Austin shall maintain all fiscal records and documentation for all expenditures pertaining to this Agreement in a readily available state and location until an audit in conformance with generally accepted accounting principles and procedures for governmental organizations is completed and all questions arising from it are resolved satisfactorily or four (4) years from after the end of the Agreement period or according to Austin's standard file retention schedule, whichever occurs later.

5.02 **Access.** Subject to applicable laws, Austin shall give the other Parties, or any Party's duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by Austin pertaining to this Agreement at reasonable times and for reasonable periods. These rights to access shall continue as long as the records are retained by Austin.

5.03 **Representatives to Contract.** An authorized official of each Party must deliver within thirty (30) calendar days following execution of this Agreement in writing to the Austin Department the name, title, and contact information of the Party's Representative. The Austin Department upon receipt will distribute to all Parties an initial or updated list of the Parties and the contact information for each Parties' Representative.

5.04 Access/Claims.

5.04.1 **Notice.** If there is any incident in which claims are made against any Party or Party's employee, as a result of the activities performed under this Agreement, the Party against whom the claim is made shall give each Representative or their designees full and reasonable access to and the right to examine documentation related to this matter at reasonable times and for reasonable periods with these rights to access continuing until all claims are resolved or three (3) years after the termination of this Agreement, whichever is later.

5.04.2 Address. The address for notice provided under this Section 5.04 shall be delivered either personally or by mail and shall be directly sent to the address set forth in Section 11.0 of this Agreement.

5.05 Exclusions. The Parties agree that the terms of Section 5.0, "Retention and Accessibility of Records," and Section 6.0, "Audit," specifically exclude the required disclosure by any Party of confidential information, including attorney work product and/or attorney/client communication.

6.0 AUDIT

6.01 Audit. Except as otherwise provided herein, each Party has the right to conduct a financial and compliance audit of the performance of this Agreement on an annual basis. Austin agrees to permit any other Party or its authorized representative, or any authorized representative of any other governmental agency with a direct interest in services provided under this Agreement, to audit the records that relate to this Agreement and to obtain and make available for inspection, audit or reproduction any documents, materials, or information necessary to facilitate such audit. Austin shall take whatever action is appropriate to facilitate the performance of any audits conducted pursuant to this Agreement. This includes, to the extent such detail will properly reflect, all costs: direct and indirect costs of labor, material, equipment, supplies, and services and all other costs and expenses of whatever nature for which reimbursement is claimed under provisions of this Agreement or services provided under this Agreement. Austin agrees to provide other Parties or authorized representatives and representatives from any governmental agency related to grant funds full and complete access to all records related to grant activities as necessary to complete any audits required or requested pursuant to the grant terms.

7.0 INDEPENDENT ENTITY AND ACKNOWLEDGEMENT OF RESPONSIBILITIES

7.01 Independent Entities. The Parties expressly acknowledge and agree that each Party is an independent entity and each assumes all the rights, obligations, and liabilities applicable to it as an independent entity. No employee of any Party shall be considered an employee, agent, or representative of any other Party or gain any rights against any other Party pursuant to any other Party's personnel policies. The relationship of the Parties under this Agreement is not and shall not be construed or interpreted to be a partnership, joint enterprise or joint venture. No Party shall have the authority to make any statements, representations or commitments of any kind, or to take any action which shall be binding on the other Parties or which shall hold itself out to be binding on the other Parties.

7.02 Responsibilities. No Party shall be liable for any claims, damages or attorney fees arising from any negligence or unlawful acts of any other Party or other Party's employees in relation to this Agreement. Parties acknowledge that each entity is otherwise responsible for any claims or losses from personal injury or death or property damages that were caused by the acts or omissions of that entity, its agents, employees, or representatives in the performance of the services and activities under this Agreement; and that each entity will be responsible for the

handling of the portion of any claim which is based solely on the assertion that a policy of that entity is illegal or unenforceable in any way.

7.03 **Claims Notification.** If any claim, or other action, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against any Party; the party against whom the claim or other action is made shall give written notice to the other Parties of the claim, or other action within three (3) working days after being notified of it or the threat of it. Such notice shall include the name and address of the person, firm, corporation or other entity that made or threatened to make a claim, or that instituted or threatened to institute any type of action or proceeding; the basis of the claim, action or proceeding; the court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and the name or names of any person against whom this claim is being made or threatened. This written notice shall be given in the manner provided in Section 11.0 of this Agreement. Except as otherwise directed, the party against whom the claim has been made shall furnish to the other party copies of all pertinent papers received by that party with respect to these claims or actions.

8.0 TERMINATION

8.01 **Termination.** Unless otherwise specified herein, any Party shall have the right to terminate its participation in this Agreement, in whole or in part, at any time before the date of termination for the following reasons:

8.01.1 During a Party's budget planning and adoption process, a Party fails to provide funding for the Agreement during the next Agreement period;

8.01.2 A Party fails to comply with any term or condition of this Agreement;

8.01.3 Grant funding upon which services under this Agreement are being provided ceases to be available to any Party.

8.01.4 A Party is unable to conform to changes required by federal, state or local laws or regulations.

8.02 **Mutual Termination.** The parties have the right to terminate this Agreement when the Parties agree that the continuation of the activities funded under this Agreement would not produce beneficial results commensurate with the further expenditure of funds; provided that all Parties agree, in writing, upon the termination conditions, including the effective date of the termination and, in the case of partial termination, the portion of the contract to be terminated.

8.03 **Termination Procedure.** In the case of termination based on Section 8.01.1, 8.01.3, or 8.01.4 and at least thirty (30) calendar days prior to the effective date of termination, the Party seeking termination shall notify the other Parties of the reasons for termination, the effective date of termination, and, in the case of a partial termination, the portion of the Agreement to be terminated. In the case of termination based on Section 8.01.2, if any Party defaults in the performance of its obligations (including compliance with any covenants) under

this Agreement and such default is not cured within thirty (30) calendar days of the receipt of written notice thereof, then the non-defaulting Parties shall have the right (in addition to any other rights that they may have) by further written notice to terminate the Agreement on any future date that is not less than thirty (30) calendar days from the date of that further notice.

8.04 **Rights Surviving Termination**. If any Party terminates this Agreement in whole or in part, Austin has the right to receive payment for all Consultant services paid for by Austin before the date of termination.

8.05 **Right to Assurance**. Whenever one Party to this Agreement in good faith has reason to question another Party's intent to perform, the demanding Party may demand that the other Party provide written assurance of its intent to perform. In the event a demand is made under this Section 8.05, and the other Party gives no such written assurance within thirty (30) calendar days of receipt of the written notice of such demand, the demanding Party may treat this failure as an anticipatory repudiation of this Agreement.

9.0 MISCELLANEOUS PROVISIONS

9.01 **Civil Rights/ADA Compliance**. Each Party shall provide, or contract to provide, all services and activities under this Agreement in compliance with the Constitutions of the United States and Texas and with all applicable federal, state and local orders, laws, regulations, rules, policies and certifications governing any activities undertaken during the performance of this Agreement including, but not limited to: Title VI of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504 (29 U.S.C., Section 794), the provisions of the Americans With Disabilities Act of 1990, Public Law 101-336 [S.933], Chapter 73, Texas Administrative Code, Section 85.113 (relating to workplace and confidentiality guidelines regarding AIDS and HIV), and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). No Party shall discriminate against any employee, applicant for employment, or client based on race, religion, color, sex, national origin, age or handicapped condition.

9.02 **Non-Waiver**. No payment, act or omission by a Party may constitute or be construed as a waiver of any breach or default of any other Party which then exists or may subsequently exist. The failure of any Party to exercise any right or privilege granted in this Agreement shall not be construed as a waiver of that right or privilege.

9.03 **Reservation of Rights and Remedies**. All rights of each Party under this Agreement are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or belonging right to each Party under it. Any right or remedy in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

9.04 **Binding Agreement**. This Agreement shall be binding upon the successors, assigns, administrators, and legal representatives of the parties to this Agreement.

9.05 **Entire Agreement.** All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

9.06 **Law and Venue.** This Agreement is governed by the laws of the State of Texas. Venue for any dispute arising out of this Agreement will lie in the appropriate courts of Travis County, Texas.

9.07 **Severability.** If any portion of this Agreement is ruled invalid by a court of competent jurisdiction, the remainder of it shall remain valid and binding, and shall continue to have full force and effect and shall in no way be impaired or invalidated by that holding.

9.08 **Political Activity.** No Party shall use any of the performance under this Agreement or any portion of the Agreement funds for any activity related to the result of an election for public office or any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of any Party from furnishing to any member of its governing body upon request or to any other local or state official or employee, or to any citizen, information in the hands of the employee or official not considered under law to be confidential. No funds paid under this Agreement may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive or judicial branches of a governmental body.

9.09 **Sectarian Activity.** Each Party shall ensure that activities performed under this Agreement shall be carried on in a manner free from religious influence. No Party shall execute any agreement with any primarily religious organization to receive Agreement funds unless the agreement includes provisions to effectuate this assurance. No Party's selection of a subcontractor or expenditure of funds under this Agreement is an endorsement of the subcontractor's charitable or religious character, practices or expressions. No expenditures have as their objective the funding of sectarian worship, instruction or proselytization. Each Party agrees to be bound by the provisions of Section 702 of the Civil Rights Act [42 U.S.C., Section 2000E-1(a)] regarding employment practices and Section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C., Section 604a) regarding additional rights and responsibilities for charitable and faith-based providers of social services, assisted individuals and providers of such services.

9.10 **Publicity.** When appropriate, each Party shall publicize the services and activities of other Parties under this Agreement. In any publicity prepared or distributed by or for each Party, the multi-party funding through this Agreement shall be mentioned as having made the project possible.

9.11 **Interpretational Guidelines**

9.11.1 **Computation of Time.** When any period of time is stated in this Agreement, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday or a day that any

Party has declared a holiday for its employees these days shall be omitted from the computation.

9.11.2 **Number and Gender.** Words of any gender in this Agreement shall be construed to include any other gender and words in either number shall be construed to include the other unless the context in the Agreement clearly requires otherwise.

9.11.3 **Headings.** The headings at the beginning of the various provisions of this Agreement have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing this Agreement.

9.12 **Compliance With Applicable Law.** In the performance of the services required of each Party pursuant to this Agreement, each Party agrees to comply with all applicable federal, state, county and city statutes, ordinances, rules and regulations.

9.13 **Immunity or Defense.** It is expressly understood and agreed by all Parties that neither the execution of this Agreement, nor any conduct of any Representative, shall be considered to waive, nor shall it be deemed to have waived, any immunity or defense that would otherwise be available to that Party against claims arising in the exercise of its governmental powers and functions, nor shall it be considered a waiver of sovereign immunity to suit. It is understood and agreed that a decision by one Party to waive immunity or to compensate a claim for which immunity would have been a defense and would have operated to prevent payment does not operate as a waiver or decision to compensate by the other Parties; nor will such action by one Party operate to incur any expense or charge to the other Parties.

9.14 **Agreement Limitation.** This Agreement sets out the agreements and obligations between the Parties only, and does not obligate any Party to any other Party's subcontractors or to any third party. This Agreement creates no third party beneficiary rights.

9.15 **Survival of Conditions.** Applicable provisions of this Agreement shall survive beyond termination or expiration of this Agreement until full and complete compliance with all aspects of these provisions has been achieved where the Parties have expressly agreed that those provisions should survive any such termination or expiration or where those provisions remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

9.16 **Dispute Resolution/Mediation.** Initial disputes and unresolved questions or issues of any Party shall initially be presented by submission in writing to the relevant Party. If satisfactory resolution cannot be achieved between the Parties within a reasonable time, and should mediation be acceptable to both Parties in resolving a dispute arising under this Agreement, the Parties agree to use the Dispute Resolution Center of Austin, Texas, as the provider of mediators for mediation as described in the Tex. Civ. Prac. And Rem. Code, Section 154.023. Unless all Parties to the dispute are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Tex. Civ. Prac. And

Rem. Code, Sec. 154.073, unless all Parties to the dispute agree, in writing, to waive the confidentiality.

9.17 **Public Purpose.** By execution of this Agreement, the governing bodies of the Parties hereby find that the needs to be addressed by the services to be provided under the terms of this Agreement and specifically set forth in the attached Work Statements, constitute a significant public concern impacting members of the population which the Parties serve. The governing bodies further find that the provision of services to be provided by Austin pursuant to this Agreement will further the public purpose of addressing those health and human services issues, problems and needs identified in this Agreement for identified individuals.

10.0 AMENDMENTS

10.01 **Written Amendments.** Unless specifically provided otherwise in this Agreement, any change to the terms of this Agreement or any attachments to it shall be made in writing and signed by all Parties. It is acknowledged by each Party that no officer, agent, employee or representative of any Party has any authority to change the terms of this Agreement or any attachments to it unless expressly granted that authority by that Party's governing body

10.02 **Submission of Amendment.** Any Party shall submit all requests for alterations, additions or deletions of the terms of this Agreement or any attachment to it to the Austin Department, with a copy to the Representatives for consideration. Requests for alterations, additions or deletions of the terms of this Agreement by any Party shall be submitted to the Austin Department, with a copy to the Austin Purchasing Officer.

11.0 NOTICES

11.01 Any notice required or permitted to be given under this Agreement by one party to the others shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this Section 11.0 for the Party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the Party at the address hereinafter specified.

11.02 **Address.** The notice address for all Parties for all purposes under this Agreement is:

11.02.1 The address for Austin:

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

11.02.2 The address for Travis County:

Travis County, Texas
Purchasing Agent
P. O. Box 1748
Austin, Texas 78767

11.02.3 The address for the Travis County HFC:

Travis County Housing Finance Corporation
Purchasing Agent
P.O. Box 1748
Austin, Texas 78767

11.02.4 The address for the Austin HA:

Housing Authority of the City of Austin
Purchasing Director
1124 South IH-35
Austin, Texas 78704

11.02.5 The address for the Travis County HA:

Housing Authority of Travis County
Purchasing Officer
502 East Highland Mall Boulevard – Suite 106-B
Austin, Texas 78752

11.03 **Change of Address.** Each Party may change the address for notice to it by giving notice of the change in compliance with Section 11.0 and delivering a copy of the notice to the Austin Department for attachment to this Agreement no later than ten (10) working days after the effective date of the notice.

12.0 LEGAL AUTHORITY AND SIGNATORIES

12.01. **Legal Authority to Enter Agreement.**

12.01.1 Each Party guarantees that that Party possesses the legal authority to enter into this Agreement, receive funds authorized by this Agreement, and to perform the services each Party has obligated itself to perform under this Agreement. It is acknowledged by each Party that no Representative, officer, agent, employee or other representative of any Party has any authority to modify, alter or amend this Agreement unless expressly granted that authority by the appropriate governing body.

12.02 **Signors.**

12.02.1. The person or persons signing this Agreement on behalf of a Party, or representing themselves as signing this Agreement on behalf of a Party, do hereby warrant and guarantee that he, she or they have been duly authorized by the Party to sign this Agreement on behalf of the Party and to bind the Party validly and legally to all terms, performances, and provisions in this Agreement.

13.0 PROHIBITIONS

13.01 **Conflict of Interest.** In performing duties under this Agreement, employees of each Party must comply with the conflict of interest requirements and ethics provisions set forth in the Austin City Code, Article 4 (a copy of which has been provided to all Parties). All Parties shall comply with the conflict of interest provisions in Chapter 171 of the Texas Local Government Code and other applicable laws.

13.02 **Solicitation.** All Parties warrant that no persons or selling agency was or has been retained to solicit this Agreement upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by that Party to secure business. For breach or violation of this warranty, the non-breaching Party shall have the right to terminate this Agreement without liability, or, in its discretion, to, as applicable, add to or deduct from the Agreement price for consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

13.03 **Gratuities.** No Party's employees, officers or agents may solicit or accept gratuities, favors or anything of monetary value from subcontractors, potential subcontractors, or a potential Consultant.

13.04 **Nepotism.** Each Party agrees that they will comply with TEX. GOVERNMENT CODE ANN., Ch. 573, by ensuring that no officer, employee or member of the governing body of that Party shall vote or confirm the employment of any person related within the second degree by affinity or third degree by consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person.

14.0 ASSIGNABILITY

14.01 No party may assign any of the rights or duties created by this Agreement without the prior written approval of the other Parties. It is acknowledged by each Party that no officer,

agency, employee or representative of any Party has any authority to grant such assignment unless expressly granted that authority by the appropriate governing body.

15.0 FORCE MAJEURE.

15.01 No Party shall be financially liable to the other Parties for delays or failures to perform under the Agreement where such failure is caused by force majeure (i.e. those causes generally recognized under Texas law as constituting impossible conditions). Such delays or failures to perform shall extend the period of performance until these exigencies have been removed. The Party seeking to avail itself of this clause shall notify the other Parties in the manner set forth in Section 11.0 within five (5) working days or otherwise waive the right as a defense, unless notification is impractical under the circumstances, in which case notification shall be done in as timely a manner as possible. Each Party agrees that breach of this provision entitles each Party to reduce or stop payments or immediately terminate this Agreement.

[Signature page to follow]

EXECUTED in duplicate originals effective the date of the last Party to execute this Agreement.

City of Austin, Texas:

By: _____

Name: Joe Pantalion

Title: Interim Assistant City Manager

Date: ____/____/2018

APPROVED AS TO FORM:

CITY OF AUSTIN, TEXAS

LAW DEPARTMENT

By: _____

Name:

Title: Assistant City Attorney

Travis County

BY: _____

Sarah Eckhardt
County Judge

Date: _____

County Approvals:

As to Legal Form:

Assistant County Attorney

Date: _____

Funds Certified By:

Nicki Riley, County Auditor

Date: _____

Purchasing:

Bonnie Floyd, Purchasing Agent

Date: _____

Travis County Housing Finance Corporation:

By: _____

Name: _____

Title: _____

Date: ____/____/2018

DRAFT

Housing Authority of the City of Austin:

By: _____

Name: _____

Title: _____

Date: ____/____/2018

DRAFT

Housing Authority of Travis County

By: _____

Name: _____

Title: _____

Date: ____/____/2018

DRAFT