



**May 20, 2021**

## Questions and Answers Report



**Mayor Steve Adler**

**Mayor Pro Tem Natasha Harper-Madison, District 1**

**Council Member Vanessa Fuentes, District 2**

**Council Member Sabino "Pio" Renteria, District 3**

**Council Member Gregorio Casar, District 4**

**Council Member Ann Kitchen, District 5**

**Council Member Mackenzie Kelly, District 6**

**Council Member Leslie Pool, District 7**

**Council Member Paige Ellis, District 8**

**Council Member Kathie Tovo, District 9**

**Council Member Alison Alter, District 10**

*The City Council Questions and Answers Report was derived from a need to provide City Council Members an opportunity to solicit clarifying information from City Departments as it relates to requests for council action. After a City Council Regular Meeting agenda has been published, Council Members will have the opportunity to ask questions of departments via the City Manager's Agenda Office. This process continues until 5:00 p.m. the Tuesday before the Council meeting. The final report is distributed at noon to City Council the Wednesday before the council meeting.*

## QUESTIONS FROM COUNCIL

**Item #2:** Authorize negotiation and execution of a financing agreement with the Texas Water Development Board (TWDB) for a 20-year low-interest loan in the amount of \$18,000,000 through TWDB's State Water Implementation Fund for Texas loan program, for the implementation of Austin Water's Advanced Metering Infrastructure program.

### COUNCIL MEMBER ALTER'S OFFICE

*Over the life of the TWDB SWIFT loan process how much does the City anticipate saving in interest costs? How much has the City saved to date?*

Austin Water (AW) Response: The final interest savings amount for the November 2020 SWIFT loan will be determined by market interest rates in effect when the loan closes; AW estimates \$2 million to \$3 million in interest savings based on current interest rates. To date, Austin Water has realized total interest savings of \$20.6 million on TWDB loans since 2016 (see breakdown below).

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| State Water Implementation Fund for Texas (SWIFT) | \$8.7 million |
| Clean Water State Revolving Fund (CWSRF)          | \$7.4 million |
| Drinking Water State Revolving Fund (DWSRF)       | \$4.5 million |

**Item #3:** Authorize the execution of Change Order #4 to the construction contract with Santa Clara Construction, Ltd. (MBE), for the Brentwood/Arcadia Water and Wastewater Pipeline Renewal project, in the amount of \$600,000 plus an additional contingency in the amount of \$44,000, for a total contract amount not to exceed \$6,792,694.80.

### COUNCIL MEMBER ALTER'S OFFICE

*Please detail what general processes and procedures are now in place to ensure coordination across public works priorities like sidewalks and water /wastewater projects as is the case for this Brentwood/Arcadia project.*

Public Works Project Managers (PM's) coordinate with other Public Works divisions, such as sidewalks, safe routes, and street and bridge, along with Austin Transportation and Austin Water during the scoping and design phases of a project. The policy for consolidating the work of multiple departments into a single project is included in the Project Consolidation procedure from the Project Management Procedures Manual. That policy purpose is provided below. The work included in the final scope of a specific project is dependent on a number of factors including conditions of existing assets (sidewalks, streets, water, wastewater, etc.), the priorities

of stakeholder departments, and budgets. The PM coordinates multiple meetings with stakeholder departments during the project life cycle to encourage a comprehensive project approach.

Project Consolidation procedure from the Project Management Procedures Manual:

The Public Works Department is committed to consolidating projects in the same vicinity when feasible to minimize the disruption for area residents and businesses. For example, the Austin Clean Water Program (ACWP) may have a project designed to eliminate sanitary sewer overflows in a specific neighborhood. During the same general timeframe, a roadway utility project is scheduled for the same area. Consolidation of these projects could substantially reduce overall construction time in that neighborhood.

**Item #6:** Authorize negotiation and execution of an amendment to the professional services agreement with HVJ Associates, Inc. (MBE), for civil engineering services for the Street Pavement Rehabilitation Program project in the amount of \$2,000,000, for a total contract amount not to exceed \$3,000,000.

**COUNCIL MEMBER FUENTES' OFFICE**

*What is the implementation plan in terms of project location, project identification, and project prioritization?*

The 2018 Bond Prop G provided \$66.5M to rehabilitate and reconstruct existing streets that are in poor or failing condition. These streets are identified through a biennial street condition survey which collects all street deterioration data and stored in our Pavement Management Information System (PMIS). The PMIS informs our annual street maintenance service plan on the appropriate treatments (sealcoat, overlay, reconstruction, etc.) and timing to extend the service life of our street network (over 7700 lane miles). Streets in good to excellent condition receive preventative maintenance funded in our annual operation budget, while streets in poor to failing condition require more intensive rehabilitation or reconstruction funded by bonds. Our current street network in good to excellent condition is currently at 75 percent. We have identified 32 street project locations throughout the city to be reconstructed or rehabilitated with the available 2018 bond funds. In terms of prioritization and planning, each location is coordinated with other work that may be occurring concurrently within the project limits, e.g., ATD traffic improvements, water waste/water line construction, ability to expedite permits, as well as coordination with schools.

**Item #7:** Authorize negotiation and execution of Amendment No. 6 to the interlocal agreement with Austin Travis County Mental Health Mental Retardation Center, d/b/a Integral Care, for the Homeless Outreach Street Team, which connects homeless individuals and families with the initial services necessary to achieve stability and recovery, to increase funding in the amount of \$600,000 effective June 1, 2021, and to add three 12-month renewal options, in the amount of \$399,354 per renewal option, beginning October 1, 2021, for a total contract amount not to exceed \$3,381,832

**COUNCIL MEMBER KELLY'S OFFICE**

*What metrics are available for item 7 and similar agreements? What kind of information sharing*

*occurs among the entities that make up the Homeless Outreach Street Team to help coordinate the initial response and follow up?*

HOST is a collaborative partnership comprised of dedicated staff from APD, DACC, EMS, and Integral Care. Performance and service data are tracked in an electronic database that is accessible to all HOST partners, which also helps inform planning efforts for services. HOST staff meet daily to analyze community needs and plan the day to provide Outreach/Engagement and/or Follow-Up Services as needed.

Engagement/Outreach consists of responding to new referrals to make initial contact with an individual or specific target area. Engagement/Outreach can be ongoing until a relationship of trust is established. HOST works with individuals to identify and meet immediate needs, and determine which needs will require additional planning and follow-up. Follow-Up Services help ensure that individuals receive services to meet identified needs that were determined during initial outreach and engagement.

Linkages to ongoing services for individuals and families engaged by HOST include programs provided by local homelessness service agencies including, but not limited to, the Downtown Austin Community Court, Integral Care, Front Steps, Salvation Army, Caritas, and LifeWorks.

The Homeless Outreach Street Team Services Agreement includes the following performance measures:

- **Outputs:**
  - Number of unduplicated individuals engaged/served
  - Number of Contacts
  - Number of successful interventions linking individuals to services necessary to begin their process of stability and recovery
  - Number of individuals linked to medical support services
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  - Number of individuals diverted from criminal justice involvement at the time of service
  - Number of unduplicated individuals connected to mental health services
  - Number of individuals connected to substance use treatment service
- **Outcomes**
  - Percentage of individuals linked to a service that is necessary to begin their process of stability and recovery

**Item #12:** Authorize the negotiation and execution of a park operations and maintenance agreement with Pease Park Conservancy for the operation, maintenance, and programming for certain portions of the Pease District Park.

COUNCIL MEMBER ALTER'S OFFICE

1) *Please provide a summary of what responsibilities PARD will have under this agreement and the financial obligations each party will have.*

PARD Responsibilities:

- Continue decomposed granite trail maintenance within the improvement area,
- Waste and Recycling hauling within the improvement area and
- Designated Parks and Recreation Department staff will serve on the Park Operations and Maintenance Agreement Advisory Committee, the formal mechanism for ongoing communication and cooperation under this Agreement.

PARD Financial Responsibility:

So long as the Partner is not in default of this Agreement, the City agrees, subject to annual budgeting process and Council-approved appropriations, to pay to the Partner an Annual Management Fee, as a baseline of public financial support that the Parties contemplate will be leveraged with private sector revenues and donations. The Management Fee represents the estimated cost of baseline services provided to the park improvement site prior to the redevelopment. Estimated Annual Management Fee in year one of the Agreement to be \$36,000.

Pease Park Conservancy Financial Responsibility:

Pease Park Conservancy is responsible for the operations and maintenance of the park. Park maintenance and operation expenses is estimated to cost \$392,147 annually.

2) *Please include a summary of how the agreement handled concession revenue.*

Per the Agreement, Gross Revenue will be used exclusively for the maintenance and operation of the site and will be deposited in the Operations Fund. Gross Revenue means all revenues, excluding sales tax, received by Partner from or related to the use, operation, or programming of the Park. This includes revenue from concessions, rental events, and fees for all goods and services provided to the public in the Park Improvement Area. All fees will be reviewed and approved annually by the Parks and Recreation Department Director.

**Item #17:** Authorize negotiation and execution of an agreement with Caritas of Austin to provide permanent supportive housing to disabled individuals who have experienced chronic homelessness, in an amount not to exceed \$2,992,800 for the term July 1, 2021 to September 30, 2022, with three 12-month extension options each in an amount not to exceed \$2,671,680, for a total agreement amount not to exceed \$11,007,840.

**COUNCIL MEMBER ALTER'S OFFICE**

1) *Please provide additional detail about the "City of Austin Housing First Competitive Solicitation RFQS # 4700 EAD4007," and why it was cancelled in June 2020.*

The City of Austin Housing First Competitive solicitation was released and had no respondents in the first month. The solicitation was extended by two weeks, with two respondents submitting applications. One of the applications did not have all of the required documentation signed, which resulted in only one application for consideration. Due to the lack of competition and Austin Public Health and the Homeless Strategy Division being immersed in COVID response, it was decided to cancel the solicitation and focus their efforts on COVID.

2) *What, if any, relationship exists between item 17 and 56?*

While both agreements are with Caritas of Austin and will provide permanent supportive housing services, there is no relationship between the two.

3) *Are there any differences in the contracts in terms of what is being provided if these items are approved?*

Item #17 – This agreement provides funding for both services and building operations. It will serve individuals who have experienced chronic homelessness and are the highest utilizers of crisis services.

Item #56 – This agreement will provide permanent supportive housing services to individuals who have experienced chronic homelessness. Once this facility is operating, there will be 101 units devoted to serving chronically homeless individuals. Unlike Item #17 this does not include building operations.

**Item #17:** Authorize negotiation and execution of an agreement with Caritas of Austin to provide permanent supportive housing to disabled individuals who have experienced chronic homelessness, in an amount not to exceed \$2,992,800 for the term July 1, 2021 to September 30, 2022, with three 12-month extension options each in an amount not to exceed \$2,671,680, for a total agreement amount not to exceed \$11,007,840.

**COUNCIL MEMBER KELLY'S OFFICE**

*In the event that the property at 10811 Pecan Park Blvd is not approved, are we required to move forward with the contract as proposed in item 17? Can the item be postponed until the due diligence period has concluded?*

This action would give staff the ability to begin the negotiation process and eventually execute the contract. Staff would not move forward with the execution until the period of due diligence concludes. Should the due diligence conclude while Council is on break, there will be a delay in beginning the negotiation/execution process. This process typically takes four weeks, assuming the agency is timely with its responses/submissions.

**Item #30:** Approve a resolution directing the City Manager to explore the creation of a Cultural Climate District for the South Shore/Barton Springs Area including Butler Shores, recognize Butler Shores as a City Cultural Park, conduct necessary analyses and inventories of the area, and report to Council regarding next steps.

**COUNCIL MEMBER ALTER'S OFFICE**

*1) When is Barton Springs Road scheduled for repaving? Will the city be considering adding bike lanes at that time for Barton Springs Road?*

While the section of Barton Springs Road through Zilker Park is considered parkland, the Parks and Recreation Department will not plan any paving or striping projects without coordinating with Austin Transportation Department and the Public Works Department. In addition, community input for multi-modal transportation options - including bike lanes and pedestrian walkways - during the vision planning process for the Park, will inform the Department's decisions for future projects. The Zilker Vision Plan is anticipated to be completed during 2022.

According to the Public Works Department, Barton Springs Road through Zilker Park was resurfaced with an overlay in Fiscal Year 2014 and portions of Barton Springs Road to the east of the Park are not scheduled for overlays in the next two years including the Barton Springs Road Bridge which is currently going through the design process.

**Item #47:** C814-2020-0132 - Central Health PUD - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 601 East 15th Street (Waller Creek Watershed). Applicant's Request: To rezone from public (P) district zoning to planned unit development (PUD) district zoning. This ordinance may include waiver of fees, alternative funding methods, modifications of City regulations, and acquisition of property. Staff Recommendation: To grant planned unit development (PUD) district zoning. Planning Commission Recommendation: To be reviewed on May 11, 2021. Owner/Applicant: Travis County Healthcare District dba Central Health (Mike Geeslin). Agent: City of Austin, Housing and Planning Department (Jerry Rusthoven). City Staff: Jerry Rusthoven, 512-974-3207.

**COUNCIL MEMBER ALTER'S OFFICE**

*1) Please provide a copy of the interlocal agreement.*

The draft interlocal agreement is attached.

*2) Please clarify what contributions this project will be making towards parkland or open space.*

The PUD would waive the Tier 1 requirement for open space above standard code requirements. In the CBD open space is not required for multi-family and condominium developments. The intent of the PUD is to match, as close as possible, CBD regulations so the PUD also excludes MF and condos from open space requirements. Development in the PUD will comply with the code required parkland requirements at the time of site plan.

*3) Please provide details on which party will have what obligations, financial or otherwise, with respect to the relocation of Red River.*

Central Health will assume the responsibility of designing and constructing, at Central Health's cost, the realignment of Red River St. between the southern boundary of 15th St. and the northern boundary of 12th St. and will donate the right-of-way necessary for the realignment to the City, including donating the land for same.

New Red River St. between 12<sup>th</sup> St. and 15<sup>th</sup> St. will be constructed in accordance with the City-approved plans filed under Case Number SP-2019-0332D. Upon completion and acceptance, Central Health will convey fee simple title of the New Red River ROW to the City. Central Health anticipates substantial completion to be achieved no later than 48 months after commencement of construction.

The City Council has already approved fee waivers related to temporary use of ROW, excavation, and usage fees in the amount not to exceed \$3,300,000 per Ordinance 20201203-040 adopted at the December 3, 2020 Council meeting.

Central Health agrees to grant, at no cost to the City, a future Public Utility Easement located east of New Red River between 12th St. and 15th St. to be used for Austin Energy infrastructure, reclaimed water facilities, and other City utilities.

The City Council will be asked to consider on a future Council agenda the vacation and conveyance of a portion of existing Red River St. between 14th St. and 15th St. to Central Health as reimbursement for Central Health's construction of the New Red River segment between 12th St. and 13th St. (which segment is not on or adjacent to Central Health property).

The City Council will also be asked to consider on a future Council agenda authorization of a payment of \$75,000 to Central Health for storm drain improvements requested by Watershed Protection Department.

Central Health's redevelopment of Block 164 on the Central Health campus and the construction of a realigned Red River St. between 12<sup>th</sup> St. and 15<sup>th</sup> St. has already begun at Central Health's risk. The traffic control plan for the closure of existing Red River St. under Permit 2020-170129 RW was approved on January 26, 2021 and implemented on January 30, 2021.

New Red River St. will run adjacent to the HealthSouth property, but the realignment of Red River St. does not require a financial contribution from the Health South property or its owner(s).

**Item #56:** Authorize negotiation and execution of an agreement with Caritas of Austin to provide permanent supportive housing to disabled individuals who have experienced chronic homelessness, in an amount not to exceed \$1,200,000 for a 28-month term ending on September 30, 2023, with two 12-month extension options, each in an amount not to exceed \$500,000, for a total agreement amount not to exceed \$2,200,000.

#### COUNCIL MEMBER ALTER'S OFFICE

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The City of Austin Housing First Competitive solicitation was released and had no respondents in the first month. The solicitation was extended by two weeks, with two respondents submitting applications. One of the applications did not have all of the required documentation signed, which resulted in only one application for consideration. Due to the lack of competition and Austin Public Health and the Homeless Strategy Division being immersed in COVID response, it was decided to cancel the solicitation and focus their efforts on COVID.

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devoted to serving chronically homeless individuals. Unlike Item #17 this does not include building operations.

**Item #57:** Ratify an interlocal agreement with University of Texas at Austin to implement and evaluate research-driven pilot projects to improve the well-being of long-term care staff in Travis County, for a five-month term ending on September 30, 2021, for a total agreement amount not to exceed \$90,000.

**COUNCIL MEMBER ALTER'S OFFICE**

*The RCA indicates that funding in the amount of \$90,000 is included in the COVID-19 Spending Framework (Resolution No. 20200604-040) as part of the Economic Support for Financial and Other Direct Support. What is the actual specific funding source for this item?*

This was from the original framework – it is CARES funded.

**Item #67:** Conduct a public hearing and approve an ordinance for the full-purpose annexation of approximately 28.3 acres located in Travis County near 11122, 11204, 11208, and 11216 Cameron Road, and authorize negotiation and execution of a written agreement with the owner of the land for the provision of services. The property is adjacent to Austin Council District 1.

**COUNCIL MEMBER ALTER'S OFFICE**

*Please provide the written agreement with the property owner for the provision of services in the area.*

Staff is awaiting the signed service agreement from the property owners. If a service agreement is not received as of close of business on 5/18, the annexation case will be postponed to the June 10 Council meeting. A non-executed service agreement is attached to the ordinance that is posted as backup (Exhibit B). Once an executed service agreement is received, it will be posted along with other backup documents.



### Council Question and Answer

Related To

Item #2

Meeting Date

May 20, 2021

### Additional Answer Information

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#### **QUESTION/ANSWER:** Council Member Alter's Office

- 1) *Over the life of the TWDB SWIFT loan process how much does the City anticipate saving in interest costs? How much has the City saved to date?*

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### Council Question and Answer

**Related To**

**Item #3**

**Meeting Date**

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[Note: This change order will be executed in compliance with City Code 2-9A (Minority Owned and Women Owned Business Enterprise Procurement Program). Current participation to date is 95.05% MBE and 4.01% WBE.].

### **QUESTION/ANSWER:** Council Member Alter's Office

*1) Please detail what general processes and procedures are now in place to ensure coordination across public works priorities like sidewalks and water /wastewater projects as is the case for this Brentwood/Arcadia project.*

Public Works Project Managers (PM's) coordinate with other Public Works divisions, such as sidewalks, safe routes, and street and bridge, along with Austin Transportation and Austin Water during the scoping and design phases of a project. The policy for consolidating the work of multiple departments into a single project is included in the Project Consolidation procedure from the Project Management Procedures Manual. That policy purpose is provided below. The work included in the final scope of a specific project is dependent on a number of factors including conditions of existing assets (sidewalks, streets, water, wastewater, etc.), the priorities of stakeholder departments, and budgets. The PM coordinates multiple meetings with stakeholder departments during the project life cycle to encourage a comprehensive project approach.

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#### *1) What is the implementation plan in terms of project location, project identification, and project prioritization?*

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- **Outcomes**

- Percentage of individuals linked to a service that is necessary to begin their process of stability and recovery





### Council Question and Answer

**Related To**

Item #17

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### Council Question and Answer

**Related To**

**Item #17**

**Meeting Date**

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### Council Question and Answer

**Related To**

Item #30

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#### **QUESTION/ANSWER:** Council Member Alter's Office

*1) Please provide a copy of the interlocal agreement.*

The draft interlocal agreement is attached.

*2) Please clarify what contributions this project will be making towards parkland or open space.*

The PUD would waive the Tier 1 requirement for open space above standard code requirements. In the CBD open space is not required for multi-family and condominium developments. The intent of the PUD is to match, as close as possible, CBD regulations so the PUD also excludes MF and condos from open space requirements. Development in the PUD will comply with the code required parkland requirements at the time of site plan.

*3) Please provide details on which party will have what obligations, financial or otherwise, with respect to the relocation of Red River.*

Central Health will assume the responsibility of designing and constructing, at Central Health's cost, the realignment of Red River St. between the southern boundary of 15th St. and the northern boundary of 12th St. and will donate the right-of-way necessary for the realignment to the City, including donating the land for same.

New Red River St. between 12<sup>th</sup> St. and 15<sup>th</sup> St. will be constructed in accordance with the City-approved plans filed under Case Number SP-2019-0332D. Upon completion and acceptance, Central Health will convey fee simple title of the New Red River ROW to the City. Central Health anticipates substantial completion to be achieved no later than 48 months after commencement of construction.

The City Council has already approved fee waivers related to temporary use of ROW, excavation, and usage fees in the amount not to exceed \$3,300,000 per Ordinance 20201203-040 adopted at the December 3, 2020 Council meeting.

Central Health agrees to grant, at no cost to the City, a future Public Utility Easement located east of New Red River between 12th St. and 15th St. to be used for Austin Energy infrastructure, reclaimed water facilities, and other City utilities.

The City Council will be asked to consider on a future Council agenda the vacation and conveyance of a portion of existing Red River St. between 14th St. and 15th St. to Central Health as reimbursement for Central Health's construction of the New Red River segment between 12th St. and 13th St. (which segment is not on or adjacent to Central Health property).

The City Council will also be asked to consider on a future Council agenda authorization of a payment of \$75,000 to Central Health for storm drain improvements requested by Watershed Protection Department.

Central Health's redevelopment of Block 164 on the Central Health campus and the construction of a realigned Red River St. between 12<sup>th</sup> St. and 15<sup>th</sup> St. has already begun at Central Health's risk. The traffic control plan for the closure of existing Red River St. under Permit 2020-170129 RW was approved on January 26, 2021 and implemented on January 30, 2021.

New Red River St. will run adjacent to the HealthSouth property, but the realignment of Red River St. does not require a financial contribution from the Health South property or its owner(s).

**INTERLOCAL COOPERATION AGREEMENT BETWEEN  
THE CITY OF AUSTIN AND THE TRAVIS COUNTY HEALTHCARE DISTRICT D/B/A CENTRAL  
HEALTH  
FOR THE REALIGNMENT OF MUNICIPAL RIGHT-OF-WAY AND REDEVELOPMENT OF THE  
FORMER UNIVERSITY MEDICAL CENTER AT BRACKENRIDGE HOSPITAL CAMPUS**

This Interlocal Cooperation Agreement (this “Agreement”) is made and entered into by and between the Travis County Healthcare District, a hospital district formed under Texas Health and Safety Code Chapter 281 and doing business as Central Health (“Central Health”) and the City of Austin, a Texas home-rule city and municipal corporation located in Travis, Williamson, and Hays Counties, Texas (the “City”), hereinafter collectively referred to as the “Parties” and each as a “Party”, upon the premises and for the consideration stated herein.

RECITALS:

A. Central Health is in the process of redeveloping the former University Medical Center at Brackenridge hospital campus (the “Hospital Property”) located between the vacated portion of E. 13<sup>th</sup> Street as described in Ordinance No. 750529-A dated May 29, 1975 and E. 15<sup>th</sup> Street.

B. On June 20, 2019, the Austin City Council approved a certain Statement of Terms of Proposed Interlocal Agreement Regarding the Alignment of Red River Street (“Statement of Terms”) in anticipation of the terms set forth therein being codified in this Agreement.

C. Central Health will design and construct New Red River either directly or through a third party or parties and in accordance with the City-approved plans filed under Case Number SP-2019-0332D (the “New Red River Plans”). The realigned Red River Street shown in the New Red River Plans is referred to herein as “New Red River”.

D. New Red River will be made up of (i) land within the Hospital Property which Central Health will convey to the City, (ii) a portion of land out of the HealthSouth tract south of the Hospital Property, (iii) a portion of the 20 foot wide alley on Block 143, (iv) the 860 square feet tract of land conveyed to the City by Alan Woods Nalle, Sr. in that certain Street Deed dated February 14, 2017 and recorded under Document No. 2017037973, and (v) a portion of existing Old Red River (defined below) near the intersection at E. 12th Street.

E. Once New Red River is open to the public the City will reestablish and repurpose existing Red River Street generally between vacated E. 13<sup>th</sup> Street and E. 15<sup>th</sup> Street (hereinafter referred to as the “Old Red River”) as a dedicated fire lane for Waterloo Park that will serve as a public plaza, restricting non fire and emergency vehicle access to certain authorized purposes only, save and except the approximate easternmost fifty-five (55) feet thereof located between the southern boundary of E. 15<sup>th</sup> Street and the southern boundary of E. 14<sup>th</sup> Street as shown in **Exhibit A** (such easternmost approximate fifty-five feet being referred to herein as the “Vacated ROW”). Nothing in this Recital E changes, lessens, or negates Central Health’s obligations under Section 6(b) below.

AGREEMENTS:

Now, therefore, in consideration of the premises and the mutual benefits to each Party from the execution and performance of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which each Party acknowledges, the Parties agree as follows.

1. **Dedication of Right of Way to City of Austin.** Central Health shall convey to the City the real property described in **Exhibit B** (the "New Red River ROW").

2. **The Project.**

(a) Central Health shall, at its sole cost (except for the reimbursements, payments, and any fee waivers the City will pay to or give Central Health as set forth in Section 2(b), Section 2(d), and Section 3(c) of this Agreement), design and construct New Red River in accordance with the New Red River Plans. The planning, management, design, surveying, administration, financing, construction, testing, and inspection of New Red River is hereinafter referred to as the "Project".

(b) The City has also requested that Central Health design, construct, and install certain storm drain infrastructure (the "Storm Drain Improvements") as a part of the Project (~~defined below~~), which infrastructure is ~~not~~ necessary for the Project but is in an alternative alignment desired by the City, and Central Health has agreed to do so in the same timeframe as that in which the Project is completed. Subject to approval of the expenditure by the City Council, which City staff will present to the City Council, the City will reimburse Central Health \$75,000 for the design, construction, and installation of the Storm Drain Improvements and the cost of utility relocation and property restoration directly associated therewith. The planning, design, surveying, administration, financing, construction and inspection of the Storm Drain Improvements shall be hereinafter referred to as the "Storm Drain Project". Upon completion of construction and installation of the Storm Drain Improvements and the City's acceptance of the Storm Drain Improvements, the City will assume ownership thereof and shall be solely responsible for all post-construction maintenance and operation thereof.

(c) Subject to the reimbursements, payments, and any fee waivers the City will pay to or give Central Health as set forth in Section 2(b), Section 2(d), and Section 3(c), if and to the extent approved by the Austin City Council where such approval is required, Central Health shall fund at Central Health's expense the portion of the Project located between the southern boundary of E. 15th Street and the northern boundary of the vacated E. 13th Street (the "New Red River Central Health Segment").

(d) Central Health shall initially fund all costs of the portion of the Project from approximately the northern boundary of vacated E. 13th Street to the southern boundary of E. 12th Street (the "New Red River City Segment"), and one third of the cost of the Final As-Built Survey (defined below), but the City shall reimburse Central Health for all such costs relating to the New Red River City Segment by fee simple conveyance by deed without warranty from the City to Central

Health of the Vacated ROW (after determining the value of such Vacated ROW under applicable standard City procedures and subject to City Council approval;

(e) Notwithstanding any other provision of this Agreement Central Health agrees that if the City approves the vacation and conveyance to Central Health of the Vacated ROW, Central Health will have been reimbursed in full all of its costs relating to the New Red River City Segment.

(f) Central Health will design and construct the New Red River City Segment in generally the same timeframe as that in which Central Health designs and constructs the New Red River Central Health Segment.

(g) If City Council approves vacating and conveying the Vacated ROW to Central Health as payment for Central Health's construction of the New Red River City Segment, the City shall complete the conveyance of the Vacated ROW to Central Health in accordance with the dates and procedures set forth in Section 5 below.

3. **Project Design, Preliminary Engineering, and Permitting.**

(a) Central Health shall design and plan the Project in a manner consistent with the New Red River Plans. No later than thirty (30) days after the Project reaches Final Completion, Central Health shall provide to the City the digital files used to create the New Red River Plans (CAD, hydrologic and hydraulic modeling, etc.). The files shall not be restricted such that all data can be viewed in the original layers in CAD files and data in other software is fully accessible.

(b) The Project does not include the installation or oversizing of utilities unless shown in the New Red River Plans. If the City requests the oversizing of utility facilities within the Hospital Property, Central Health may in that event during the term of this Agreement request that the City reimburse Central Health for the City's proportionate share of costs. Any oversizing and any related reimbursement therefor shall be in accordance with future utility betterment agreements and shall be subject to approval by the Central Health Board of Managers, the City Council, and, if necessary, the Travis County Commissioners Court.

(c) The City has waived certain right-of-way fees for the Project as described in Ordinance 20201203-040 .

4. **Construction of the Project.**

(a) Upon commencement of construction of New Red River, Central Health shall provide to the City an affidavit of commencement of construction in recordable form (the "*Affidavit of Commencement*"). Central Health shall provide the Affidavit of Commencement no later than March 31, 2021.

(b) Central Health agrees that the City and its employees (and other governmental agencies having jurisdiction over the Project) will have access to the Project site at reasonable times during normal working hours for observing, inspecting, and testing for conformance with City design and construction standards and traffic safety standards in effect on the Effective Date of this Agreement.

(c) Central Health shall keep all the real property that constitutes New Red River free and clear of all liens, claims, and encumbrances resulting from the Project except for the easements and encumbrances reflected in the New Red River Plans or otherwise contemplated in this Agreement.

(d) Central Health shall notify the City when Central Health believes that it has achieved Substantial Completion of the Project, which shall occur no later than forty-eight (48) months following Central Health's submission to the City of its Affidavit of Commencement, subject to (i) delays as a result of Force Majeure (as defined in Section 11(a) below), and (ii) delays beyond the control of Central Health or its agents or contractors caused by changes in the scope of the construction of New Red River which the City requests or mandates after the Effective Date, and (iii) delays caused by any environmental remediation which the City requests or mandates after the Effective Date. For purposes of this Agreement, "Substantial Completion" means that the construction of the Project is at the point that both Central Health and the City agree that New Red River is operable as a public roadway for vehicle, bicycle, and pedestrian travel notwithstanding the non-completion of Punch List Items (as defined in Section 4(d)(i) below) that do not impede the use of the Project for its intended purpose as a public roadway.

(i) Central Health and the City shall schedule and perform within fourteen (14) days after notification of Substantial Completion a joint punch-list inspection and identify items to be corrected or completed before the Project attains Final Completion, provided that such items are minor and do not impede the use of the Project for its intended purpose as a public roadway ("Punch List Items");

(ii) Central Health shall cause completion of all Punch List Items no later than ninety (90) days after Substantial Completion, subject to Force Majeure;

(iii) Central Health shall provide to the City a set of final as-built plans (the "As-Built Plans") certified by the Project's design engineer; and

(iv) Central Health shall cause its design engineer to provide the City with a certified letter indicating that the Project was constructed substantially in accordance with the construction plans and specifications submitted to and approved by the City as the Project is depicted in the New Red River Plans and that installation of all components of the Project is substantially in accordance with all applicable federal and state laws and regulations, City rules, and ordinances, and any other laws and regulatory requirements applicable to the Project at the time of permit issuance.

(e) For purposes of this Agreement, "Final Completion" of the Project shall mean that the Project is complete, including the Punch List Items. Before the City acknowledges Final Completion of the Project, and within ninety (90) days after Substantial Completion, Central Health shall submit to the City written documentation that the construction has been completed as required by this Agreement (the "Final Completion Documentation") including: record drawings of New Red River certified by a licensed professional engineer in the State of Texas and an as-built survey (the "Final As-Built Survey") of the real property, improvements, and appurtenant features constituting

New Red River. The Final As-Built Survey must be conducted by a Professional Land Surveyor registered in the State of Texas using the then current professional survey standards as established by the Texas Society of Professional Surveyors. If the Final As-Built Survey is not approved by the City, which approval shall not be unreasonably withheld, conditioned, or delayed, Central Health shall provide to the City for further approval revised as-built survey plat(s) and metes and bounds description(s) incorporating any reasonable and necessary changes requested by the City within thirty (30) business days of Central Health's receipt of notice(s) from the City of the reasonable and necessary revisions.

(f) Subject to the provisions of this Section 4, the City shall acknowledge Final Completion of the Project in writing before the thirtieth (30<sup>th</sup>) day after the City has received the Final Completion Documentation.

(g) The City's acceptance of fee simple title of the New Red River ROW shall constitute the City's acceptance of New Red River for operation.

5. **Conveyance of Vacated ROW, New Red River ROW, and Sidewalk Easement.**

(a) Central Health has submitted an application to vacate and acquire the Vacated ROW (the "Vacation of ROW Application"). Subject to approval of the Vacation of ROW Application by the City Council, (i) the City shall vacate and convey to Central Health the Vacated ROW and (ii) Central Health shall convey fee simple title to the New Red River ROW to the City, as further described below.

(b) Before the sixtieth (60th) day after the Vacation of ROW Application is approved by the Austin City Council, Central Health shall deposit into escrow with Heritage Title Company of Austin, Inc. (the "Title Company") in accordance with an escrow agreement reasonably acceptable to the Parties (the "Escrow Agreement") a fully-executed and fully-notarized ~~deed without special~~ warranty in the form of the attached **Exhibit C** conveying fee simple title to the New Red River ROW from Central Health to the City (the "New Red River ROW Deed"). The Parties agree that the New Red River ROW Deed will have the following characteristics:

(i) The New Red River ROW Deed will be subject to the Subsurface Encroachment Easement Agreement recorded under Document No. 2019110071 of the Official Public Records of Travis County, Texas (the "Subsurface Encroachment Easement Agreement") as amended by the Amendment to Subsurface Encroachment Easement Agreement recorded under Document No. 2021~~\_\_\_\_\_~~2021051104 of the Official Public Records of Travis County, Texas (the "Amendment to Subsurface Encroachment Easement Agreement").

~~\_\_\_\_\_The City will acquire New Red River ROW subject to the encroachment of the garage structure described in the Subsurface Encroachment Easement Agreement and the Amendment to Subsurface Encroachment Easement Agreement within the area shown in **Exhibit D**.~~

(ii) \_\_\_\_\_

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~~(ii)~~(iii) The New Red River ROW Deed will be subject to a reservation by Central Health of an easement described in Exhibit to place, operate, and perform ongoing maintenance on subsurface utilities and telecommunications ducts, lines, and infrastructure, which easement may be assigned by Central Health only after obtaining approval by the City for any such assignment.

~~(iii)~~(iv) The New Red River ROW Deed shall be free and clear of any liens, reservations, rights of way, mineral severances, covenants, conditions, restrictions, encumbrances, security interests, Ground Lease, Memorandum of Ground Lease, and other documents and matters affecting the Vacated ROW except (A) the Subsurface Encroachment Easement Agreement, (B) the Amendment to Subsurface Encroachment Easement Agreement (C) the easement for subsurface utilities and telecommunications ducts, lines, and infrastructure referred to in Section 5.b.ii, above, and; and (D) the permitted exceptions specifically listed in Exhibit DE.

(c) Before the sixtieth (60th) day after the Vacation of ROW Application is approved by the Austin City Council, Central Health shall deposit into escrow with the Title Company in accordance with the Escrow Agreement a fully-executed and fully-notarized sidewalk and public access easement (the "Sidewalk Easement") in the form of the attached Exhibit E-F conveying to the City a sidewalk and public access easement over the area described in Exhibit FG.

(d) Before the sixtieth (60th) day after the Vacation of ROW Application is approved by the Austin City Council, the City shall deposit into escrow with the Title Company in accordance with the Escrow Agreement a fully-executed and fully-notarized ~~deed without special~~-warranty (the "Vacated ROW Deed") in the form of the attached Exhibit G-H conveying fee simple title to the Vacated ROW from the City to Central Health, and said conveyance shall be free and clear of all liens, reservations, rights of way, mineral severances, covenants, conditions, restrictions, encumbrances, security interests, and other documents and matters affecting the Vacated ROW except: (i) an easement for the Austin Energy facilities in the Vacated ROW (the "Austin Energy Easement") in the form attached hereto as Exhibit H-I covering the area described by metes and bounds in attached Exhibit J; (ii) a public utility easement covering the west ten (10) feet of the Vacated ROW (the "PUE in Vacated ROW") in the form of the attached Exhibit JK; and (iii) the permitted exceptions specifically listed in Exhibit KL.

(e) Within ten (10) days after Final Completion each Party may elect to cause the Title Company to issue updated title commitments for the issuance of title policies by the Title Company. Any title commitment covering the Vacated ROW shall be issued in favor of Central Health and shall be paid for by Central Health, and any title commitment covering the New Red River ROW shall be issued in favor of the City and shall be paid for by the City. Each Party shall be responsible for clearing all liens, easements, rights of way, reservations mineral severances, covenants, conditions, restrictions, and other documents and matters on the property interest to be conveyed by that Party. The Parties shall cooperate in clearing any unacceptable encumbrances on title to either property shown on either title commitment except for any easements and encumbrances contemplated by this Agreement and agreed to by the Parties.

(f) At the closing to be held at the Title Company ("Closing"), the Parties shall complete the conveyance of the Vacated ROW to Central Health and the conveyance of the New Red River ROW to the City, and the Title Company shall record the New Red River ROW Deed and the Vacated ROW Deed in the Official Public Records of Travis County, Texas.

(g) The Closing shall occur no later than sixty (60) days after Final Completion.

6. **Ownership, Maintenance, Utilities, and Easements.**

(a) Upon the conveyance of the New Red River ROW to the City, the City shall be responsible for operation and maintenance of New Red River, shall operate it as a public road, and shall have regulatory authority over it.

(b) Central Health and the City acknowledge that the electric facilities described in the Austin Energy Easement (the "Austin Energy Facilities") shall remain within the Vacated ROW unless and until said facilities are removed or relocated. In the event that Central Health or any entity seeks to construct any improvements over the area described in the Austin Energy Easement prior to the removal and/or relocation of the electric lines within the Austin Energy Easement, Central Health (on its own behalf and on behalf of any entity which seeks to build such improvements) agrees that no improvements or obstructions can be built at ground level and that there must be at least thirty six (36) feet of clearance above the Austin Energy Easement. In the event that Central Health or any entity seeks to construct any ground floor improvements or obstructions over the area described in the Austin Energy Easement, Central Health or such other entity shall and shall have the right to, and must, in order to construct any ground floor improvements or obstructions over the area described in the Austin Energy Easement, at its sole cost, move the Austin Energy Facilities and any other public utilities to (i) the paved area of Old Red River retained by the City (the "Old Red River Paved Area") described in the attached Exhibit LM, if and to the extent the City determines that there is sufficient space in the Old Red River Paved Area for such facilities, and (ii) if and to the extent the City determines that there is not sufficient space in the Old Red River Paved Area for such facilities, to the PUE in Vacated ROW or partially to the PUE in Vacated ROW and partially to the Old Red River Paved Area, and the City agrees to (i) reserve both the Old Red River Paved Area and the PUE in Vacated ROW for said utilities until such time as the Austin Energy Facilities are relocated or removed from the Austin Energy Easement and (ii) not place any above-ground improvements or obstructions on the Old Red River Paved Area and the PUE in Vacated ROW. In the event that Central Health or any entity seeks to construct any improvements or obstructions over the area described in the PUE in Vacated ROW, Central Health (on its own behalf and on behalf of any entity which seeks to build such improvements)- agrees that ~~no improvements or obstructions can be built at ground level and that~~ no improvements or obstructions can be built at ground level and there must be at least thirty six (36) feet of clearance above the PUE in Vacated ROW unless and until the above-ground improvements and obstructions existing as of the Effective Date within and upon the PUE in Vacated ROW and the Old Red River Paved Area are removed so that emergency vehicles needing to use Old Red River would have a full 25 feet of access in width with no ground level or overhead obstructions or improvements.

(c) The City agrees that it will release the Austin Energy Easement after (i) Central Health has moved the Austin Energy Facilities (A) to the Old Red River Paved Area and (B) if required,

to the PUE in Vacated ROW, and (ii) the Austin Energy Facilities are active in their new location. Central Health shall submit an administrative request concurrent with the City's acceptance of the Austin Energy Facilities in their new location. The administrative request will be approved if the Austin Energy Facilities have been moved to their new location and are active in the new location.

~~(b)(d)~~ After the Effective Date, the City will not place any new facilities in the PUE in Vacated ROW, but may repair, maintain, and replace any facilities which are located in the PUE in Vacated ROW as of the Effective Date. The City will release the PUE in Vacated ROW if, after the Austin Energy Facilities have been moved to the Old Red River Paved Area (without any portion of the Austin Energy Facilities needing to be located in the PUE in Vacted ROW), there are no facilities in the PUE in Vacated ROW.

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~~(c)(e)~~ Once (i) New Red River has been accepted by the City for operation and (ii) the City has conveyed the Vacated ROW or any portion of Old Red River to Central Health, any ongoing vehicular access to Old Red River Paved Area shall be restricted to: (i) emergency vehicle access during emergencies, (ii) other vehicular access as determined and allowed by the City, but not including regular vehicular traffic by the public, (iii) bicycle access, (iv) access by non-motorized vehicles, (v) pedestrian access, and (vi) utility access.

7. **Communication.**

(a) The President/CEO of Central Health or his or her designee (the "Central Health Liaison") will be the representative of Central Health to act on behalf of Central Health with respect to the Project, to coordinate with the City, and to receive and transmit information and instructions, and he or she will have complete authority to interpret and define Central Health's policies and decisions with respect to the Project. The Central Health Liaison may designate a Central Health Project Manager and may designate other representatives to transmit instructions and act on behalf of Central Health with respect to the Project so long as written notice of such designation is provided to the City stating the name, contact address, contact phone number, and email address of said designee or designees.

(b) The Director of the Austin Transportation Department (the "City Director") will be the representative of the City to act on behalf of the City with respect to the Project, coordinate with Central Health, receive and transmit information and instructions, and will have complete authority to interpret and define the City's policies and decisions with respect to the Project. The City Director may designate a City Project Manager and may designate other representatives to transmit instructions and act on behalf of the City with respect to the Project so long as written notice of such designation is provided to Central Health stating the name, contact address, contact phone number, and email address of said designee or designees.

(c) If a disagreement between Central Health and the City arises regarding engineering design, design and construction standards, plans and specifications, inspection and testing, deficiencies and remedial action, or any other requirement or provision of this Agreement, and the disagreement is not resolved by the Central Health Project Manager and the City Project

Manager (if such persons have been appointed), the disagreement shall be referred as soon as possible to the Central Health Liaison and the City Director for resolution.

8. **Liability.** To the extent allowed by Constitution and laws of the State of Texas, the City and Central Health agree that each entity is responsible for its own proportionate share of any liability for its negligent acts or omissions in the construction of the any portion of the Project or the Storm Drain Project located on City-owned property. Prior to performing any work on City-owned property in connection the Project, Central Health will cause its contractors to name the City as an additional insured on a commercial general liability ("CGL") insurance policy and on a commercial auto liability ("Auto Liability") insurance policy applicable to the portion of the Project located on City-owned property and all work appurtenant thereto providing, on an occurrence basis, Auto Liability insurance covering all owned, non-owned or hired automobiles to be used on or for the portion of the Project and Storm Drain project located on City-owned property with limits on such CGL and Auto Liability policies of not less than \$5,000,000) combined single limit bodily injury and property damage. Central Health shall also name or cause its contractors to provide Workers' Compensation coverage with the statutorily required limits and Employers' Liability insurance coverage with limits of no less than \$1,500,000 with appropriate waivers of subrogation in favor of the City for any part of the Project performed on City-owned property. Prior to Central Health's contractor performing any activity on City-owned property in connection with the Project, Central Health or its contractor will provide the City a certificate of insurance evidencing the aforementioned insurance coverages. The liability limits set forth above may be achieved with excess liability insurance.

9. **Schedule.** Construction of the Project is scheduled to begin no later than June 1, 2021; and construction of the Project is scheduled to be completed within forty-eight (48) months after the Affidavit of Commencement. The Project schedule is subject to Force Majeure, as defined in Section 11(a) below.

10. **Conditions Related to Development of the Hospital Property.**

(a) **Affordable Housing Requirement.** Central Health hereby grants to the City of Austin the right (the "City's Affordable Housing Development Right") to reserve up to one hundred (100) affordable housing units (the "Reserved Affordable Units") on the Hospital Property for persons at fifty percent (50%) or below Median Family Income ("MFI") under the following conditions:

(i) The City's Affordable Housing Development Right shall apply if and only if multi-family housing is permitted for development and is developed on the Hospital Property;

(ii) No later than ten (10) days before the date any building permit is approved and released that includes any multi-family housing to be developed on the Hospital Property, Central Health shall notify the Housing and Planning Department of the City of the filing. Said notification (the "Multi-Family Housing Notice") shall be in writing, shall include a description of the proposed multi-family project, and shall state the number of multi-family units proposed;

(iii) The City shall have thirty (30) days following its receipt of the Multi-Family Housing Notice to determine whether it is or is not interested in providing affordable housing units within the proposed multi-family development. The City shall notify Central Health in writing of its decision.

(iv) If the City elects to provide affordable housing units within the proposed multi-family development, the City must include at least twenty (20) units within each distinct development project. Central Health shall designate the units which shall be available for the City to reserve as affordable housing within the proposed multi-family development. These units are hereinafter referred to as the “Reserved Affordable Units”. The City may opt to reserve all one hundred (100) units in connection with a single site plan or fewer than the total one hundred (100) units each across multiple site plans.

(v) If the City elects to exercise its right to reserve affordable units as set forth above, the City shall enter into an agreement with Central Health or, if Central Health so elects, with Central Health’s designated developer of the multi-family units to codify the terms under which the City shall reserve the units. The City shall make the Reserved Affordable Units affordable via payment of a subsidy to Central Health or, if Central Health so elects, to Central Health’s designated developer in an amount equal to the net present value of the difference between the amount that will otherwise be charged to the tenants paying “market rate” rents for the similar units within the development that are not reserved as affordable units and the amount of rent that the City will require the developer to charge tenants in order to make the units affordable for tenants with household incomes of fifty-percent (50%) or less of MFI.

(vi) At the time the City completes the reservation of the Reserved Affordable Units, said Reserved Affordable Units shall remain affordable until the earlier of either such time as the City ceases subsidizing the units as set forth in Section 10(a)(v) above, or ~~thirty (30)~~forty (40) years from the date of Certificate of Occupancy for the City ~~reserves~~ the Reserved Affordable Units.

(b) Impervious Cover Credit. For purposes of calculating all water quality, stormwater management, storm water detention, drainage, erosion control, environmental, vegetation, impervious cover, landscaping, treatment and capture volume requirements in review of applications for permits and plans for the development of the Hospital Property, the City will credit Central Health one square foot of impervious cover for each square foot of impervious cover shown as existing on the Hospital Property in the impervious cover tabulation letter dated August 19, 2019, and attached here as Exhibit M-N (the “Impervious Cover Certification”) and will treat all impervious cover shown in the Impervious Cover Certification as if it had never been removed from the Hospital Property regardless of whether said impervious cover has been removed or remains. Notwithstanding the foregoing, nothing in this Section 10(b) shall be construed as a limitation or restriction on the maximum amount of impervious cover allowed on the Hospital Property.

(c) Coordinated Review of Plans and Permits. The City will establish and maintain a dedicated development review team which will be responsible for the review, processing, and

approval of the development of the Hospital Property to efficiently process and expedite review and approval of all plans and specifications and to efficiently and expeditiously issue permits for the construction of New Red River and the development of the Hospital Property. The City agrees to respond to submittals in accordance with the timeframes set forth in the City Code and the applications and rules related thereto.

(d) Future Easement. Central Health agrees to grant to the City a public utility easement as described in this Section 10(d) (the "Future PUE"). Central Health shall grant the Future PUE prior to earliest to occur of the following: (i) the issuance of a site development permit for any new development on the Original Hospital Block, Block 167, Block 166, or Block 165 of the Hospital Property, ~~or~~ (ii) the City providing new water, wastewater, or electric service to any new development on said blocks. The Future PUE will be used for Austin Energy infrastructure, reclaimed water facilities, and other City utilities. The Future PUE shall: (i) be located on portions of the Hospital Property then owned by Central Health; (ii) be located east of New Red River and west of Interstate Highway 35 in a location reasonably and mutually agreed to by the City (with input from Austin Energy and Austin Water) and Central Health; (iii) run uninterrupted from 12th Street to 15th Street; (iv) be 80 feet wide unless the City agrees to a lesser width, which agreement shall not be unreasonably withheld by the City; and (v) not be encumbered by any underground or overhanging encroachments except for encroachments owned or controlled by the City.

~~(e) Construction Standards for Worker Safety. Central Health commits to a robust and comprehensive on-site safety program in the future development of the Hospital Property which incorporates elements of the Better Builder® Program Standards, as follows:~~

~~(i) — Payment of the prevailing wage as defined by the Davis-Bacon Act as applicable to Travis County, Texas, in effect at the time of the commencement of said construction, or the Travis County living wage to construction workers;~~

~~(ii) — Ensuring that all construction workers receive a 10-hour OSHA-approved construction worker safety class;~~

~~(iii) — Ensuring that all safety supervisors for any prime contractor or subcontractor receive a 30-hour OSHA-approved construction worker safety class prior to commencing said construction work;~~

~~(iv) — Cover all construction workers with workers' compensation insurance; and~~

~~(v) — Providing independent monitoring by an on-site, unaffiliated third party.~~

11. **General Terms and Conditions.**

(a) Force Majeure. The term "Force Majeure" shall mean and include delays for causes beyond a Party's reasonable control and which the Party could not have provided against by the exercise of reasonable foresight, care, prudence, or diligence including without limitation: fires or other casualty; pandemics, epidemics, riot; civil disturbances; terrorism; military or usurped power;

sovereign conduct; sabotage; acts of God; unforeseeable shortages of materials or inability to obtain materials or labor due to shortages or unavailability arising out of orders or moratoriums of any governmental authority, acts of war, civil disturbance, labor strikes, labor disruptions, or other causes beyond the Party's reasonable control (but not delays related to Central Health's or its agents' or contractors' failure to order long lead time equipment or materials unless such failure is due to a cause beyond Central Health's control); an excessive number of days of inclement weather; delays in approvals or permitting by any governmental authority which delays are not the fault of Central Health or its agents or contractors; and governmental mandates, orders, restrictions, ordinances, and regulations, and delays caused by disaster declarations or governmental orders by the City, Travis County, the State of Texas, or the United States of America which are in effect on or after the Effective Date, which disaster declarations or orders require (i) cessation of construction, (ii) closure of the business offices of Central Health or its agents or contractors, or (iii) reduction of the numbers of persons who may work on the Project. Each Party hereto is entitled to rely upon Force Majeure as an excuse for untimely performance only as provided in this Section 11(a), and a Party may not rely on Force Majeure as an excuse for untimely performance unless such Party (A) uses its commercially reasonable and diligent efforts to overcome the effects of the event of Force Majeure, (B) gives written notice to the other Party within five (5) business days after obtaining knowledge of the occurrence of such event and the delay on such Party's performance, describing the event with reasonable particularity; (C) resumes performance of its obligation promptly upon the cessation or mitigation of such event sufficiently to reasonably allow such resumption of performance, and (D) gives written notice to the other Party within five (5) business days after such cessation or mitigation of the event of Force Majeure, advising the other Party of the total number of days of delay claimed as a result of such event of Force Majeure.

(b) Notice. Any notice given hereunder by either Party to the other shall be in writing and may be effected by personal delivery in writing or by registered or certified mail, return receipt requested when mailed to the proper party, at the following addresses (email addresses are included for convenience only):

CITY: City of Austin  
Transportation Department  
901 S. MoPac Expressway, Building 5  
Suite 300  
Austin, Texas 78746  
Attn: Robert Spillar, Director  
Email: [rob.spillar@austintexas.gov](mailto:rob.spillar@austintexas.gov)

AND WITH A COPY TO: Kent Smith  
Assistant City Attorney  
City of Austin Law Department  
301 W. 2nd Street  
Austin, Texas 78701  
Email: [kent.smith@austintexas.gov](mailto:kent.smith@austintexas.gov)

CENTRAL HEALTH: Central Health

1111 East Cesar Chavez Street  
Austin, Texas 78702  
Attn: Mike Geeslin, President & CEO  
Email: [mike.geeslin@centralhealth.net](mailto:mike.geeslin@centralhealth.net)

WITH A COPY TO: Central Health  
1111 East Cesar Chavez Street  
Austin, Texas 78702  
Attn: Jeff Knodel, Vice President & CFO  
Email: [jeff.knodel@centralhealth.net](mailto:jeff.knodel@centralhealth.net)

AND A COPY TO: Travis County Attorney  
Health Services Division  
P.O. Box 1748  
Austin, Texas 78767  
Email: [margaret.sifuentes@traviscountytexas.gov](mailto:margaret.sifuentes@traviscountytexas.gov)

(c) Number and Gender Defined. As used in this Agreement, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others.

(d) Entire Agreement. This Agreement contains the complete and entire Agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understandings, if any, between the parties respecting the issues governed by this Agreement. This Agreement may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the Parties. The recitals set forth above and the attached exhibits are incorporated herein.

(e) Other Instruments. The Parties hereto covenant and agree that they will execute other and further instruments and documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.

(f) Invalid Provision. Any clause, sentence, provision, section, or article of this agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, section, or article so held to be invalid, illegal, or ineffective.

(g) Current Funds. Any obligations of the Parties or payment of funds pursuant to this Agreement are subject to proper appropriation by the governing body or bodies of the Party, and any such obligations or payments may be demanded only from current appropriated revenues available to the paying Party.

(h) Non-Waiver Provision. Central Health was formed under the authority and in accordance with Chapter 281 of the Texas Health and Safety Code. The City is a Texas municipal



corporation. Nothing in this Agreement shall be construed as a waiver or relinquishment by Central Health or by the City of their respective rights to claim any or all the exemptions, privileges, and immunities as may be provided by or allowed under the Constitution of the State of Texas or any other applicable laws.

(i) No Third-Party Beneficiaries. The Parties acknowledge and agree that no provision of this Agreement is intended to benefit any person or entity not a Party to this Agreement, nor will any person or entity that is not a Party to this Agreement have any right to seek to enforce or recover any right or remedy with respect thereto.

(j) No Joint Enterprise. Other than as expressly anticipated by the terms of this Agreement, this Agreement does not create and will not be construed as creating an employer/employee relationship, a partnership, or a joint venture between the City and Central Health and/or any of either Party's contractors. Neither Party's employees will be considered an employee of the other Party or gain any rights against such other Party pursuant to such Party's personnel or workplace policies.

(k) Interpretation. Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this Agreement in accordance with Texas Government Code Chapters 311 and 312.

(l) Agreement Contingent Upon Certain Approvals by City Council. If by May 1, 2021, the City Council has not approved (i) the Vacation of ROW Application, (ii) the reimbursement described in Section 2(b), and (iii) the fee waivers described in Section 3(b), Central Health may terminate this Agreement and have no further obligations hereunder. If the Agreement is terminated by Central Health pursuant to this Section 11(l), the City shall have no obligation to reimburse Central Health for any of Central Health's costs related to the Project, including any costs or expenditures which occurred prior to or after the Effective Date. If by May 1, 2021, the City Council has approved (i) the Vacation of ROW Application, (ii) the reimbursement described in Section 2(b), and (iii) the fee waivers described in Section 3(b), Central Health shall have no right to terminate this Agreement pursuant to this Section 11(l).

(m) Effective Date. The effective date of this Agreement (the "Effective Date") shall be the date on which this Agreement is signed by the last to sign of the City and Central Health. This Agreement shall remain in effect until the completion of all obligations and agreements hereunder and any litigation or other matters surviving the completion of the Project and the Storm Drain Project, unless terminated earlier by the written agreement of the Parties.

(n) Conflicts Between Construction Documents and Plans and This Agreement. In the event any conflict exists between this Agreement and the construction and Project plans approved by the Parties, the approved construction and Project plans shall govern.

(o) Agents and Contractors. For purposes of this Agreement, any and all obligations of Central Health may be performed by Central Health or by Central Health's agents, contractors, or designees, at Central Health's sole election, but notwithstanding such performance by third parties, Central Health remains responsible for the obligations under this Agreement.

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CITY:

**CITY OF AUSTIN**

By: \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Kent Smith, Assistant City Attorney

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CENTRAL HEALTH:

**TRAVIS COUNTY HEALTHCARE DISTRICT, D/B/A  
CENTRAL HEALTH**

By: \_\_\_\_\_  
Mike Geeslin, President and CEO

Date \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
David Duncan  
Assistant Travis County Attorney

**EXHIBITS**

**Exhibit A:** Vacated ROW - attached

**Exhibit B:** New Red River ROW - attached

**Exhibit C:** Form of New Red River ROW Deed

**Exhibit D:** Subsurface Encroachment Area

**Exhibit E:** Permitted Encumbrances in New Red River ROW Conveyance – pending receipt

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**Exhibit ~~EF~~:** Form of Sidewalk Easement

**Exhibit ~~FG~~:** Field Notes and Drawing of Sidewalk Easement

**Exhibit ~~GH~~:** Form of Vacated ROW Deed

**Exhibit ~~HJ~~:** Form of Austin Energy Easement

**Exhibit ~~IJ~~:** Metes and Bounds Description of Austin Energy Easement – pending receipt

**Exhibit ~~JK~~:** Form of PUE in Vacated ROW

**Exhibit ~~KL~~:** Permitted Encumbrances in Vacated ROW Conveyance - pending receipt

**Exhibit ~~LM~~:** Field Notes for Old Red River Paved Area- pending receipt

**Exhibit ~~AN~~:** Impervious Cover Certification



### Council Question and Answer

**Related To**

Item #56

**Meeting Date**

May 20, 2021

### Additional Answer Information

Authorize negotiation and execution of an agreement with Caritas of Austin to provide permanent supportive housing to disabled individuals who have experienced chronic homelessness, in an amount not to exceed \$1,200,000 for a 28-month term ending on September 30, 2023, with two 12-month extension options, each in an amount not to exceed \$500,000, for a total agreement amount not to exceed \$2,200,000.

### QUESTION/ANSWER: Council Member Alter's Office

- 1) *Please provide additional detail about the "City of Austin Housing First Competitive Solicitation RFQS # 4700 EAD4007," and why it was cancelled in June 2020.*

The City of Austin Housing First Competitive solicitation was released and had no respondents in the first month. The solicitation was extended by two weeks, with two respondents submitting applications. One of the applications did not have all of the required documentation signed, which resulted in only one application for consideration. Due to the lack of competition and Austin Public Health and the Homeless Strategy Division being immersed in COVID response, it was decided to cancel the solicitation and focus their efforts on COVID.

- 2) *What, if any, relationship exists between item 17 and 56?*

While both agreements are with Caritas of Austin and will provide permanent supportive housing services, there is no relationship between the two.

- 3) *Are there any differences in the contracts in terms of what is being provided if these items are approved?*

Item #17 – This agreement provides funding for both services and building operations. It will serve individuals who have experienced chronic homelessness and are the highest utilizers of crisis services.

Item #56 – This agreement will provide permanent supportive housing services to individuals who have experienced chronic homelessness. Once this facility is operating, there will be 101 units devoted to serving chronically homeless individuals. Unlike Item #17 this does not include building operations.



### Council Question and Answer

**Related To**

Item #57

**Meeting Date**

May 20, 2021

### Additional Answer Information

Ratify an interlocal agreement with University of Texas at Austin to implement and evaluate research-driven pilot projects to improve the well-being of long-term care staff in Travis County, for a five-month term ending on September 30, 2021, for a total agreement amount not to exceed \$90,000.

**QUESTION/ANSWER:** Council Member Alter's Office

*The RCA indicates that funding in the amount of \$90,000 is included in the COVID-19 Spending Framework (Resolution No. 20200604-040) as part of the Economic Support for Financial and Other Direct Support. What is the actual specific funding source for this item?*

This was from the original framework – it is CARES funded.



### Council Question and Answer

**Related To**

Item #67

**Meeting Date**

May 20, 2021

### Additional Answer Information

Conduct a public hearing and approve an ordinance for the full-purpose annexation of approximately 28.3 acres located in Travis County near 11122, 11204, 11208, and 11216 Cameron Road, and authorize negotiation and execution of a written agreement with the owner of the land for the provision of services. The property is adjacent to Austin Council District 1.

**QUESTION/ANSWER:** Council Member Alter's Office

- 1) *Please provide the written agreement with the property owner for the provision of services in the area.*

Staff is awaiting the signed service agreement from the property owners. If a service agreement is not received as of close of business on 5/18, the annexation case will be postponed to the June 10 Council meeting. A non-executed service agreement is attached to the ordinance that is posted as backup (Exhibit B). Once an executed service agreement is received, it will be posted along with other backup documents.