

INTERLOCAL COOPERATION AGREEMENT BETWEEN TRAVIS COUNTY AND CITY OF AUSTIN FOR NORTHEAST PLANNING DISTRICT

This Interlocal Agreement (“**Agreement**”) is entered into **this ____ day of _____, 2024** (“**Effective Date**”) by and between the City of Austin, a Texas home rule municipality (“**City**”) and Travis County, a corporate and political subdivision of the State of Texas (“**County**”) (together the “**Contracting Parties**” and each individually, a “**party**”) pursuant to authority granted thereto and in compliance with the Interlocal Cooperation Act Chapter 791, Texas Government Code.

RECITALS

- The City and the County have a long history of collaboration and partnership on joint initiatives to serve the needs of their residents, including the establishment of the Austin/Travis County Sobering Center, participation in the Waller Creek Tax Reinvestment Financing Zone, and the ongoing operations and maintenance of the Travis County Exposition Center.
- A significant way the two entities can work together is to collaborate on joint planning to maximize the efficient use of land and leverage each other’s resources to provide services for both City and County residents.
- On August 29, 2023, the Travis County Commissioners Court’s (the “Commissioners Court”) passed a resolution directing staff to develop and Interlocal Agreement with the City to create a Combined Northeast District Plan (“Plan”).
- On **August 31, 2023**, the City of Austin City Council (the “City Council”) passed resolution No. 20230831-137 to direct the City Manager to negotiate an interlocal agreement with the County to create a collaborative Northeast Planning District (“Plan”).

- The City and the County have jointly expressed a strong desire to address historic underinvestment, persistent disparities, and structural inequities in Northeast Austin and in Eastern Travis County.
- The City’s Northeast Austin District area of the Eastern Crescent (the “District,” or the “Northeast Austin District”), is comprised mostly of nine census tracts—22.01, 22.20, 22.21, 22.22, 22.11, 22.13, 22.14, and variously sized portions of tracts 22.19, 22.14, and 22.15 (originally 5 census tracts prior to the 2020 redistricting of census tracts). The District is bounded by U.S. Highway 183 to the west, U.S. Highway 290 to the north, Toll Road 130 to the east, and mostly FM 969 to the south. The District is lacking in critical infrastructure, has seen little financial investment, and has been identified as an area at risk of gentrification.
- 30.4% of the Northeast Austin District is located in the City of Austin’s extra-territorial jurisdiction (the “ETJ”) as well as in Travis County.
- The City’s objective of the Plan is to review past and present inequities as well as disinvestments in services and infrastructure within the District, address them, and provide guidance for: retaining existing residents and businesses, creating and maintaining great neighborhoods, spurring economic development, creating and retaining stable jobs that pay a living wage, improving connectivity, provide high-quality public spaces, and meeting community needs.
- The County’s objective of the Plan is to identify quality public investments and funding mechanisms to support communities in eastern Travis County that have faced displacement and systemic racism that has left people of color falling further behind economically, made them more likely to be in a generational cycle of poverty and less resilient to natural disasters, weather events, and national or personal economic or health crises; and

- For the City, the Plan is being led by the City's Planning Department. The City's Planning Department partners with the community, other City departments, and partner stakeholders to shape a more equitable Austin and uses planning disciplines and affordable housing resources to prevent the displacement of people, cultures, and services.
- For the County, the Plan will be led by the County's Economic Development and Strategic Investment Office (EDSI) within the Planning and Budget Office's Equity Framework. EDSI seeks to create conditions for economic growth to improve quality of life and affordability and address economic equity using financing mechanisms beyond ad valorem taxes.
- The City's and the County's resolutions direct co-creation of a collaborative planning effort, support a community-led vision, coordinate a collaborative engagement plan, creation of internal department work groups and cross-City/County work group, creation of a collaborative work plan, and provide regular updates to the City's Housing and Planning Committee and to the Commissioners Court.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the sufficiency of which is acknowledged, the Contracting Parties agree to the terms and conditions stated in this Agreement as follows:

AGREEMENT

1. DEFINITIONS

In this Agreement, the following terms will have these meanings:

"Agreement" means this Interlocal Agreement between the City and County, together with all exhibits and other attachments thereto, as the same may be amended or restated from time to time.

"City Council" means the City Council of the City of Austin, Texas.

"City Manager" means the City Manager for the City of Austin, or designee who is responsible for exercising general oversight of the activities under this Agreement

"Commissioners Court" means the Commissioners Court of Travis County, Texas.

"Fiscal Year" means that twelve-month time period between any October 1 and the next following September 30.

"Contracting Parties" mean the City of Austin and Travis County.

2. KEY PROVISIONS

- a. Agreement Term. This Agreement commences on the Effective Date with an initial term of Five (5) years, unless terminated sooner under the terms of this Agreement. The parties may extend the term of this Agreement for successive Five (5) year terms upon the written agreement of the parties.

It is understood and agreed that in no event will any provision of this Agreement or any contract entered into under the terms of this Agreement be interpreted to obligate either party to provide funding or services beyond the revenues currently available to the party.

- b. Responsibilities of City. The City will participate in the Northeast Planning District pursuant to the Scope of Work set forth in Exhibit A.
- c. Responsibilities of County. The County will participate in the Northeast Planning District pursuant to the Scope of Work set forth in Exhibit A.
- d. Mutual Responsibilities.

- i. The City and County will collaborate to identify, select, and apply for funding (either together or separately) to implement the Northeast Planning District Plan.
- e. Compensation. The Contracting Parties agree that any payments under this agreement will be in amounts that fairly compensates the performing party for any consultant or third-party services, services, or functions performed under this agreement.

3. TERMINATION AND REMEDIES, CANCELLATION

- a. Breach. Either party may terminate this Agreement if the other is in breach of an obligation and fails to cure such breach within thirty days of receipt of written notice from the non-breaching party. If more than thirty days are required to cure such default or breach, a reasonable time in excess of said days may be established, provided both parties agree in writing as to the time period to be substituted.
- b. Termination. Either party has the right to terminate this Agreement, in whole or in part, as follows:
 - i. The other party fails to comply with a material term or condition of this Agreement and fails to cure the breach in accordance with Section 3(a) of this Agreement;
 - ii. The party is unable to conform to changes required by federal, state or local laws or regulations; or
 - iii. The governing body of either party fails to approve funding sufficient to meet its obligations under this Agreement during their annual budget planning and adoption process.
- c. Procedure for Termination. In the event of termination under Section 3(b)(ii) or (iii) of the Agreement, the party desiring to terminate must notify the other party in compliance with the Notice provisions

described in Section 9(d) of this Agreement regarding the decision to terminate and specify an effective date of termination that is at least thirty days after that notice and, in the case of partial termination, the portion of the Agreement to be terminated.

- d. Termination Without Cause. Either party may terminate this Agreement at any time, in whole or in part, without cause, upon providing at least sixty days written notice to the other party.

4. LIABILITIES, CLAIMS

- a. City will not be liable for any claims, damages or attorney's fees arising from negligence or unlawful acts of County or County's agents arising from the performance of duties or responsibilities under this Agreement. County will not be liable for any claims, damages or attorney's fees arising from acts of City or City's employees conducted outside the scope of this Agreement.
- b. If any claim or other action, including proceedings before an administrative agency, is made or brought by a person, firm, corporation or other entity against City or County relating to the performance of the obligations under this Agreement, the party receiving notice of the claim must give written notice to the other party of the claim or other action within three working days after being notified of it or the threat of it, such notice to 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 of 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 must be given in the manner described in Section 9(d) of this Agreement. Except as otherwise directed, each party must furnish the other with copies of all pertinent papers received by that party with respect to such claims or actions.

5. NON-APPROPRIATION

The awarding or continuation of this Agreement is dependent upon the availability of funding and authorization by the Contracting Parties' governing bodies. The Contracting Parties' performance obligation rely solely on funds appropriated and available for this Agreement. The absence of appropriated or other lawfully available funds shall render the Agreement null and void to the extent funds are not appropriated or available. The party failing to make an adequate appropriation in an amount sufficient to permit the party to perform its obligations under the Agreement must provide the other party with written notice. In the event of non- or inadequate appropriation of funds, termination of this Agreement, in whole or in part, is the sole remedy for the non-breaching party.

6. RETENTION OF RECORDS AND REPORTS

Contracting Parties agree to retain all routine fiscal and performance records and reports of activities performed under this Agreement for a period of three years after termination of this Agreement or until all audit and litigation matters that have arisen and been brought to the attention of the other party are resolved, whichever is longer.

7. COMPLIANCE WITH LAWS

Contracting Parties will observe and comply with the Constitutions of the United States and the State of Texas, and all applicable federal, state, local laws, rules, codes, ordinances and regulations affecting the conduct and performance of all obligations undertaken pursuant to this Agreement.

8. RESERVATION OF RIGHTS AND REMEDIES; NON-WAIVER

- a. Rights and remedies. If either party breaches this Agreement, the non-

breaching party will be entitled to terminate this Agreement in whole or in part. Termination of this Agreement, in whole or in part, is the sole remedy available to a non-breaching party pursuant to this Agreement, all other damages for breach of this Agreement, in law or in equity, are hereby expressly waived or released.

- b. Non-Waiver. One or more acts of forbearance by either party to enforce any provision of this Agreement or any payment, act or omission by either party will not constitute or be construed as a modification of this Agreement or waiver of any breach or default of the other party which then exists or may subsequently exist.
- c. Immunity or Defense. It is expressly understood and agreed that, in the execution of this Agreement, neither City nor County waives nor will be deemed to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of its governmental powers and functions.

9. MISCELLANEOUS PROVISIONS

- a. Entire Agreement. This Agreement contains the complete and entire agreement between the Contracting Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreement, representations, and understandings, if any, between the Contracting Parties respecting the matters addressed herein.
- b. Interpretation. The singular form of any word used in this Agreement includes the plural, and vice- versa, unless the context requires otherwise. The use of a word of any gender in this Agreement includes all genders unless the context requires otherwise. This Agreement and all of the terms and provisions hereof shall be construed to effectuate the purposes contemplated hereby and to sustain the validity hereof.

c. Invalid Provisions. If any clause, sentence, provision, paragraph, section, or article of this Agreement is held by a court or competent jurisdiction to be invalid, illegal, or ineffective, that invalidity, illegality, or ineffectiveness shall not impair, invalidate, or nullify the remainder of this Agreement; and its effect shall be confined to the clause, sentence provisions, paragraph, section, or article held to be invalid, illegal, or ineffective.

d. Notices.

- i. Except as otherwise specifically noted herein, any notice required or permitted to be given under this Agreement by one party to another must be in writing and may be delivered in person by courier or sent via electronic mail or postage prepaid, by registered or certified mail with return receipt requested.
- ii. Notice will be given and deemed effective if sent to the Contracting Parties and addresses designated below, upon receipt in case of hand delivery or electronic mail, and three days after deposit in the United States Mail in case of mailing.
- iii. County Address. The address of County for all purposes under this Agreement shall be:

Planning & Budget Office
Jessica Rio or her successor
County Executive
P.O. Box 1748
Austin, Texas 78701
Jessica.rio@traviscountytexas.gov

With copies to (registered or certified mail with return receipt is not required):

Office of the Travis County Attorney
Attn: James Nickell, Assistant County Attorney
314 W. 11th St., Suite 500
Austin, Texas 78701
James.nickell@traviscountytexas.gov

Christy Moffett
Director of EDSI,
Planning & Budget Office
P.O. Box 1748
Austin, Texas 78701
Christy.moffett@traviscountytexas.gov

- iv. City Address. The address of the City for all purposes under this Agreement and for all notices hereunder shall be:

Lauren Middleton-Pratt
Director of the Planning Department
P.O. Box 1088
Austin, Texas 78767-1088
Lauren.Middleton-Pratt@austintexas.gov

With copies to (registered or certified mail with return receipt is not required):

The City Attorney's Office
Attn: Steven Maddoux
Assistant City Attorney
P.O. Box 1088
Austin, TX 78767-1088
Steve.Maddoux@austintexas.gov

- e. Change of Address. Each Contracting Party may change the address for notice to it by giving written notice of the change. Any change of address by a party, including a change in the party authorized representative, must be reported to the other party within twenty (20) days of the change.
- f. Dispute Resolution/Mediation. Initial disputes and unresolved questions or issues of Contracting Parties must initially be presented by submission in writing in accordance with the Notice provisions above. If satisfactory resolution cannot be achieved between the representatives of the Contracting Parties within a reasonable time, and should mediation be acceptable to all Contracting Parties in resolving a dispute arising under this Agreement, the Contracting 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 both Contracting Parties 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 both Contracting Parties agree, in writing, to waive the confidentiality.
- g. Modification Procedure. Except as permitted by this Section, any modification, amendment or alteration of this Agreement shall only be effective and binding if the modification, amendment, or alteration is in writing, approved by both the City Council and the Commissioner's Court, and signed by an authorized representative of each party. Modifications of a timeline described in the Scope of Work, attached

as Exhibit A, will be effective and binding if made in writing, approved by both Contracting Parties.

- h. Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any benefits, rights, or remedies under or by reason of this Agreement upon any person other than the Contracting Parties to the Agreement and their respective successor governmental entities. No assignment of this Agreement or of any right, duty, or obligation of performance under this Agreement, in whole or in part, shall be effective unless such assignment is approved in writing by both the County and the City.
- i. No Joint Venture, Partnership, Agency, Etc. This Agreement shall not be construed as in any way establishing a partnership or joint venture, express or implied agency, or an employer-employee relationship between the Contracting Parties.
- j. Other Instruments. The Contracting Parties covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out this Agreement.
- k. No Waiver. Except as provided herein above, no consent or waiver, express or implied, by one or both of the Contracting Parties to or of any default of any covenant or provision of this Agreement by the other party shall be construed as a consent to a waiver of any other defaults of the same or any other covenant or provision of this Agreement.
- l. Applicable Law and Venue. This Agreement is governed by and construed in accordance with the laws of the State of Texas and all obligations under it are performable in Travis County, Texas. It is expressly understood that venue for any lawsuit or dispute arising out

of or relating to this Agreement will be in Travis County.

- m. Headings. The headings used in this Agreement are used for reference and shall not be used to interpret or limit the meaning of any provision of this Agreement.
- n. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the Contracting Parties and their respective administrators, legal representatives, and successor government entities.
- o. Successor Entities. Any reference to any governmental entity, governmental department or governmental official or employee shall include any succeeding governmental entity, governmental department, or governmental official or employee assuming the responsible or function described by this Agreement.
- p. Counterparts and Electronic Signatures. This Agreement may be executed simultaneously in one or more counterparts, each of which is considered an original and all of which shall together constitute one and the same instrument. The counterparts to this Agreement may be executed and delivered by electronic signature by either party and the receiving party may rely on the receipt of such document so executed and delivered electronically as if the original had been received.

[signatures follow on next page]

BY THE SIGNATURES AFFIXED BELOW, the above Agreement is hereby accepted as all the terms and conditions of this Agreement.

CITY OF AUSTIN

BY: _____

PRINTED NAME:

TITLE:

DATE: _____

Approved as to Form

Name

Title

TRAVIS COUNTY

BY: _____

PRINTED NAME: Andy Brown

TITLE: County Judge

DATE: _____

Attachments:

Exhibit A Scope of Work