

EAST 11TH AND 12TH STREETS REVITALIZATION PROJECT

MEMORANDUM OF UNDERSTANDING

This East 11th and 12th Streets Revitalization Project Memorandum of Understanding (this "MOU") is effective October 1, 2010 is by and between the **CITY OF AUSTIN**, a Texas home rule city and municipal corporation (the "City") and the **URBAN RENEWAL AGENCY OF THE CITY OF AUSTIN**, a Texas urban renewal agency (the "Agency"). The City and the Agency sometimes individually referred to as "Party" and/or collectively referred to as "Parties."

Background

The City, Agency and the Austin Revitalization Authority, a Texas Community Housing Development Organization, ("ARA") are parties to the Restated Development and Acquisition and Development and Loan Agreement having a effective date of November 17, 2007 (the "Tri-Party Agreement").

The Tri-Party Agreement established the roles and responsibilities of the City, Agency and ARA in completing the renewal and redevelopment of the E. 11th and 12th Streets corridors as adopted by the Austin City Council in the form of an "Urban Renewal Plan" on January 14, 1999, in accordance with Section 374.014, Texas Local Government Code, as amended. (the "Urban Renewal Project").

The Tri-Party Agreement expired on October 1, 2010 and was not renewed.

The City and the Agency intend to continue their cooperative efforts to complete the Urban Renewal Project.

Purpose

The parties, in the shared interest of completing the Urban Renewal Project, intend to cooperate in establishing a long-term agreement ("Long-Term Agreement") setting forth each party's roles and responsibilities for the completion of the Urban Renewal Project. The Long-Term Agreement shall include procedures for modifying the Urban Renewal Plan, for disposing of properties currently held by the Agency that were acquired in furtherance of the Urban Renewal Project, and any and all other terms necessary for successful completion of the Project.

This memorandum of understanding (this "MOU," or "Agreement"), establishes each Party's roles and responsibilities with respect to the Project for the period beginning October 1, 2010 and ending on the effective date of the Long-Term Agreement. This MOU shall be effective for an initial term of 6 months and may be renewed by mutual agreement of the parties for a period not to exceed an additional 6 months.

The parties support the general concepts envisioned by the Central East Austin Master Plan, which was adopted by the City Council of the City of Austin in Resolution

19990114-011. The parties also acknowledge that the Project must be completed in accordance with the E. 11th and 12th Streets Urban Renewal Plan.

Obligations of the City

While this MOU is in effect, the City shall be responsible for the maintenance of and provide all necessary insurance coverage for the properties currently owned, or may be acquired, by the Agency that are in furtherance of the Project. The insurance provided by the City shall be maintained at an equal or greater level than that provided for the properties prior to October 1, 2010. The City shall also provide administrative staffing to support the Agency's functions at a level equal to the level of support under the Tri-Party Agreement. Additionally, the City shall provide the Agency with third-party legal representation to the extent and in the manner the City provided those services under the Tri-Party Agreement.

The City has the sole responsibility for conducting any acquisition of property acquisition on behalf of the Agency in the Redevelopment Area. With respect to any property acquisition which results in the need to condemn Property in accordance with Chapter 374, Texas Local Government Code, and City agrees to seek authorization from the Agency and shall represent and manage the condemnation process on behalf of the Agency.

Obligations of the Agency

While this MOU is in effect, the Agency shall continually operate as the Urban Renewal Agency of the City of Austin. The Agency shall not dispose of any property that it owns unless the disposition is made at the City's direction. The Agency shall not acquire any property in furtherance of the Urban Renewal Project unless the acquisition is made at the City's direction.

Audits of the Agency

The Agency, at the City's request shall submit to the City a complete set of audited financial statements and the auditor's opinion and management letters in accordance with OMB Circular No. A-133, the OMB Circular A-133 Compliance Supplement, and the Single Audit Act of 1984, as amended, covering the Agency's fiscal year until the termination of this Agreement. In the event the City, at the direction of its auditors, determines, in writing, that the audit of the Agency should be performed as part of the single audit of the City with additional agreed upon procedures in compliance with OMB Circular A-133, then the audit otherwise required of the Agency by this shall not be required:

(a) Unless the Agency's operations are included in the City's annual consolidated audit, the Agency, at the expense of the City, shall contract with an

independent auditor utilizing a letter of engagement. The auditor must be a Certified Public Accountant recognized by the regulatory authority of the State of Texas.

(b) Unless the Agency's operations are included in the City's annual consolidated audit, the City shall provide the Agency's auditor a copy of the appropriate OMB Circular prior to the beginning of said audit. Prior to the start of the audit, a letter of engagement between the Agency and their respective auditor that details the services to be provided, including the audit requirements of this section must be executed. The Agency must provide the City three copies of a complete financial audit and the auditor's opinion and management letters within one hundred-eighty (180) calendar days of the end of the Agency fiscal year, unless alternative arrangements are approved by the City.

(c) The Agency must provide the City with annual audits as required by this Agreement until termination of this Agreement, unless waived in writing by the City.

(d) The expiration or termination of this Agreement shall in no way relieve the Agency of the accomplishment of the above audit requirements in the manner set forth herein.

Program Income

For purposes of this Agreement, Program Income, if any, includes, but is not limited to, earnings of the Agency realized from the sale, lease or other disposition of property owned by the Agency whether in furtherance of the Urban Renewal Plan or otherwise, or from the Agency's management of funding provided by the City. Program Income includes but is not limited to income from interest, usage or rental fees, income produced from the use of equipment or facilities of the Agency, payments from clients or third parties for services rendered by the Agency, revenue received from the sale or transfer of Property and any other amounts defined at 24 CFR §570.500(a)(2). The City has final authority to make a determination as to whether such income is program income or not.

The Agency must maintain records of the receipt and disposition of Program Income and report to the City in the format prescribed by the City. The Agency shall report and remit to the City for deposit on a monthly basis all Program Income received or accrued during the applicable period. The City may use the remitted Program Income for any community Development Block Grant eligible activity as provided in 24 CFR §570.504(b)(2), but subject to any security requirements in the HUD Documents, as that term was defined in the Restated Acquisition, Development and Loan Agreement.

The Agency shall include, in a form provided by the City, a notice, of the Agency's obligations relating to Program Income in all of its sub-contracts with HUD Subrecipients, as that term is defined in 24 CFR Section 570.500, which involve other income-producing services or activities.

Modifications to the Urban Renewal Plan

With respect to any Urban Renewal Plan proposed modification the City receives, the City shall submit the proposed modification to the Agency and the City's Planning

Commission. The City shall not take action on any proposed modification until it receives a recommendation from the Agency and the City's Planning Commission.

With respect to any Urban Renewal Plan modification in accordance with Chapter 374, Texas Local Government Code, the City, no less than thirty (30) calendar days prior to the regularly scheduled meeting of the Agency at which a public hearing on the modification is held, shall notify the public about the hearing and the opportunity to present and explain any concerns about or support for the proposed modification to the Urban Renewal Plan in the same manner as used by the City for a zoning change. Written and spoken comments from the public shall be made available to the Agency and City at the time the modification to the Urban Renewal Plan is posted for action by the Agency or the City.

The Agency shall hold a public hearing and make recommendation to the governing body of the City on any proposed modifications to the Urban Renewal Plan.

Mutual Obligations

The Parties shall make good faith efforts to negotiate and execute the Long-Term Agreement before the expiration of this MOU. In drafting the Long-Term Agreement, the parties shall adhere to Chapter 374 of the Texas Local Government Code and the Urban Renewal Plan.

General Terms


All officials of the Agency are protected from liability from damages resulting from errors, omissions or negligent acts committed in the performance of their duties under the terms and conditions of this Agreement as authorized by and in accordance with the City indemnification resolution adopted on 9 April 1989.

This Agreement contains the entire agreement between the City and the Agency. All prior negotiations, discussions, correspondence, and preliminary understandings between the parties and others relating hereto are superseded by this Agreement. This Agreement may only be amended, altered or revoked by written instrument signed by the City and the Agency.

This MOU may be executed in counterparts.

[SIGNATURE PAGES FOLLOW]

CITY OF AUSTIN, TEXAS

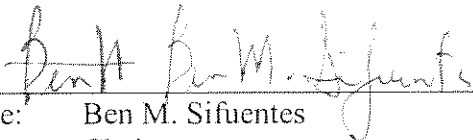
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URBAN RENEWAL AGENCY OF THE CITY OF AUSTIN

By:  Date: 10 / 18 / 2010
Name: Ben M. Sifuentes
Title: Chairman