

**PROFESSIONAL SERVICES AGREEMENT BETWEEN HARRIS COUNTY
AND TOUCHPOINT STRATEGIES, LLC**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Agreement (“Agreement”) is made and entered into by and between **Harris County** (the “County”), a body corporate and politic under the laws of the State of Texas, acting by and through Harris County Commissioner Precinct 1 (the “Department”), and **TouchPoint Strategies, LLC** (the “Contractor”). The County and Contractor are referred to herein collectively as the “Parties” and individually as a “Party.”

Recitals

The Department desires the Contractor to provide professional services pursuant to Tex. Loc. Gov’t Code Ann. § 262.024(a)(4), to be funded from the Department’s budget. Contractor agrees to provide advisory services in connection with the creation of a new tax increment reinvestment zone in the County.

Contractor warrants and represents that it possesses the required training, knowledge and expertise to provide the requested Services for the benefit of County and the Department.

Terms

1) GENERAL SCOPE OF SERVICES

- A) Contractor shall provide strategic direction, advice and representation of the Department in the structure and creation of the Harris County TIRZ No. 2 and any other matters related thereto (the “Services”) as further outlined in the Scope of Work, attached hereto as Exhibit A and incorporated herein by reference.
- B) Unless otherwise stated in this Agreement, words which have well-known technical, or industry meanings are used in accordance with such recognized meaning.

2) CONTRACTOR’S RESPONSIBILITIES

- A) **Applicable Expertise.** Contractor and the person executing this Agreement on behalf of Contractor certify and represent that Contractor (including Contractor’s agents, employees, volunteers, and subcontractors, as applicable) possess the skills, qualifications, expertise, experience, education, knowledge, ability, and financial resources to perform all Services contemplated in this Agreement without significant disruption of those Services.
- B) **Permits and Licensing.** Contractor represents that Contractor (including

Contractor's agents, employees, volunteers, and subcontractors, as applicable) possesses all special certifications, licenses, inspections and permits required by law to carry out the Services contemplated in this Agreement. Contractor's agents, employees, volunteers, and subcontractors, as applicable, shall maintain appropriate accreditation and licensing, as required, through the State of Texas or other applicable licensing entities. Prior to the performance of any Services under this Agreement, Contractor shall, upon written (including electronic) request, provide proof of valid licensure to the Department (including a listing of all licenses and expiration dates).

- C) Contractor may not make, in whole or in part, any assignment of this Agreement or of any duty of obligation of performance of the Services hereunder.
- D) Contractor acknowledges and agrees to deliver the Services in compliance with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the Services.
- E) During the Term of this Agreement, Contractor must not represent or undertake to perform any services to any other party with respect to any matters that would present a conflict of interest between the County and that other party. In the event that a conflict of interest arises, as determined solely by the Department, this Agreement will terminate automatically. Contractor will not be entitled to payment for Services performed after the date of such termination or for any services that represent a conflict of interest for the County.

3) COUNTY'S RESPONSIBILITIES

- A) The County will provide all information in its possession and as legally allowed which relates to the Department's requirements for the Services.
- B) The County will designate a person to act as the Department representative with respect to the work to be performed under the Agreement.

4) INDEPENDENT PARTIES

- A) The Services performed by Contractor under this Agreement are performed by Contractor as an independent contractor. This Agreement is not intended to create and shall not constitute a partnership or joint venture between the Parties. Contractor shall have and retain the exclusive right of control over employment, firing, discipline, compensation, insurance, and benefits in accordance with the applicable laws of the State of Texas. Contractor has no authority to bind or otherwise obligate the County orally, in writing or by any act or omission. Nothing contained herein shall establish an agency, employee-employer relationship, partnership, joint enterprise, joint employer, or joint venture relationship by or between the County and Contractor.

- B) **IN THE EVENT THAT ANY STATE OR FEDERAL AGENCY, OR COURT OF COMPETENT JURISDICTION DETERMINES THAT CONTRACTOR IS NOT AN INDEPENDENT CONTRACTOR, CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE COUNTY FOR ANY AND ALL DAMAGES, PENALTIES, ASSESSMENTS, TAXES, OR EXPENSES THAT MAY BE INCURRED BY COUNTY AS A RESULT OF THIS DETERMINATION.**
- C) Contractor warrants that it will comply with all federal and state laws including but not limited to the Prompt Pay Act, in the payment of its workers.
- D) Contractor is solely responsible for the payment of wages and any applicable benefits to workers for Services performed for the County. Contractor shall be responsible for withholding federal and state income taxes, paying Federal Social Security taxes, maintaining unemployment insurance and maintaining workers' compensation insurance in an amount and under such terms as required by the applicable laws of the State of Texas.

THE COUNTY'S PAYMENT IS TO THE CONTRACTOR. THE COUNTY SHALL HAVE NO LIABILITY, DIRECTLY OR INDIRECTLY, FOR PAYMENT TO CONTRACTOR'S WORKERS OR SUBCONTRACTORS. CONTRACTOR SHALL INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL SUCH CLAIMS.

- E) Contractor's workers are not entitled to any contributions by or benefits from the County for any pension plan, bonus plan or any other benefit plan. Contractor and the workers furnished by Contractor shall not be entitled to any fringe benefits or similar benefits afforded to employees of the County. The County is not liable for payment of any federal or state taxes and charges including, but not limited to, income withholding taxes, social security, unemployment, workers' compensation, and similar taxes and charges. This Article shall survive the expiration or termination of this Agreement.
- F) The County is not responsible to Contractor or Contractor's workers for payment of any overtime compensation or any additional payments pursuant to the Fair Labor Standards Act, 29 U.S.C. Section 207 9a(1), as amended; the Texas Pay Day Act; the Equal Pay Act; Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e, *et al.*, as amended; or any provisions of the *Texas Labor Code Ann.*, as amended.
- G) Neither Party shall have the authority to enter into contracts or agreements on behalf of the other Party.

5) TERM

The term ("Term") shall be for a period beginning upon approval by Harris County Commissioners Court and expires upon the earlier of (a) Contractor's completion of the Services, or (b) twelve (12) months following the mutual execution of this Agreement, unless earlier terminated.

6) CONTRACTOR'S COMPENSATION

- A) Subject to the Limit of Appropriation and any required approvals from the County as set forth in this Agreement, the County agrees to pay Contractor a fixed fee of Forty-Eight Thousand and No/100 Dollars (\$48,000.00), due and billed monthly on the percentage basis of work completed and portion of fee earned.
- B) It is expressly understood that Contractor is neither authorized to seek additional reimbursement nor is the County obligated to pay for postage, long distance telephone calls, parking fees, additional travel, mileage, lodging, or other costs or expenses (similar or dissimilar).
- C) The Contractor understands and agrees that, in accordance with the Texas Constitution, the County is prohibited from paying Contractor in advance for any of the Services or deliverables.

7) TERMS OF PAYMENT

- A) Every month during the period of performance, Contractor shall submit to the Harris County Auditor a sworn invoice for services rendered to: Harris County Auditor, 1001 Preston 8th floor, Houston, Texas 77002 or VENDORINVOICES@AUD.HCTX.NET. Each invoice shall be in a form acceptable to the County Auditor and shall include such detail of the services as may be requested by the County Auditor for verification purposes.
- B) The invoices shall, at a minimum, include a description of the services, the day(s) and the time(s) that Contractor performed the services, the Department for which the Contractor provided services, and the total amount billed for the services. After receipt of an invoice, County Auditor shall forward the invoice to the Department for review and approval with such modifications as may be deemed appropriate, and after review, the Department will return the invoice, with any modifications, to the County Auditor for payment. The County shall pay each invoice as approved by the County Auditor in accordance with the laws of the State of Texas.

8) LIMIT OF APPROPRIATION

- A) Contractor understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to for the Services performed under this Agreement,

and the total maximum sum that the County shall become liable to pay to Contractor under this Agreement, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Forty-Eight Thousand and No/100 Dollars (\$48,000.00), as certified available by the issuance of a Purchase Order from the Harris County Purchasing Agent.

- B) Contractor understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to hereunder, and the total maximum sum that the County shall become liable to pay to Contractor hereunder, shall not under any conditions, circumstances, or interpretations thereof exceed the sum certified by the Purchase Order. Any Services performed or expenses incurred by the Contractor prior to the issuance of a Purchase Order are at the Contractor's own expense and are not reimbursable. Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Agreement is limited to the funds on the Purchase Order; and that when all the funds so certified are expended, Contractor's sole and exclusive remedy shall be to terminate this Agreement.
- C) If the Services and charges to be provided for will equal or exceed the amount certified available, Contractor will notify the County immediately. If the amount certified is depleted prior to the end of the Term of this Agreement, Contractor may terminate all Services hereunder upon the total depletion of the certified funds unless the County certifies additional funds, as evidenced by a written amendment to this Agreement and the Purchase Order, in which event Contractor shall continue to provide the Services herein specified to the extent funds are available.
- D) With regard to any renewal or extension of this Agreement, the County has not allocated any funds for any renewal or extension period beyond the current fiscal year. Therefore, if the County exercises any renewal option, the renewal is subject to the future allocation and certification of funds for the renewal period and in accordance with the terms and conditions of this Agreement. Failure to certify funds or to certify sufficient funding for any reason shall not be considered a breach of this Agreement.

9) TEXAS PUBLIC INFORMATION ACT

- A) The Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 *et seq.*, as amended (the "Act"). Contractor expressly understands and agrees that the County shall release any and all information necessary to comply with Texas law without the prior written consent of Contractor.
- B) It is expressly understood and agreed that the County, its officers and employees may request advice, decisions and opinions of the Attorney General of Texas ("Attorney General") in regard to the application of the Act to any software, or any part thereof, or other information or data furnished to the County, whether or not

the same are available to the public. It is further understood that the County, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the County, its officers, and employees shall have no liability or obligations to Contractor for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other information or data furnished to the County in reliance on any advice, decision or opinion of the Attorney General.

- C) In the event the County receives a written request for information pursuant to the Act that affects Contractor's rights, title to, or interest in any information or data or a part thereof, furnished to the County by Contractor under this Agreement, then the County will promptly notify Contractor of such request. Contractor may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. Contractor is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act. Contractor is solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that it deems confidential or privileged.
- D) Electronic Mail Addresses. Contractor affirmatively consents to the disclosure of its e-mail addresses that are provided to the County, including any agency or department of the County. This consent is intended to comply with the requirements of the Act, and shall survive termination of this Agreement. This consent shall apply to e-mail addresses provided by Contractor and agents acting on behalf of Contractor and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise.

10) TERMINATION

- A) The County may terminate this Agreement at any time by providing thirty (30) days' notice in writing to the Contractor.
- B) Upon receipt of termination notice, Contractor shall discontinue all Services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- C) Within thirty (30) days after receipt of notice of termination, Contractor agrees to submit an invoice showing in detail the Services performed under this Agreement up to and including the date of termination.
- D) The County agrees to pay Contractor that proportion of the prescribed charges for the Services actually performed and deliverables actually received under this Agreement bear to the total Services or deliverables called for under this Agreement, less such payments on account of charges as have previously been made.

- E) *Force Majeure*. In the event that either Party is unable to perform any of its obligations under the Agreement or to enjoy any of the benefits because of natural disaster, actions or decrees of governmental bodies or communications line failure not the fault of the affected party (referred to as a “*Force Majeure* Event”), the Party who has been so affected immediately agrees to give notice to the other Party and agrees to do everything possible to resume performance. Upon receipt of such notice, the Agreement is immediately suspended. If the period of nonperformance exceeds ten (10) calendar days from the receipt of notice of the *Force Majeure* Event, the Party whose ability to perform has not been so affected may terminate the Agreement immediately by giving written notice to the other Party.
- F) Copies of any and all completed or partially completed data, information, reports, programs, designs, digital files, and all other electronic or hardcopy documents or documentation developed, created or invented under this Agreement shall be delivered to the County when this Agreement is terminated or completed.
- E) In the event Contractor loses any accreditation required by any state or federal agency with regulatory authority or oversight over Contractor, this Agreement shall terminate immediately upon Contractor’s loss of accreditation.
- F) Agreement Transition. In the event the Agreement ends by either expiration or termination, Contractor shall assist in the transition until such time that a new contractor can be completely operational. Contractor acknowledges its responsibility to cooperate fully with the replacement contractor and the County to ensure a smooth and timely transition to the replacement contractor. Such transitional period shall not extend more than ninety (90) days beyond the expiration/termination date of the Agreement, or any extension thereof. During any transition period, all other terms and conditions of the Agreement shall remain in full force and effect as originally written.

11) NOTICE

- A) Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been delivered in person or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or Contractor at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To Contractor: TouchPoint Strategies, LLC
2100 Travis Street, Suite 1460
Houston, Texas 77002
Attn: Damon Williams

To the County: Harris County Commissioner Precinct 1
1001 Preston Avenue, Suite 950
Houston, Texas 77002
Attn: Sophie Elsner

- B) Either Party may designate a different address by giving the other Party ten (10) days' written notice.

12) COMPLIANCE AND STANDARDS

- A) Contractor represents and warrants that it is capable and willing to provide the Services called for in the Agreement and agrees to render the Services in accordance with the generally accepted standards applicable to the Services. Contractor shall use that degree of care and skill commensurate with the profession to comply with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the Services and Contractor's performance to be rendered hereunder. Contractor represents that Contractor and its personnel are fully qualified to perform the Services and provide the deliverables described in this Agreement.
- B) Contractor agrees to keep confidential the contents of all its discussions with County officials. Contractor agrees to keep confidential the contents of all County records and all other information obtained during Contractor's performance of Services under this Agreement. Contractor shall not release any confidential information unless the County, in writing, authorizes Contractor to release specific information to any third parties.
- C) Contractor shall not access any information it is not authorized to receive, nor shall Contractor copy, recreate, or use any proprietary information or documents obtained in connection with this Agreement other than for the performance of this Agreement.
- D) Contractor shall not divulge or otherwise make use of the trade secrets or confidential information, procedures, or policies of any former employer, client, or customer in the performance of this Agreement. Neither shall Contractor copy, recreate, or use any proprietary information of any third party in the performance of Services under this Agreement except to the extent authorized by such third parties.
- E) Contractor warrants and represents that it is not in breach of any other contract, obligation or covenant that would affect Contractor's ability to perform hereunder and, as a result of entering into this Agreement, will not breach any such contract, obligation, or covenant.
- F) Contractor warrants and represents that it is registered with the Texas Secretary of State to transact business in Texas and is current on all state and local fees and taxes, including but not limited to Franchise Account Status of "in good standing"

with the Texas Comptroller of Public Accounts.

- G) Contractor warrants and represents that neither it, nor any of its principals or other affiliated entities, owe any debts to Harris County, including, but not limited to delinquent taxes, court judgments, tickets, tolls, fees, or fines. Taxes are deemed delinquent on the date certain as specified by the Harris County Tax Office. For the purposes of this Agreement, a court judgment is not required for delinquent taxes to be considered a debt.
- H) Conflict of Interest: Contractor warrants and represents to the County that it does not have nor shall it knowingly acquire any interest that would conflict in any manner with the performance of its obligations under this Agreement. Furthermore, Contractor warrants that no company or person, other than a bona fide employee, has been employed to solicit or secure this Agreement with the County, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this provision, the County shall have the right to terminate the Agreement without liability or in its discretion to deduct from the Agreement amount, or otherwise recover, the full amount of such fee, commission, brokerage fee, gift, or contingent fee.
- I) Lobbying: Contractor shall not use County funds to directly or indirectly pay any person for influencing or attempting to influence any public employee or official in connection with the awarding of any contract or the extension, continuation, renewal, amendment or modification of any contract. Pursuant to 31 U.S.C.A. § 1352 (2003), if at any time during the Agreement Term funding to Contractor exceeds \$100,000.00, Contractor shall file with the County the Federal Standard Form LLL titled “Disclosure Form to Report Lobbying.”
- J) No Federal Exclusion:
 - i) Contractor warrants that neither Contractor nor any of its employees is an “Ineligible Person.” An “Ineligible Person” is an individual or entity who:
 - a) is currently excluded, debarred, suspended, or otherwise ineligible to participate in any federal and/or state grant, health care program, or in federal and/or state procurement or nonprocurement programs. This includes but is not limited to persons who are on the List of Excluded Individuals or Entities of the Inspector General, List of Parties excluded from Federal Programs by the General Services Administration or the Medicaid Sanction List; or,
 - b) has been convicted of a criminal offense related to the provision of health care items or services [within the rules and regulations of 42 USC § 1320a-7(a)], but has not yet been excluded, debarred,

suspended, or otherwise declared ineligible.

- ii) Contractor agrees to report immediately to the County if Contractor becomes an “Ineligible Person” during the term of this Agreement, or to cease assigning any employee to provide Services if the employee becomes an “Ineligible Person” during the term of this Agreement.
 - iii) Contractor warrants and represents that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any Federal programs, including but not limited to the following: Department of Health and Human Services (DHHS), Office of Inspector General (OIG) - List of Excluded Individuals & Entities (LEIE); U.S. General Services Administration (GSA) – Excluded Parties List System (EPLS); All States (50) Health & Human Services Commission Medicaid OIG Sanction List; Government Terrorist Watch List (OFAC / Patriot Act); Department of Commerce, Bureau of Industry and Security, Denied Persons List; and Department of Homeland Security, Immigration and Customs Enforcement (ICE) Most Wanted. Contractor must immediately notify the County of any such exclusion or suspension. Contractor warrants and represents that it is in good standing with all State and Federal agencies that have a contracting or regulatory relationship with the County. Contractor warrants and represents that no person who has an ownership or controlling interest in Contractor’s business or who is an agent or managing employee of Contractor has been convicted of a criminal offense related to involvement in any federal program.
- K) County and its designee shall have the right to conduct examinations, studies and audits of the services, payments, and efficiencies provided under this Agreement and County may make such examinations, studies, and audits at any time whether before or after payment. Contractor shall cooperate with such examinations, studies, and audits and provide County with such records, data, documents, including all of Contractor’s backup and support data for billings, and Contractor shall provide access to such records, data, documents and personnel as are requested by County or the County Auditor. All payments made by County are subject to re-evaluation and refund or withholding of future payments conditioned on the results of the audit. This section shall survive termination of this Agreement.
- L) Whistleblower Protection Act: Contractor understands and agrees that this Agreement and employees working on this Agreement will be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908. Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation. Contractor shall insert the substance of this clause; paragraph M

("Whistleblower Protection Act"), in all subcontracts providing services under this Agreement.

- M) Prior to execution of the Agreement, Contractor shall, as an update, complete Form 1295 in accordance with Tex. Gov't Code Ann. § 2252.908 concerning "Interested Parties," Contractor warrants and represents that all the information on the form is complete and accurate.
- N) Foreign Terrorists Organizations. In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Contractor warrants and represents that, at the time of execution of this Agreement and for the duration of the Term of this Agreement and any Renewal Terms, Contractor does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.
- O) Anti-Boycott. In accordance with Tex. Gov't Code Ann. § 2270.002, Contractor warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the Term of this contract.
- P) Fraud, Waste or Abuse Hotline. Contractor shall immediately report to the County through the County's Fraud, Waste, or Abuse Hotline and also notify the County in accordance with all the notice provisions contained in this Agreement all suspected or known instances and facts concerning fraud, waste, abuse, or criminal activity under this Agreement. The County's Fraud, Waste, or Abuse Hotline can be accessed by phone at 866-556-8181 or online at <https://secure.ethicspoint.com/domain/media/en/gui/68174/index.html>.

13) PUBLIC CONTACT

Contact with the news media, citizens of Harris County, or governmental agencies shall be the responsibility of the County. Under no circumstances shall Contractor release any material or information developed in the performance of its Services without the express written permission of the County.

14) INDEMNIFICATION

CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ALL CLAIMS AND LIABILITY DUE TO THE ACTIVITIES OF CONTRACTOR, OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, PERFORMED UNDER THIS AGREEMENT AND WHICH RESULT FROM ANY NEGLIGENT ACT, ERROR, OR OMISSION; INTENTIONAL TORT; INTELLECTUAL PROPERTY INFRINGEMENT; OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER; COMMITTED BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL.

CONTRACTOR SHALL ALSO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES WHICH MIGHT BE IMPOSED ON THE COUNTY AS THE RESULT OF SUCH ACTIVITIES BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL.

CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL LIABILITY, EXPENSE, JUDGMENT, SUIT, CAUSE OF ACTION, OR DEMAND FOR PERSONAL INJURY, DEATH, OR DIRECT DAMAGE TO TANGIBLE PROPERTY WHICH MAY ACCRUE AGAINST THE COUNTY TO THE EXTENT IT IS CAUSED BY THE NEGLIGENCE OF CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, WHILE PERFORMING SERVICES UNDER THIS AGREEMENT. COUNTY WILL GIVE CONTRACTOR PROMPT, WRITTEN NOTICE OF ANY SUCH CLAIM OR SUIT. COUNTY SHALL COOPERATE WITH CONTRACTOR IN ITS DEFENSE OR SETTLEMENT OF SUCH CLAIM OR SUIT.

IF A RESTRAINING ORDER OR TEMPORARY INJUNCTION IS GRANTED DUE TO ANY ACT, ERROR, OR OMISSION COMMITTED BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, CONTRACTOR SHALL MAKE EVERY EFFORT, INCLUDING BUT NOT LIMITED TO SECURING A SATISFACTORY BOND, TO OBTAIN THE SUSPENSION OF ANY SUCH RESTRAINING ORDER OR TEMPORARY INJUNCTION.

COUNTY RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO BE INDEPENDENTLY REPRESENTED BY COUNSEL OF ITS OWN CHOICE IN CONNECTION WITH ANY SUCH SUIT OR PROCEEDING.

15) APPLICABLE LAW AND VENUE

- A) The Agreement is subject to the state and federal laws, orders, rules, and regulations relating to the Agreement and funded by state or federal funds or of applicable conditions of participation in Medicaid or Medicare program(s).
- B) This Agreement is governed by the laws of the State of Texas.
- C) The forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas.
- D) The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas

16) TAXES AND CHARGES

- A) The County is a political subdivision under the laws of the State of Texas and claims exemption from sales and use taxes under Tex. Tax Code Ann. § 151.309, as amended. The County agrees to provide exemption certificates to Contractor upon request.
- B) The County is neither liable for any personal property taxes, charges, or fees assessed against Contractor nor obligated to reimburse Contractor for any taxes, charges, or fees assessed against Contractor for the supplies provided or any Services rendered.

17) NO PERSONAL LIABILITY; NO WAIVER OF IMMUNITY

- A) Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County.
- B) The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
- C) Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity under the Texas Constitution or the laws of the State of Texas.
- D) The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.

18) INSURANCE REQUIREMENTS

- A) Contractor understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the Contractor shall be liable for all incidents that occur as a result of her performance of the Services. Proof of insurance held by the Contractor shall be provided upon execution of this contract.
- B) Contractor understand and agrees, said understanding and agreement also being of the absolute essence of this Agreement, **CONTRACTOR SHALL INDEMNIFY AND HOLD THE COUNTY HARMLESS UNDER ALL APPLICABLE INSURANCE POLICIES FOR ANY AND ALL CLAIMS THAT ARISE AS A RESULT OF THE CONTRACTOR'S PERFORMANCE OF THE SERVICES.**

19) AUDIT RIGHTS

- A) Audit Rights. The Contractor shall cooperate to the fullest extent with any and all federal, state, local, or County audits related to this Agreement. The Contractor's cooperation shall include, but not be limited to access to all books, records, contracts, spreadsheets, correspondence, and documents, in whatever form, that are applicable to this Agreement and requested by any federal, state, local, or County entity that has rights or jurisdiction over any part of this Agreement or the funds applicable to this Agreement.
- B) Record Retention. The Contractor agrees to retain within the boundaries of Harris County, for six (6) years after the expiration of this Agreement, all books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement. The Contractor will retain and make available, and insert the requisite clause in each applicable subcontract requiring its subcontractors to retain and make available, the books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement.

20) WAIVER OF BREACH

Waiver by either Party of a breach or violation of any provision of the Agreement is not a waiver of any subsequent breach.

21) SEVERABILITY

If any provision or part of the Agreement or its application to any person, entity, or circumstance is ever held by any court of competent jurisdiction to be invalid for any reason, the remainder of the Agreement and the application of such provision or part of the Agreement to other persons, entities, or circumstances are not affected.

22) SURVIVAL OF TERMS

Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.

23) CONTRACT CONSTRUCTION

- A) This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not author this Agreement.
- B) The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
- C) When terms are used in the singular or plural, the meaning shall apply to both.

- D) When either the male or female gender is used, the meaning shall apply to both.

24) SUCCESSORS AND ASSIGNS

- A) The County and Contractor bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement.
- B) Neither the County nor Contractor shall assign, sublet, or transfer its or his interest in this Agreement without written consent of the other, which will not be unreasonably withheld.

25) NO THIRD-PARTY BENEFICIARIES

- A) The County is not obligated or liable to any party other than Contractor for the performance of this Agreement.
- B) Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies in any third party.
- C) Nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party, or the duties or responsibilities of County with respect to any third party.

26) EFFECTIVE DATE

The Effective Date of this Agreement will be the date the Agreement is executed by all Parties.

27) ENTIRE AGREEMENT; MODIFICATIONS

- A) This instrument contains the entire Agreement between the Parties relating to the rights herein granted and obligations herein assumed.
- B) Any oral or written representations or modifications concerning this instrument shall not be effective excepting a subsequent written modification signed by both Parties.


28) EXECUTION; MULTIPLE COUNTERPARTS

This Agreement may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute

this Agreement.

[EXECUTION PAGE FOLLOWS]

TOUCHPOINT STRATEGIES, LLC

By: 
Name: DAMON WILLIAMS
Title: PRESIDENT
Date: September 6, 2024

HARRIS COUNTY

By: _____
LINA HIDALGO
COUNTY JUDGE

APPROVED AS TO FORM:
CHRISTIAN D. MENEFE
COUNTY ATTORNEY

By: 
Stanley Sun
Assistant County Attorney
C.A.O. File No. 24GEN2407

EXHIBIT A
Scope of Work
[See attached.]

PROPOSED SCOPE OF WORK
TIRZ CREATION CONSULTING SERVICES
HARRIS COUNTY TIRZ NO. 2

August 28, 2024

TouchPoint Strategies shall serve as TIRZ Creation Consultant for the Harris County TIRZ No. 2 as proposed under the Scope of Services. The mission of the TIRZ Creation Consultant is to ensure the efficient establishment of the Zone and to facilitate the passage of a Zone Project Plan by the Zone Board and the Harris County. The TIRZ Creation Consultant will provide strategic planning to promote revitalization of the Zone and ensure that its objectives are in keeping with approved Harris County policy objectives.

The scope provided below envisions a general consulting engagement with the option for additional services as deemed necessary by Harris County.

INITIAL SCOPE OF SERVICES

Task 1: Professional Services

- a) Assistance in targeting and planning revitalization areas to be outlined in the Project Plan, including land use and planning studies related to initiating revitalization for presentation to the Board.
- b) Preparation of draft revenue projections and baseline estimations for a 5-year Capital Improvement Plan (CIP).
- c) Facilitate the establishment of a jurisdictional code, development of TIRZ map, and calculation of projected base tax year assessed value.
- d) Coordinate project plan development including research, investigation, coordination with Harris County and other appropriate agency staff.
- e) Assist with coordination between TIRZ and local taxing entities as necessary.
- f) Work with area developers in estimating the tax increment impact of planned projects to determine what types of assistance the TIRZ might be able to offer.
- g) Planning workshops with property owners within the Zone to discuss developer ideas and needs to produce sustainable development projects.
- h) Preparation of a Final Project and Financing Plan to be approved by the Board and submitted to Harris County.
- i) Provide coordination and oversight of other TIRZ consultants as requested.
- j) Receive and respond to inquiries from interested parties regarding the Reinvestment Zone.

FEE STRUCTURE

TouchPoint Strategies estimates an eight-month (8-month) timeline for the delivery of Task 1. Actual timelines may vary depending on circumstances outside of the scope of this proposal and/or the control of TouchPoint Strategies LLC.

Estimated Monthly Rate: Six Thousand Dollars \$6,000/month

Not to exceed amount: Forty-Eight Thousand Dollars (\$48,000.00)

*Project progress will be reported in a monthly status report and will be submitted with all invoices.

** Reimbursement of expenses for printing, mileage at federal rate, parking, agenda posting, postage, delivery fees, travel, and lodging will be paid at actual amount with no upcharge.

*** Any other tasks requested by the Board will be provided based on hourly rates not to exceed TouchPoint Strategies' published rates at the time of scope modification.

ORDER OF COMMISSIONERS COURT
Authorizing execution of an Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of _____, 2024 with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF PROFESSIONAL SERVICES
AGREEMENT BETWEEN HARRIS COUNTY AND
TOUCHPOINT STRATEGIES, LLC**

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lesley Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that the County Judge is hereby authorized to execute for and on behalf of Harris County a Professional Services Agreement between Harris County and TouchPoint Strategies, LLC for advisory services in connection with the creation of a new tax increment reinvestment zone in the County at a not-to-exceed cost of Forty-Eight Thousand and No/100 Dollars (\$48,000.00). The Agreement is incorporated as though fully set forth herein word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.