

**INTERLOCAL AGREEMENT BETWEEN
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY
AND
TRAVIS COUNTY
FOR TRANSIT SERVICES IN URBANIZED AREAS
IN UNINCORPORATED AREAS OF THE COUNTY
AND
FOR IMPLEMENTATION OF THE
TRAVIS COUNTY TRANSIT DEVELOPMENT PLAN**

This Interlocal Agreement for transit services in urbanized unincorporated areas of the Travis County and for Implementation of the Travis County Transit Development Plan (“**Agreement**”) is made and entered into by and between Capital Metropolitan Transportation Authority, a political subdivision of the State of Texas organized under Texas Transportation Code Chapter 451 (“**CapMetro**”) and Travis County, a political subdivision of the State of Texas (“**Travis County**”). CapMetro and Travis County are referred to in this Agreement collectively as the “Parties” and independently as a “Party”.

I. Contracting Parties:

The Receiving Agency: Travis County (“Travis County”)
P.O. Box 1748
Austin, TX 78767

The Performing Agency: Capital Metropolitan Transportation Authority
 (“CapMetro”)
700 Lavaca St., Suite 1400
Austin, TX 78701

II. Recitals:

- a. CapMetro is a local government entity responsible for providing mass transit service within the City of Austin, and the surrounding communities of Leander, Lago Vista, Jonestown, Manor, San Leanna, and Point Venture, as well as the unincorporated area of Travis County within Commissioner Precinct 2 (boundaries as of date of agreement joining CapMetro) and the Anderson Mill area of Williamson County.
- b. Texas Transportation Code, Section 451.056, grants CapMetro the authority to contract with a municipality, county, or other political subdivision to provide public transportation services outside of its service area.

- c. A Service Expansion Policy, approved by CapMetro's Board of Directors in June 2008, amended in April 2014, reaffirmed in November 2022, and endorsed by the Capital Area Metropolitan Planning Organization (CAMPO) in June 2014, defines the approaches for CapMetro to partner with cities and counties that are not currently a part of CapMetro's service area.
- d. One such approach is a contract for service whereby CapMetro provides service through an interlocal agreement with the jurisdiction. The jurisdiction pays the cost of service, with a credit given to the jurisdiction for Section 5307 eligible expenses.
- e. In July 2015, CapMetro and Travis County entered into a contract for service (the "**2015 Agreement**") for CapMetro to provide service on Route 233 (the Far Northeast Feeder) and Route 237 (the Northeast Feeder) in portions of Travis County not within CapMetro's service area. The 2015 Agreement terminated on June 30, 2016.
- f. CapMetro and Travis County subsequently entered into that certain Interlocal Agreement for CapMetro to provide Northeast Flex Route and Far North Flex Route, dated effective July 1, 2016 (the "**2017 Agreement**") for CapMetro to continue service. The 2017 Agreement terminated on September 30, 2018.
- g. CapMetro and Travis County subsequently entered into that certain Interlocal Agreement for CapMetro to provide Route 233 (Decker/Daffan Ln. also known as Far Northeast Feeder) and Route 237 (the Northeast Feeder) and the implementation of the Travis County Transit Development Plan (the "**2018 Agreement**"). The 2018 Agreement was amended and restated for FY21. The 2018 Agreement terminated on September 30, 2021.
- h. CapMetro and Travis County subsequently entered into that certain Interlocal Agreement for CapMetro to continue to provide Route 233 (Decker/Daffan Ln. also known as Far Northeast Feeder) and Route 237 (the Northeast Feeder), Route 271 (Del Valle Feeder), Route 318 (Westgate/Slaughter), and Manor Pickup and the implementation of the Travis County Transit Development Plan (the "**2021 Agreement**"). The 2021 Agreement terminated on September 30, 2022.
- i. CapMetro and Travis County subsequently entered into that certain Interlocal Agreement for CapMetro to continue to provide Route 233 (Decker/Daffan Ln. also known as Far Northeast Feeder) and Route 237 (the Northeast Feeder), Route 271 (Del Valle Feeder), Route 318 (Westgate/Slaughter), and Manor Pickup and the implementation of the Travis County Transit Development Plan (the "**2021 Agreement**"). The 2022 Agreement terminates on September 30, 2023.

- j. The Parties agree that providing transit services in the unincorporated urbanized areas of Travis County facilitates the movement of people, goods, and services in Travis County, and benefits the residents of Travis County, including residents who have low to moderate income and are dependent on transit in order to access basic goods and services.
- k. Travis County desires for CapMetro to continue to provide transit services in the unincorporated urbanized areas of Travis County, and CapMetro desires to continue to provide these transit services.
- l. In order to provide a sustainable funding partnership for transit services in the unincorporated urbanized areas of Travis County, CapMetro and Travis County propose to continue to include the County in accordance with CapMetro's regional Service Expansion Policy.
- m. In order to access funding for transit services through the Federal Transit Administration's Urbanized Area Formula Funding program established under 49 U.S.C. 5307 ("**Section 5307 Funds**") in accordance with CapMetro's regional Service Expansion Policy, Travis County, in cooperation with CapMetro, prepared a Transit Development Plan ("**TDP**"), which was adopted by Travis County Commissioners Court on July 10, 2018.
- n. The TDP recommends implementation of additional transit service in urbanized unincorporated portions of Travis County that are eligible for Section 5307 Funds.
- o. As used in this Agreement, "**Federal Fiscal Year**" means the period that begins on October 1 of a calendar year and ends on September 30 of the following calendar year.

III. Services: The Parties will work together to perform the following services (collectively, the "**Services**"):

- a. CapMetro agrees to provide and operate bus services ("**Bus Services**") for the following bus routes to serve a portion of Travis County not currently a part of CapMetro's service area (collectively, the "**Bus Routes**"):
 - 1. Route 233 (Decker/Daffan Ln., also known as Far Northeast Feeder Route);
 - 2. Route 237 (Northeast Feeder Route);
 - 3. Route 271 (Del Valle Feeder);
 - 4. Route 318 (Westgate/Slaughter);
 - 5. Manor Pickup

- b. CapMetro will provide written notification to Travis County of any planned Bus Route change, including the reasons for the change and the effective date of the change.
- c. The balance of Section 5307 Funds not used for paying the cost of the Services described in Section III.a. above, if any, will be used for paying the costs of the implementation of the following projects identified in the Travis County TDP that are eligible for FTA Section 5307 Funds for Federal Fiscal Year (FY) 2024 (October 1, 2023 – September 30, 2024) (“**TDP Services**”):
 - 1. Capital costs, including planning studies, bus stop amenities, public engagement and other eligible costs for TDP implementation.
 - 2. Additional bus stops, additional bus routes, increased frequency of bus services, route extensions, and other services or programs identified by Travis County in the TDP.
 - 3. Consulting Services from CapMetro or a consultant to CapMetro to develop a three-year Transit Development Plan (the “**Updated TDP**”) for Travis County. The Updated TDP will provide practical guidance to Travis County to facilitate future transit service decisions. CapMetro will collaborate with and include input from Travis County staff with respect to all aspects of developing the Updated TDP. The final Updated TDP will be submitted to the Travis County Commissioners Court for approval. Travis County will update the Updated TDP annually and projects may be added or modified based on funding availability.
- d. As with all CapMetro services, passengers accessing the Services will be allowed access to all other fixed routes and rail services, provided that they pay the appropriate fares charged by CapMetro.
- e. CapMetro may provide the Services through a third-party service provider.
- f. All public relations related to the Services will be coordinated through the CapMetro Public Information Office.
- g. CapMetro will monitor ridership on the Services and email ridership reports for each bus route to Travis County Transportation and Natural Resources staff on a monthly basis.
- h. CapMetro and Travis County staff will meet at least quarterly to review performance and coordinate on any modification to the bus routes.

IV. Financial Terms:

- a. 5307 Funds. Total Section 5307 Funds allocated for the Services shall not exceed \$319,976 for Federal Fiscal Year 2024.
- b. Local Funds. For Federal Fiscal Year 2024, Travis County will provide local funds in an amount that shall not exceed \$893,724 unless the Travis County Commissioners Court specifically authorizes additional funding for this Agreement; this not-to-exceed amount is comprised of the following:
 1. Travis County will provide a match of 20 percent of the Section 5307 Funds, if any, allocated for TDP Services.
 2. Travis County will provide a match of 60 percent of the Section 5307 Funds allocated for Bus Services.
 3. Subject to the County's total contribution limit of \$893,724 for this Agreement, Travis County will be responsible for 100 percent of the costs for Services after the Section 5307 Funds expenditure balance is exhausted.
- c. Fare Recovery. CapMetro will deduct the following amounts from each monthly invoice:
 1. For Bus Routes 233 (Decker/Daffan Ln also known as Far Northeast Feeder), 237 (Northeast Feeder), 271 (Del Valle Feeder) and 318 (Westgate/Slaughter), CapMetro will deduct an amount equal to the product of (i) the total cost of Services for Bus Routes 233 (Decker/Daffan Ln also known as Far Northeast Feeder), 237 (Northeast Feeder), 271 (Del Valle Feeder) and 318 (Westgate/Slaughter) provided by CapMetro under this Agreement for the invoiced month and (ii) CapMetro's actual fare recovery percentage for the invoiced month. The monthly CapMetro fare recovery percentage will be calculated by dividing (i) the total amount of actual fares collected for all transit services provided by CapMetro in the invoiced month by (ii) the total amount of CapMetro's operation costs for the invoiced month.
 2. For the Manor Pickup, CapMetro will deduct from each monthly invoice an amount equal to the product of (i) 25 percent of the total numbers of customers utilizing the Manor Area Pickup for the invoiced month and (ii) the revenue collected by CapMetro for each such customer. As of the Effective Date of the Agreement, CapMetro

collects \$0.52 in revenue per customer, but such amount is subject to change based on various factors, including fare adjustments.

3. Fare recovery is subject to change based on various factors including fare adjustments and service adjustments, including service area adjustments. CapMetro will provide written notification to Travis County of any such change, including the reasons for the change and the effective date of the change.
- d. CapMetro will submit a “correct and complete” monthly invoice as described in Section IV.e. to Travis County for the Services performed in the previous month in an amount equal to any costs incurred by CapMetro for the Services performed that exceed the eligible Section 5307 Funds available for those Services, less the fare recovery amounts set forth in Section IV.c above. Travis County will make payments under this Agreement in accordance with the Texas Prompt Payment Act (Chapter 2251 of the Texas Government Code).
- e. In order to be considered “correct and complete,” an invoice must include at least the following information:
 1. Name, address, and telephone number of CapMetro and similar information in the event payment is to be made to a different address,
 2. The name of this Agreement,
 3. Identification of items or Services as outlined in the Agreement, and
 4. Any additional payment information which may be called for by this Agreement or that is required by the Travis County Auditor’s Office.
- f. Each invoice must be submitted to the following address:

Travis County Transportation and Natural Resources Department
Attention: Financial Services
P.O. Box 1748
Austin, TX 78767
- g. No other charges, expenses, contributions, recoupments, or charge backs shall be due from or paid by Travis County in the performance of this Agreement. Notwithstanding any provision to the contrary, Travis County will not pay for any Services until after the Services have been satisfactorily provided and Travis County has received a correct and complete invoice.
- h. Travis County is responsible for tracking invoices and the Section 5307 Funds expenditure balance. Travis County and CapMetro will meet

quarterly to review invoices and the Section 5307 Funds expenditure balance.

- V. **Insurance**. CapMetro shall require its Third Party Service Provider to maintain at least the minimum amounts of insurance and coverages set forth in **Exhibit "A"** attached to this Agreement.

VI. **Term of the Agreement:**

This Agreement shall take effect on October 1, 2023 ("**Effective Date**") and terminates September 30, 2024.

VII. **Default:**

A Party shall be in default under this Agreement if that Party fails to fully, timely and faithfully perform any of its material obligations under the Agreement.

VIII. **Miscellaneous:**

a. **Cooperation**

The Parties will reasonably cooperate with the other in furtherance of the objectives of this Agreement.

b. **Force Majeure**

In the event that the performance by a Party of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God, or the common enemy, or the result of war, riot, civil commotion, sovereign conduct, pandemic, or the act or conduct of any person or persons not a party or privy hereto, then the Party shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects hereto.

c. **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:

RECEIVING PARTY: The Honorable Andy Brown (or his successor)
Travis County Judge
P.O. Box 1748
Austin, TX 78767
Attn: Travis County Judge

WITH A COPY TO: Cynthia McDonald (or her successor)
Transportation and Natural Resources County
Executive
P.O. Box 1748
Austin, TX 78767

Delia Garza (or her successor)
Travis County Attorney
P.O. Box 1748
Austin, TX 78767
Attention: File Number 356.398

AND TO: Bonnie S. Floyd, MBA, CPPO, CPPB (or her
successor)
Travis County Purchasing Agent
P.O. Box 1748
Austin, TX 78767

PERFORMING PARTY: Dottie Watkins
President & CEO
CapMetro
700 Lavaca St., Suite 1400
Austin, TX 78701

WITH A COPY TO: Chief Counsel
CapMetro
700 Lavaca St, Suite 1400
Austin, TX 78701

d. Entire Agreement

The recitals set forth above are incorporated herein. This Agreement contains the complete and entire agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the parties respecting the subject of this Agreement. The recitals set forth above are incorporated herein.

e. Modification

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. No official, representative, agent, or employee of CapMetro, has any authority to modify this Agreement, except pursuant to such express authority as may be granted by CapMetro's Board of Directors or as otherwise provided in this Agreement. No official, representative, agent, or employee of Travis County, Texas has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the Commissioners Court of Travis County, Texas.

Notwithstanding the foregoing, CapMetro's President & CEO will have the authority to negotiate and execute amendments to this Agreement on behalf of CapMetro without further action from the CapMetro Board of Directors, but only to the extent necessary to implement and further the clear intent of the CapMetro Board of Directors' approval, and not in such a way as would constitute a substantive modification of the terms and conditions hereof or otherwise violate Chapter 791 of the Texas Government Code.

f. Invalid Provision

Any clause, sentence, provision, paragraph, 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, paragraph, or article so held to be invalid, illegal, or ineffective.

g. Inspection of Books and Records

- (1) The Parties agree to maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and to make such materials available to each other, and their duly authorized representatives, for review, inspection, and reproduction at their respective office during the period that this Agreement is in effect and for four years after the Agreement is terminated or until any impending litigation or claims are resolved, whichever is later.
- (2) CapMetro and Travis County and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the

purpose of making audits, examinations, excerpts, and transcriptions except that nothing in this Agreement requires CapMetro or Travis County to waive any applicable exceptions to disclosure under the Texas Public Information Act.

h. Current Funds

The Party or Parties paying for the performance or governmental functions or services shall make payments therefor from current revenues available to the paying party.

i. Venue

TO THE EXTENT ALLOWED BY TEXAS LAW, IT IS AGREED THAT VENUE FOR ALL LAWSUITS CONCERNING THIS AGREEMENT WILL BE IN TRAVIS COUNTY, TEXAS. THIS AGREEMENT IS WHOLLY PERFORMABLE IN TRAVIS COUNTY.

j. Interpretation

In the event of any dispute over its meaning or application, this Agreement will be interpreted fairly and reasonably and neither more strongly for or against either Party.

k. Application of Law

This Agreement is governed by the laws of the State of Texas.

l. Mediation

If mediation is acceptable to both Parties in resolving a dispute arising under this Agreement, the Parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both 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 are to remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both Parties agree, in writing, to waive the confidentiality.

m. Third Party Rights Not Created

This Agreement is not intended to and shall not be construed to create any rights or remedies in any person or legal entity that is not a party to

it and the Parties are not waiving any defense or immunity to which they are entitled against any person or legal entity that is not a Party to this Agreement.

n. Counterparts

This Agreement may be executed in separate counterparts, each of which is to be deemed an original, and all of such counterparts together shall constitute one and the same instrument. Signatures transmitted electronically by e-mail in a "PDF" format or by DocuSign or similar e-signature service shall have the same force and effect as original signatures in this Agreement.

o. Sovereign Immunity

By execution of this Agreement, neither Party waives or relinquishes any sovereign immunity rights available to it by law except as otherwise stipulated by applicable laws.

p. Contract Authority

This Agreement is entered into between the Parties shown below pursuant to the authority granted and in compliance with the provisions of the Interlocal Cooperation Act, Chapter 791, Texas Government Code.

q. Taxpayer Identification

CapMetro shall provide Travis County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Code and its rules and regulations before any funds are payable.

r. Survival

Conditions and covenants of this Agreement which by their terms are performable after the termination, expiration, or end of this Agreement shall survive such termination, expiration, or end and remain fully performable.

Each of the signatories to this Agreement represents and warrants that he or she is duly authorized to sign this in the capacity indicated to be effective as of the Effective Date.

[Signature page follows]

PERFORMING AGENCY
Capital Metropolitan Transportation Authority

By: _____
Dottie Watkins
President & CEO
CapMetro

Signature Date: _____

Approved as to Form

By: _____
CapMetro Legal Department

RECEIVING AGENCY
Travis County, Texas

By: _____
Andy Brown
County Judge

Signature Date: _____

[Interlocal agreement between CapMetro and Travis County for transit services in urbanized areas and to implement Travis County Transit Development Plan]

Insurance Coverage

CapMetro will provide, at a minimum, the following levels of insurance through the Texas Municipal League Intergovernmental Risk Pool or a commercial carrier:

Commercial General Liability Insurance Coverage with limits of not less than One Million Dollars (\$1,000,000) each occurrence and not less than Two Million Dollars (\$2,000,000) Combined Single Limit of Liability for Bodily Injury and Property Damage including Products Liability.

Automobile Liability Insurance covering all owned, hired, and non-owned vehicles with limits of One Hundred Thousand Dollars (\$100,000) and Three Hundred Thousand Dollars (\$300,000) Combined Single Limit of Liability as per Texas Tort Claims Act. Workers' Compensation Insurance Statutory Workers' Compensation coverage in the State of Texas. Employers Liability Insurance with minimum limits of liability of One Million Dollars \$1,000,000.

If CapMetro is using a subcontractor to provide insurance, such subcontractor will carry:

1. Commercial General Liability Insurance with limits of not less than:

Each Occurrence Limit	\$1,000,000
Damage to Rented Premises	\$50,000
Medical Expenses (any one person)	\$50,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$5,000,000
Products - Completed Operations Aggregate	\$1,000,000
2. Commercial Automobile Liability Insurance covering all owned, non-owned or hired automobiles, with coverage for at least \$5,000,000 Combined Single Limit Bodily Injury and Property Damage or an umbrella policy with these same limits.
3. Workers' Compensation Insurance Statutory Workers' Compensation coverage in the State of Texas. Employers Liability Insurance with minimum limits of liability of One Million Dollars \$1,000,000.