

**INTERLOCAL AGREEMENT
BETWEEN
TRAVIS COUNTY AND
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY
FOR EMPLOYEE TRANSIT SERVICES**

This Interlocal Agreement ("Agreement") is entered into by and between Travis County, Texas ("Travis County"), a political subdivision of the State of Texas, and Capital Metropolitan Transportation Authority ("Capital Metro"), a transportation authority and political subdivision organized under Chapter 451 of the Texas Transportation Code. Capital Metro and Travis County are referred to in this Agreement collectively referred the "Parties" and individually as a "Party".

I. Recitals

1. The Parties recognize the importance of a regional mobility system and desire to encourage employees of Travis County to access public transportation.
2. This Agreement is effective upon execution by both Parties and is effective until the funding for this Agreement is depleted or is otherwise terminated in accordance with this Agreement.
3. This Agreement is authorized and governed by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code.
4. The Parties now desire to enter into a mutually beneficially agreement that meets the transportation mobility needs of both Parties.

In consideration of mutual covenants and agreements contained herein, the Parties agree to the terms and conditions below as evidenced by the signatures of their respective authorized representatives.

II. Scope

1. **Transit Services.** The purpose of this Agreement is to provide access to Capital Metro's paratransit services ("MetroAccess Services"), bus, and rail services (collectively, "Services") to Travis County employees who possess a valid and current Travis County employee photo identification and are eligible to use the Services ("Eligible County Employees").
2. **MetroAccess.** Capital Metro will provide paratransit services to Eligible County Employees who have been certified for MetroAccess Service via Capital Metro's certification process. MetroAccess-certified Eligible County Employees must follow Capital Metro's certification and reservations processes in order to make use of Capital Metro's paratransit services. Travis County will provide Capital Metro a list of MetroAccess-certified Eligible County Employees at least ten (10) business days before the beginning of a new service month. Capital Metro will then issue Travis County a MetroAccess monthly pass for each of these Eligible County Employees at least five (5) business days before the beginning of that new service month. Travis County will be responsible for distribution of these monthly passes to its MetroAccess-certified Eligible County Employees. Each MetroAccess-certified Eligible County Employee must display a valid MetroAccess monthly pass to the MetroAccess operator prior to boarding a MetroAccess vehicle. In this Agreement, "service month" means a calendar month during which a MetroAccess-certified Eligible County Employee desires to receive paratransit services from Capital Metro.

3. **Bus and Rail Services.** Capital Metro agrees to provide bus and rail services to any Eligible County Employee, at no charge to the Eligible County Employee, provided each such employee presents a valid Capital Metro pass and Travis County Employee photo identification upon boarding the Capital Metro vehicle.
4. **Coordination.** Capital Metro and Travis County understand the need for coordination and prior approval of the respective governing bodies regarding services, activities, and initiatives; including services, activities and initiatives that involve additional funds. The Parties agree to work together in good faith to coordinate any approvals necessary to obtain services, activities and initiatives that further the goals of this Agreement.
 - (a) Capital Metro and Travis County staff will outline the various roles and responsibilities needed to promote and increase Travis County employee ridership.
 - (b) Travis County will promote transit use to its employees with the assistance of the Capital Metro Communications and Marketing staff. The number of passes Travis County will require will be determined no later than six (6) weeks before the desired delivery date. Capital Metro will deliver the annual transit passes to the Travis County Human Resources Management Department. Travis County will be responsible for distributing the passes to Eligible County Employees.
5. **Holidays.** The following holidays are observed by Capital Metro and may alter the level of services:

Holiday	Date Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

6. **Monitoring and Reporting.**

- (a) **Ridership Reports.** Capital Metro will provide ridership reports to Travis County by day 10 of each month. Ridership reports will include the number of unique Travis County employee riders, the number of rides taken for each level/tier of service/per day and for the total month, the total dollar amount per level/tier of service, and the total dollar amount due.
- (b) **MetroAccess (Paratransit) Reconciliation.** From the listing of MetroAccess monthly passes issued to Travis County for its MetroAccess-certified employees, Capital Metro will monitor, compile, and analyze Eligible County Employees' use of MetroAccess services and provide a monthly ridership report to Travis County. Capital Metro and Travis County will review the ridership services and eligibility for MetroAccess Services each month to reconcile the services. Capital Metro will submit invoices to Travis County for these services based upon the reconciliation.

- (c) **Bus and Rail Reconciliation.** Capital Metro will use the magnetic cards at the bus and rail fare boxes to monitor, compile and analyze bus and rail ridership data. Capital Metro and Travis County will review ridership services and employees' eligibility each month to reconcile the services. Capital Metro will submit invoices to Travis County for these services based upon the reconciliation.

III. Term and Termination

1. **Term.** The initial term of this Agreement shall commence on October 1, 2018 and end on September 30, 2019 (the "Initial Term"). After the Initial Term, this Agreement may be renewed for three (3) additional 12-month optional renewals. All optional renewals and extensions are subject to the review and approval of the Capital Metro Board of Directors and the Travis County Commissioners Court. Any changes to the price per ride or payment terms will be negotiated in good faith between the Parties at least ninety (90) calendar days prior to the expiration of the then-current term.
2. **Termination.** Either Party may exercise the right to terminate this Agreement, in whole or part, without cause, upon sixty (60) calendar days prior written notice. Upon receipt of the termination notice Capital Metro will cease all work on the 60th day ("Early Termination") following the date of the termination notice. Travis County will pay Capital Metro for all Services performed and obligations incurred prior to the Early Termination.

IV. Compensation and Payment

1. **Contract Amount.** For the Initial Term and each renewal term (unless the Parties have negotiated different prices or payment terms for that renewal term), Travis County will pay to Capital Metro an amount not to exceed **\$87,000** for that term for Eligible County Employees' use of the Services, at the rates and costs set forth in Table 1 and Paragraphs 1.1 and 1.2 below. Capital Metro will invoice Travis County on a monthly basis for the Services.
 - 1.1 During the term of this Agreement, Travis County will pay Capital Metro for bus and rail services on a per ride basis, at the rates set forth in Table 1 or the then-current, per-ride rates for each class of service. Travis County will pay Capital Metro for MetroAccess Services for MetroAccess-certified Eligible County Employees at the monthly rate set forth in Table 1.

Table 1. Prices for services from October 1, 2018 through September 30, 2019 and for each renewal term unless the Parties negotiate different prices or payment terms for that renewal term.

Service	Promotional Fare Price
Local	\$0.88 per ride
Commuter	\$2.45 per ride
MetroAccess (Paratransit)	\$46.50 month

- 1.2 Travis County will pay for the production costs of the transit passes. In addition, if the production costs of the transit passes increase during the term of this Agreement, Travis County agrees to reimburse Capital Metro for the actual additional production costs charged to Capital Metro.

2. **Invoices.** Based upon reconciled ridership services and employee eligibility, Capital Metro will submit an itemized invoice and ridership data reports to Travis County on a monthly basis. Invoices and ridership data may be mailed or sent electronically to:

Syndia Crosbie
Travis County Transportation and Natural Resources Department
P.O. Box 1748
Austin, Texas 78767
Syndia.Crosbie@traviscountytexas.gov

3. **Prompt Pay.** Travis County will pay all invoices on a monthly basis in accordance with Texas Prompt Payment Act, Chapter 2251, and Texas Government Code.
4. **Non-appropriations.** This Agreement is dependent upon the availability of Travis County funding. Travis County's payment obligations are payable only from funds appropriated and available for the Agreement. Travis County will provide Capital Metro written notice if it fails to appropriate the funds to pay the amounts due under this Agreement. Travis County will also notify Capital Metro as soon as practicable if there is a reduction of the appropriated funds necessary for Travis County to perform under this Agreement, or there are insufficient funds available for Travis County to pay its obligations under this Agreement.

V. General Terms and Conditions

1. Right to Audit.

1.1 Travis County agrees to allow authorized Capital Metro representatives access to all records related to this Agreement. In addition, Travis County agrees to only distribute transit passes and MetroAccess tickets to Eligible County Employees. Travis County will take adequate measures to prevent the transference of passes and tickets to individuals who are not Eligible County Employees.

1.2 Capital Metro agrees to allow authorized representatives of Travis County or other authorized representatives of Travis County, access to, and the right to audit, examine, or reproduce, any Capital Metro records related to the performance of this Agreement. Capital Metro agrees to refund to Travis County any overpayments disclosed by a Travis County audit.

2. **Taxpayer Identification.** Capital Metro 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.
3. **"Business Day."** In this Agreement, "business day" means any weekday that is not a holiday designated by the Travis County Commissioners Court.
4. **Entire Agreement.** This Agreement contains the complete and entire Agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the Parties regarding Capital Metro's provision of transit services to Eligible County Employees. This Agreement may not be modified, discharged, or changed in any respect whatsoever except by written instrument duly executed by an authorized representative of the Parties. 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. The recitals set forth above and the attached exhibits are incorporated herein.

5. **Texas Public Information Act.** It will be the responsibility of each Party to comply with the provisions of Chapter 552, Texas Government Code, (Texas Public Information Act) and the Attorney General Opinions issued under that statute. Neither Party is authorized to receive requests or take any other action under the Texas Public Information Act on behalf of the other Party. Responses to requests for confidential information shall be handled in accordance with the provisions of the Texas Public Information Act. The provisions of this paragraph survive the termination or expiration of this Agreement.
6. **Fiscal Records.** The Parties will maintain and retain supporting fiscal documents adequate to ensure that claims for Agreement funds are in accordance with applicable state of Texas requirements. These supporting fiscal documents will be maintained and retained for a period of three (3) years from the later of: (a) termination of this Agreement, (b) submission of the final invoices, or (c) until resolution of all billing questions.
7. **Applicable Law.** This Agreement will be governed by and construed in accordance with the laws and constitution of the State of Texas.
8. **Venue.** Venue for any action arising under this Agreement will be in Travis County, Texas.
9. **Successors and Assigns.** This Agreement may not be assigned, in whole or in part, by either Party without the prior written consent of the other party. Any attempt to assign this Agreement, without the consent of the non-assigning Party, will be void. This Agreement will be binding upon and inure to the benefit of the Parties and their successors and assigns (if any).
10. **Independent Contractor.** This Agreement will not be construed as creating an employer-employee relationship, a partnership, or a joint venture between the Parties.
11. **Disputes.** The Parties will make every possible attempt to resolve, in an amicable manner, all disputes between the parties concerning the interpretation of this Agreement. Travis County will submit written notice of any claim of breach of contract under this Agreement to the Capital Metro Board of Directors, who will examine Travis County's claim and any counterclaim and negotiate with Travis County in an effort to resolve the claim. In the event this negotiation is unsuccessful, then the parties will take the dispute to mediation.
12. **INDEMNIFICATION. THE PARTIES AGREE THAT EACH GOVERNMENTAL ENTITY IS RESPONSIBLE FOR ITS OWN PROPORTIONATE SHARE OF ANY LIABILITY FOR THE NEGLIGENT ACTS OR OMISSIONS OF ITS EMPLOYEES, AGENTS, CONTRACTORS, OR SUBCONTRACTORS ARISING OUT OF, CONNECTED WITH, OR AS A CONSEQUENCE OF ITS PERFORMANCE UNDER THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS, REVENUE, PROFITS, OR OTHER ECONOMIC ADVANTAGE), HOWEVER IT ARISES, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, TORT, OR OTHER ACTION, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.**
13. **Force Majeure.** Except as otherwise provided, neither Party is liable to the other for any delay in, or failure of performance, of a requirement contained in this Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined

as acts of God, war, strike, fires, explosions, or other causes that are beyond the control of either Party and that by exercise or due foresight, such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each Party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure.

14. Severance. Should any one or more provisions of this Agreement be deemed invalid, illegal, or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provision held to be void, voidable, or for any reason whatsoever of no force and effect, such provision will be construed as severable from the remainder of this Agreement and will not affect the validity of all other provisions of this Agreement, which will remain of full force and effect.

15. Headings. The headings contained in this Agreement are for reference purposes only and do not in any way affect the meaning or interpretation of this Agreement.

16. Notices. Any notice required or permitted to be delivered under this Agreement will be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to Travis County or Capital Metro, at the addresses set forth below. Notice given in any other manner will be deemed effective only if and when received by the Party to be notified. Either Party may change its address for notice by written notice to the other Party.

16.1 Designation of Key Personnel for Notice

Travis County: Adele Noel
Travis County
Transportation and Natural Resources Department
P.O. Box 1748
Austin, Texas 78767

David Escamilla (or his successor)
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767

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

Capital Metro: Kerri L. Butcher, Chief Counsel
Capital Metropolitan Authority
2910 E. 5th Street
Austin, Texas 78702

17. **Government Entities.** The Parties to this Agreement are governmental entities within the State of Texas, and nothing in this Agreement waives or relinquishes the right of the Parties to claim any exemptions, privileges and immunities as may be provided by law.
18. **Certifications.** The Undersigned Parties do hereby certify that: (a) the services specified above are necessary and essential and are properly within the statutory functions and programs of the affected governmental entities; (b) the proposed arrangements serve the interest of efficient and economical administration of Capital Metro and Travis County; (c) the services contracted for are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under Agreement given to the lowest responsible bidder nor is this Agreement prohibited by Texas Government Code, Section 771.003(b); and (d) this Agreement neither requires nor permits either Party to exceed its duties and responsibilities or the limitations of its appropriated funds.

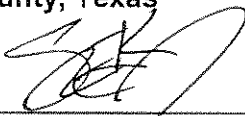
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their undersigned, duly authorized representatives to be effective as of the date of the last Party to sign.

**Capital Metropolitan
Transportation Authority**

By: 
Randy Clarke
President/CEO

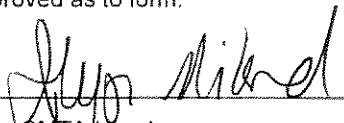
Date: 9/11/18

Travis County, Texas

By: 
Sarah Eckhardt
Travis County Judge

Date: SEP 26 2018

Approved as to form:

By: 
CMTA Legal

Approved as to form:

By: 
Assistant Travis County Attorney