

**Interlocal Agreement
By and Between
Capital Metropolitan Transportation Authority and the City of Pflugerville**

This Agreement (“Agreement”) is entered into by and between Capital Metropolitan Transportation Authority (“Capital Metro”), a transportation authority and political subdivision of the State of Texas organized under Chapter 451 of the Texas Transportation Code, and the City of Pflugerville (“City”), a Texas municipal corporation and political subdivision of the State of Texas, each individually referred to as “Party” and collectively referred to as “Parties”.

I. Recitals

WHEREAS, Capital Metro’s mission is to connect people, jobs, and communities by providing high quality and sustainable transportation choices for communities in its service area;

WHEREAS, the City is not a participating member of the Capital Metro service area;

WHEREAS, Capital Metro’s Board of Directors approved a Service Expansion Policy on April 23, 2014 which allows Capital Metro to partner with cities in the Greater Austin Area that are not currently a part of the Capital Metro service area to access federal funds under 49 USC 5307 (Section 5307);

WHEREAS, Section 5307 funding is made available to designated recipients that are public bodies with the legal authority to receive and dispense federal funds;

WHEREAS, Capital Metro is a “Designated Recipient” with legal authority to dispense federal funds;

WHEREAS, the City, as of Census 2010, was designated a part of the Austin Urbanized Area, thereby making the City eligible to receive eligible Section 5307 funds from Capital Metro;

WHEREAS, the Service Expansion Policy requires that jurisdictions seeking Section 5307 funds prepare a three year Transit Development Plan (“TDP”), to identify transit needs, analyze service options and financing, and provide recommendations for transit services;

WHEREAS, the City seeks Section 5307 funds as a non-member jurisdiction to develop a three year TDP to identify transit needs, analyze service options and financing, and provide recommendations for transportation services;

WHEREAS, the Parties desire to define their roles and responsibilities for the administration of Section 5307 funds; and,

WHEREAS, the Parties intend to conform this Agreement in all respects with the Interlocal Cooperation Act, Texas Government Code, Chapter 791.

NOW, THEREFORE, in consideration of mutual promises, covenants, obligations, and benefits contained herein and for the good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the terms and conditions stated herein as evidenced by the signatures of their respected duly authorized representatives below.

II. Terms and Conditions

1. Statement of Services to be Performed:

- A. Capital Metro will develop a TDP for the City of Pflugerville (“Services”).
- B. The TDP shall be developed in compliance with the requirement of Capital Metro’s Service Expansion Policy.

2. Term of the Agreement:

This Agreement shall begin on November 1, 2015 and terminate the earlier of: (i) September 30, 2016 or (ii) when the total funds used equals \$85,024, as set forth in Exhibit “A,” attached and incorporated herein for all purposes.

3. Financial Terms:

Consistent with federal funding practice, the Parties will receive Federal Transit Administration’s (“FTA”) allocated funding for the Austin Urbanized Area, disbursed by population and population density distributed as formula funds under the Section 5307 program, with Capital Metro being considered the “Designated Recipient” and with the City being considered a “Sub-recipient” for purposes of compliance with federal contracting requirements, including the provisions of FTA Circular 4220.1F and any other applicable federal contracting requirements.”

- A. Capital Metro will provide Section 5307 funding for 80% of the cost for the Services (\$68,019), as set forth in Exhibit A.
- B. The City will provide local funding for 20% of the cost for the Services (\$17,005), as set forth in Exhibit A.

4. Statement of Services to be Performed:

Capital Metro will provide the following services as more described set forth in Exhibit “A”:

Develop a three (3) year Transit Development Plan (“TDP”) for the City of Pflugerville with the support of the Capital Metro General Planning Consultant (“GPC”) as outlined in Exhibit “B.” The TDP will provide practical guidance to the City of Pflugerville to facilitate future transit service decisions. City of Pflugerville staff will be included in all aspects of the project.

Major elements of TDP will include:

- 1. Creation of a Project Steering Committee
- 2. Public involvement and outreach
- 3. A performance and situational appraisal
- 4. Development of mission and goals
- 5. Development and evaluation of alternatives
- 6. Development of a three year (3) implementation program
- 7. A review of the program’s relationship to other plans

8. TDP report and executive summary

5. Payment Terms:

For performance of the Services the City will pay Capital Metro the sum of \$17,005 (its' local share of formula funds) upon invoice. Capital Metro will invoice the City at least quarterly for Services rendered to date based on amounts billed Capital Metro by the GPC at the rates set forth in Exhibit "B." The City will pay such invoices in accordance with the Texas Prompt Payment Act.

6. General Provisions:

A. Default. A party shall be in default under the Agreement if it fails to fully, timely and faithfully perform any of its material obligations under the Agreement.

B. Notices. Any notice required or permitted to be delivered under this Agreement shall be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the party to be served, at the addresses set forth above. Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. A party may change its address for notice by written notice to the other party as herein provided.

The City:

P.O. Box 589

Pflugerville, TX 78691

Attn: Brandon Wade, City Manager

With Copy to:

P.O. Box 589

Pflugerville, TX 78691

Attn: George Hyde, City Attorney

Capital Metro:

2910 E. Fifth Street

Austin, TX 78702

Attn: Kerri L. Butcher, Chief Counsel

With Copy to:

2910 E. Fifth Street

Austin, TX 78702

Attn: Michelle Meaux, Regional Coordination Planner

C. Good Faith. The Parties agree to work together at all times in good faith, meet regularly, and keep each other informed as to activities of the other, and maintain at all times formal representatives to serve as points of contact for communications.

D. Alteration. This Agreement may not be altered, amended, or modified except with written agreement from all of the Parties.

E. Cost for Preparation. Each Party will be responsible for all costs and expenses associated with the preparation and adoption of this Agreement, the preparation and adoption of a joint development agreement, and future actions related thereto.

F. Amendments. The City's City Manager and Capital Metro's President/CEO will have the authority to negotiate and execute amendments to this Agreement without further action by the Pflugerville City Council or the Capital Metro Board of Directors, to the extent necessary to implement and further the clear intent of the respective governing bodies, but not in such a way as would constitute a substantive modification of the Agreement's terms and conditions or otherwise violate Chapter 791 of the Texas Government Code. Any amendments that would constitute a substantive modification to the Agreement must be approved by each party's governing body.

G. Counterpart Agreements. This Agreement may be executed in multiple counterparts which, taken together, will collectively constitute a single agreement, but in making proof of such agreement, it will not be necessary to account for more than one such counterpart.

H. Venue and Applicable Law. This Agreement will be performed and enforced in Travis County, Texas, and will be construed in accordance with the laws of the State of Texas. Venue with respect to all disputes will reside with the district courts of Travis County, Texas. All rules, regulations, and other requirements imposed by local, state, or federal law apply to the performance of the Parties under this Agreement.

I. Force Majeure. Except as otherwise provided, no party is liable to the other parties 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 the party asserting a force majeure claim, 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. A party must inform the other parties in writing with proof of receipt within three business days of the existence of such force majeure.

J. Severability. 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(s) shall be construed as severable from the remainder of this Agreement and shall not affect the validity of all other provisions of this Agreement, which shall remain of full force and effect.

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

L. Entire Agreement. This Agreement constitutes the entire agreement of the Parties. No other agreement, statement, or promise that is not contained in this Agreement shall be binding except by subsequent written amendment to this Agreement signed by the Parties. The Recitals contained in this Agreement are incorporated herein for all purposes.

III. Signatories

**Capital Metropolitan
Transportation Authority**

By: _____
Linda S. Watson, President/CEO

Date: _____

Approved as to form:

CMTA Legal

City of Pflugerville

By: _____
Jeff Coleman, Mayor

Date: _____

Approved as to form:

George E. Hyde, City Attorney
Denton Navarro Rocha Bernal Hyde & Zech

Exhibit "A"

TDP Funding	
Section 5307 Funds (80%)	\$68,019
Local Funds (20%)	\$17,005
Total Funds (100%)	\$85,024