

**INTERLOCAL AGREEMENT BETWEEN  
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY  
AND  
THE CITY OF PFLUGERVILLE  
FOR  
DEVELOPMENT OF THE CITY OF PFLUGERVILLE'S TRANSIT  
DEVELOPMENT PLAN**

This Interlocal Agreement ("**Agreement**") for development of the City of Pflugerville's Transit Development Plan ("**TDP**") is made and entered into by and between Capital Metropolitan Transportation Authority ("**CapMetro**"), a political subdivision of the State of Texas organized under Chapter 451 of the Texas Transportation Code, and the City of Pflugerville ("**City**"), a Texas home rule municipal corporation and political subdivision of the State of Texas, pursuant to the provisions of the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. CapMetro and City are referred to in this Agreement collectively as the "Parties" and independently as a "Party".

**I. Contracting Parties:**

The Receiving Agency:   The City of Pflugerville ("City")  
100 East Main St., Suite 300  
Pflugerville, TX 78660

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. The City is not a participating member of the CapMetro service area;
- c. 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;

- d. A Service Expansion Policy, approved by CapMetro's Board of Directors in June 2008, amended in April 2014, 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;
- e. 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 Funds eligible expenses;
- f. CapMetro is a "Designated Recipient" with legal authority to dispense federal funds;
- g. 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 CapMetro;
- h. The Service Expansion Policy requires that jurisdictions seeking Section 5307 Funds prepare and maintain a three-year Transit Development Plan ("TDP"), to identify transit needs, analyze service options and financing, and provide recommendations for transit services;
- i. The City seeks Section 5307 Funds as a non-member jurisdiction to update their TDP to identify transit needs, analyze service options and financing, and provide recommendations for transportation services;
- j. 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, the City of Pflugerville, in cooperation with CapMetro, prepared a Transit Development Plan ("TDP"), which was adopted by Pflugerville City Council in August 2018;
- k. The Parties desire to define their roles and responsibilities for the administration of Section 5307 Funds; and
- l. 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.

### III. Terms and Conditions:

#### 1. Statement of Services to be Performed.

CapMetro will provide the following services ("**Services**"):

- a. Develop a three (3) year Transit Development Plan ("TDP") for the City of Pflugerville with the support of the CapMetro General Planning Consultant ("GPC"). The TDP will provide practical guidance to the City to facilitate future transit service decisions. City staff will be included in all aspects of the project.
- b. Develop the TDP in compliance with the requirements of CapMetro's Service Expansion Policy.

#### 2. Terms of the Agreement. This Agreement shall begin on October 1, 2022 (the "**Effective Date**") and terminate the later of: (i) September 30, 2023 or (ii) completion of the Services.

#### 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 CapMetro 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. CapMetro will provide Section 5307 funding for an amount not to exceed 80% of the cost for the Services, as set forth in **Exhibit "A"**.
- b. The City will provide local funding for 20% of the cost for an amount not to exceed the Services as set forth in **Exhibit "A"**.

#### 4. Payment Terms. For performance of the Services, the City will pay CapMetro its' local share of formula funds, as set forth in **Exhibit "A"**, upon receipt of an invoice therefore, in accordance with the Texas Prompt Payment Act (Chapter 2251 of the Texas Government Code). CapMetro will submit an invoice to the City upon completion of the Services or upon the termination of this Agreement, whichever is later, for the Services performed in an amount equal to the amounts billed to CapMetro by the GPC not to exceed the amount set forth in **Exhibit "A"**.

5. 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: 100 East Main St., Suite 300  
Pflugerville, TX 78660  
ATTN: Sereniah Breland, City Manager

CapMetro: 700 Lavaca St., Suite 1400  
Austin, TX 78701

With Copy to: 700 Lavaca St., Suite 1400  
Austin, TX 78701  
ATTN: Chief Council

- 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 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 any further agreements, and future actions related thereto.
- f. **Amendments.** The City's City Manager and CapMetro's President and CEO will have the authority to negotiate and execute amendments to this Agreement without further action by the Pflugerville City Council or the CapMetro 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. **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.
- h. **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.
- i. **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.
- j. **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, pandemic, 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.
- k. **Survival of Obligations.** 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.
- l. **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.

- m. **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.
- n. **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.
- o. **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.
- p. **Sovereign Immunity.** By execution of this Agreement, neither Party waives nor relinquishes any sovereign immunity rights available to it by law except as otherwise stipulated by applicable laws.
- q. **No Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns. No Party may assign any rights under this Agreement without the written consent of the other Party. Except as otherwise expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties hereto, any benefits, rights, or remedies under or by reason of this Agreement.
- r. **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.

- IV. Signatories:** Each of the signatories to this Agreement represents and warrants that they are duly authorized to sign this in the capacity indicated to be effective as of the Effective Date.

**PERFORMING AGENCY**

**Capital Metropolitan Transportation Authority**

By: \_\_\_\_\_

Dottie Watkins  
Interim President & CEO  
CapMetro

Signature Date: \_\_\_\_\_

Approved as to Form

By: \_\_\_\_\_

CapMetro Legal Department

**RECEIVING AGENCY**

**City of Pflugerville**

By: \_\_\_\_\_

Victor Gonzales  
Mayor

Signature Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Trista Evans  
City Secretary

By: \_\_\_\_\_

Charles E. Zech, City Attorney  
Denton Navarro Rocha Bernal & Zech, PC

**Exhibit “A”**

<b>Transit Development Plan Funding Not to Exceed Amounts</b>	
Section 5307 Funds (80%)	\$120,000.00
Local Funds (20%)	\$30,000.00
Total Funds (100%)	\$150,000.00