

**SECOND INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUSTIN AND AUSTIN  
TRANSIT PARTNERSHIP  
FOR PROJECT CONNECT SUPPORT SERVICES**

This Second Interlocal Agreement between ATP and the City of Austin (this “**Agreement**”), dated as of November 16, 2022, is entered into by and between the City of Austin, a Texas home-rule municipality (the “**City**”), and the Austin Transit Partnership, a joint local government corporation under Chapter 431 of the Texas Transportation Code (“**ATP**”), each a “**Party**” and collectively referred to as the “**Parties**.”

**RECITALS**

**WHEREAS**, pursuant to the Interlocal Cooperation Agreement, dated August 7, 2020, (the “**ILA**”) between the City and Capital Metropolitan Transportation Authority (“**Capital Metro**”), the City and Capital Metro have created ATP as a joint local government corporation with the authority to finance, design, build and implement a high-capacity transit system and transit-supportive anti-displacement strategies known as the Project Connect System (“**Project Connect**”); and

**WHEREAS**, the ILA requires the City to provide support functions in connection with the operation, implementation and maintenance of the assets funded by ATP and further to perform certain projects, some of which are described on Exhibit A (which Exhibit A may be periodically updated, supplemented, or amended upon the agreement of the Parties); and

**WHEREAS**, in connection with the ILA, the City Council adopted a resolution on August 13, 2020, providing guidance on dedicating tax revenue for implementation of Project Connect in accordance with the Project Connect System Plan program (the “**Program**”), including, but not limited to, funding for corporate functions and projects in the Program (Resolution No. 20200812-015); and

**WHEREAS**, in order to meet the schedule laid out in the Program, the City and ATP desire to continue certain roles and responsibilities for the Parties with respect to the City’s support functions described on Exhibit A to this Agreement in furtherance of the Program; and

**WHEREAS**, the Parties entered into the Interlocal Agreement Between the City of Austin and Austin Transit Partnership for Support Services No. 1 (“ILA for Support Services”), on February 24, 2021; and

**WHEREAS**, the Parties desire to amend and restate the ILA for Support Services to provide for ongoing support for the work required to implement the Program that was approved by the voters in November of 2020, and that is the subject of the Joint Powers Agreement approved by the Parties and Capital Metro in 2021; and

**WHEREAS**, the Parties intend that the City will provide ATP with the scope of services set forth on Exhibit A and anticipate that this will be one of many interlocal agreements between the City and ATP in support of the Program; and

**WHEREAS**, to provide such scope of services, the City will hire certain support staff positions in accordance with the budget requests as provided in its annual budget; and

**WHEREAS**, the Parties are authorized to enter into Agreements through the Texas Constitution, Article 3, Section 64, “The Texas Transportation Corporation Act,” Tex. Transp. Code, Chapter 431, and “The Interlocal Cooperation Act,” Tex. Gov’t Code, Chapter 791.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## **Article 1**

### **Roles and Responsibilities; Purpose and Scope of this Agreement**

**Section 1.01 Defined Terms.** Capitalized terms used in this Agreement and not otherwise defined have the meaning given in the Joint Powers Agreement.

**Section 1.02 General Roles and Responsibilities of the Parties.** The roles and responsibilities of the Parties are established in the Joint Powers Agreement. In general, they are as follows:

- (a) ATP has been designated by the City and Capital Metro to be the principal entity responsible for financing, building, and implementing the Project Connect System Plan in a manner independent of the City and Capital Metro. Specifically, ATP is responsible for the planning, design, financing, acquisition, procurement and construction of the light rail components of the Project Connect System Plan, including, initially, the light rail projects known as the "Orange Line" and the "Blue Line".
- (b) One of the City's roles in respect to the Project Connect System Plan is to cause to be collected and transmitted the property tax revenue as authorized by the Voters with the passage of Proposition A ("Project Connect Tax Revenues"), to transfer the property tax revenue to ATP consistent with Proposition A, provide such support services as outlined in the Joint Powers Agreement, and implement the transit-supportive anti-displacement program.

**Section 1.03 Purpose and Scope of This Agreement.** This Agreement is an interlocal cooperation agreement to supersede and replace the ILA for Support Services. The purpose and scope of this Agreement is to clearly identify the City Project Connect Office support services relating to Project Connect, to establish the terms and conditions for the performance of such services by the City, and to direct the reimbursement for such services by ATP.

**Section 1.04 Collaboration and Communication Between the Parties.** The City and ATP agree to share any necessary financial and operating information, data, and reports to sufficiently account for the expenditure of the property tax revenues transferred by the City to ATP consistent with Proposition A and to support each entity's annual budgets, Annual Comprehensive Financial Reports, and ATP's sale of a "public security" as defined in Section 1201.002(2) of the Texas Government Code (collectively "Public Securities") including primary offering disclosure and continuing disclosure in accordance with federal securities laws. Both Parties agree that their respective staff will work to support any such request for this information, data, and reports.

## **Article 2**

### **Project Support Services Provided by the City**

**Section 2.01 Agreement to Provide Support Services**

- (a) General. The City shall provide ATP with the professional technical services necessary to assist with the design, review, and permitting for the Program as part

of the support and coordination services described on Exhibit A to this Agreement (collectively, the “**Support Services**”). The Parties acknowledge and agree that Exhibit A to this Agreement may be periodically updated, supplemented, or amended pursuant to Section 8. The City further acknowledges that it will work in good faith to ensure that the activities performed under this Agreement are attributable to the Support Services. However, the Parties also recognize that ATP may request, and the City may provide, services that are not directly attributable to the Support Services, but which may be necessary to further the Project. Unless agreed to in writing by both parties, the City shall not be authorized to perform Support Services and shall not be reimbursed for costs: (A) for which funding has not been approved by ATP in accordance with Article 3; and (B) in excess of the services and associated costs budgeted and approved and therefore expressly authorized by this Agreement. Should ATP request additional services beyond those initially budgeted for, they will do so in writing and provide the budgeted funds for those additional services.

- (b) Collocation. The City agrees, to the extent permissible under applicable laws, that some City staff positions necessary to deliver the services described in this Agreement may work in the same physical location as the ATP staff to ensure close collaboration as the Parties work together to develop the Program. However, the City staff have the same right and opportunity to work remotely as all other City employees. Office space, utilities, and other facilities needed for working within the office will be provided by ATP for City Project Connect Office staff at no cost to the City.
- (c) Term. The Term of this Agreement shall run from October 1, 2021 to September 30, 2023. The Agreement may be renewed by the mutual agreement of the Parties, in writing, for an additional 1-year term.

**Section 2.02 Standard of Service**

- (a) The City represents, warrants, and covenants that the Support Services shall be provided in good faith, in accordance with applicable laws, and in a professional and work person-like manner. The City shall not be responsible for any inability to provide a Support Service or any delay in doing so to the extent that such inability or delay is the result of the failure of ATP to provide, or any delay in providing, the information necessary for the City to provide such Support Service. The City agrees to work with ATP to implement Project Connect in accordance with the timelines set forth in the Contract with Voters Sequence Plan. The City of Austin Project Connect Office (City PCO) will act, to the extent feasible, as a single point of contact for ATP for Project Connect and ATP may rely on the City PCO to speak on behalf of the City Manager regarding administrative responsibilities related to Project Connect. Expenditures made for Support Services will be undertaken in a manner consistent with Proposition A.
- (b) THERE ARE NO WARRANTIES BY THE CITY WITH RESPECT TO THE SERVICES. ALL WARRANTIES, STIPULATIONS AND UNDERTAKINGS AND ALL TERMS AND CONDITIONS (INCLUDING ANY IMPLIED BY STATUTE OR OTHERWISE) WITH RESPECT TO THE SERVICES (WHETHER AS TO MERCHANTABILITY, QUALITY, DESCRIPTION, SATISFACTORY QUALITY, SUITABILITY, FITNESS FOR A PARTICULAR

PURPOSE WHERE MADE KNOWN OR NOT, CARE, SKILL, OR OTHERWISE) ARE EXCLUDED AND WAIVED.

### Article 3

#### Approval and Reimbursement for Support Services

##### Section 3.01 Funding and Payment

- (a) Funding. As reflected in the Joint Powers Agreement, ATP shall pay the City for the Support Services provided by the City PCO on a cost reimbursement basis up to the amount included in the then-current budget, which shall align with this Interlocal Agreement approved by City Council and the ATP Board, in accordance with this Article 3.
- (b) Payment for Support Services. In consideration for the performance of the Support Services by the City PCO, ATP shall pay to the City compensation (the “**Services Payment**”) as provided for in the then current budget, payable pursuant to the quarterly invoices referenced in Section 3(c). In addition to reimbursement of the City of the actual costs and expenses incurred in connection with the Support Services, and in consideration for the performance and administration of the Support Services by the City, ATP shall pay to the City the agreed upon cost of the City PCO, including the City costs of staff, contractuels, and commodities, in connection with the administration of the Support Services, and the performance of the Support Services directly by City staff. As with all services under this Agreement, City contractuels and commodities, including third-party studies, staff trainings, travel, and employee development must be agreed to by ATP prior to incurring the expense. Such costs shall be reasonable and commensurate with the services provided and shall not exceed the annual funding established in this Agreement and included in the annual budget approved by the City Council and ATP Board for this Agreement (“**Approved Annual Support Services Budget**”), as provided for in this Section 3.01. Should ATP request Support Services for which ATP has not budgeted, ATP shall obtain additional authorization from its Board to pay for these services.
- (c) Invoices. The City shall provide ATP with a quarterly invoice specifying the Support Services costs for the immediately preceding quarter in accordance with the schedule for the payment of the Support Services costs in the agreed annual budget. The payment for such services shall be made in accordance with the timelines set forth in Chapter 2251 of the Texas Government Code (the “**Prompt Payment Act**”); and shall not be unreasonably withheld. As part of the annual budget process for the City, the City PCO staff will submit its proposed annual budget to ATP by April 1<sup>st</sup> using the ATP Budget Request Form starting with April 1, 2023. The City and ATP staff shall work to reach agreement by May 31<sup>st</sup> on a proposed budget to be submitted to City Council and ATP Board for approval through the Approved Annual Support Services Budget. The Parties further acknowledge and agree, notwithstanding anything else in this Agreement to the contrary, that ATP’s obligation with respect to the Support Services payment is subject to, and governed by, Article 11, Section 5 of the Texas Constitution and must be paid only out of ATP’s current revenues or any other funds lawfully available therefore (and appropriated for such purpose) in accordance with Article 11, Section 5 of the Texas Constitution.

- (d) **Funding Out.** The financial obligations of the Parties, if any, under this Agreement are contingent upon the availability and appropriation of sufficient funding. The obligation of ATP to pay or reimburse the City for the Support Services is subject to the receipt of Proposition A dedicated funding from the City and annual approval and appropriation of funds as set forth in the Approved Annual Support Services Budget, as defined in this Section 3.01 of this Agreement. Each Party paying under this Agreement must make those payments from current revenues available to the paying Party. Any Party may withdraw from this Agreement without penalty in the event that funds are not available or appropriated. However, no Party will be entitled to a refund of amounts previously contributed in the event of withdrawal for lack of funding. Any Party withdrawing from this Agreement due to lack of appropriated funding shall follow the termination provisions set forth below.
  
- (e) **Planning Cap.** ATP's reimbursement obligation under this Agreement shall not exceed \$9,000,000, substantially divided as follows:

Term	Amount
October 1, 2021-September 30, 2022	\$2,500,000
October 1, 2022-September 30, 2023	\$3,500,000
October 1, 2023-September 30, 2024	\$3,000,000 (Option Year)

**Section 3.02 Subordination.** The City acknowledges and agrees that notwithstanding any present or future appropriation of funds by ATP to fulfill its payment obligations under this Interlocal Agreement, all payment obligations of ATP to the City under this Agreement shall constitute unsecured contractual obligations of ATP, and shall be expressly subject and subordinate to any present or future pledge by ATP of its revenues securing any lien for the repayment of its Public Securities, credit or liquidity agreements or other debt obligations of ATP for the financing of all components or any component of Project Connect. The City agrees to deliver any additional instruments, estoppels or other assurances as may be reasonably required by ATP, any trustee, ATP investors or credit/liquidity providers to evidence timing or subordination constraints. In the event of any conflict between this Agreement and any Public Security Authorization, as defined in Section 1201.002(3) of the Texas Government Code, the Public Security Authorization shall prevail. Failure of ATP to appropriate funds for this Interlocal Agreement due to this provision or any other provision in this Agreement shall be an event of default for which the City may exercise its right to cease provision of services under this Agreement subject to the good faith mitigation efforts provided in Section 3.03 below.

**Section 3.03 Budget Shortfalls.** ATP shall provide prompt written notice to the City of any actual or anticipated shortfalls in ATP's annual operating budget. Such notice shall specify in sufficient detail the expected impact of any such budget shortfall on the current Approved Annual Support Services Budget. Upon the occurrence of any such event, the Parties agree to work in good faith to make any necessary amendments or modifications to the then current Approved Annual Support Services Budget to mitigate the impact of such budget shortfall. Should the services requested by ATP be anticipated to exceed their budgeted funding, both parties agree to work in good faith to seek ATP Board approval for payment of such costs.

**Section 3.04 Invoicing.** The invoice submitted by the City shall be on City letterhead and include the invoice number, invoice date, expenditure amount summarized by General Category (personnel, services, supplies, travel/training/equipment), and the service period covered by the invoice.

**Section 3.05 Payment.** If the City requests payment by ACH or wire the invoice should include the appropriate ACH or wiring instructions (full Routing Number and last four digits of the Account Number). If the City requests payment by check, the invoice will need the "remit to" information.

**Section 3.06 Invoice Corrections.** In the event the amount charged to ATP is incorrect for any reason, the adjustment may be applied to the next invoice. The City is not expected nor required to issue a supplemental invoice for the adjustment amount. The parties will develop a process to timely resolve invoice corrections.

#### Article 4

##### General Provisions

**Section 4.01 Insurance.** Should the City use consultants to perform any of the City PCO support services authorized under this Interlocal Agreement, the parties will take such steps as are necessary to maintain appropriate insurance for such work as is recommended by each party's risk management staff.

**Section 4.02 Texas Public Information Act.** Notwithstanding any terms and conditions in this Agreement to the contrary, this Agreement is subject to the "Texas Public Information Act," Texas Gov't Code, Chapter 552. The City and ATP are subject to the Texas Public Information Act and must release information required to be released under the Texas Public Information Act and regulations promulgated thereunder, provided however that each Party will endeavor to provide notice to the other Party prior to the release of any information marked confidential or proprietary.

##### **Section 4.03 Default, Termination; Dispute Resolution.**

- (a) **Default.** A party shall be in default under the Agreement if the party (a) fails to fully, timely and faithfully perform any of its material obligations under the Agreement; and following receipt of notice of such failure as provided in Section 4.15, fails timely to cure the failure within the time periods provided below, or (b) fails to provide adequate assurance of performance.
- (b) **Termination of Agreement.** This Agreement may be terminated in its entirety only if ATP fully pays for any outstanding actual costs of existing commitments to the City.
- (c) **Termination for Convenience.** This Agreement may be terminated in whole or in part, by either Party, for any reason or no reason whatsoever. If either Party terminates this Agreement for convenience, the Party terminating must provide written notice to the other Party not less than six months prior to the beginning of the next fiscal year for the other Party. If such termination notice is provided by either Party, the City and ATP will work together to ensure that all invoices up to the October 1<sup>st</sup> date of the beginning of the new fiscal year are submitted in proper format and are timely paid in full.
- (d) **Termination for Cause.** A default shall occur if either Party fails to perform any material obligation under this Agreement. In the event of default by a Party, the other Party shall have the right to terminate the Agreement for cause, by written notice delivered by certified mail to the Party in default. Unless the Party giving notice specifies a different time in the notice, the contract is terminated 30 calendar days after the date of the notice. During this time period, the Party alleged to be in default may cure the default or provide evidence sufficient to prove to the other Party's reasonable satisfaction that the default does not exist or will be cured in a time satisfactory to the Party alleging the default.

- (d) **Dispute Resolution.** Upon request of either Party, the Parties will make an informal attempt to negotiate a resolution of any dispute arising under this Agreement. Such request shall be in writing and shall seek a meeting between representatives of each Party within 14 calendar days after receipt of the request or such later period as agreed by the Parties. Each Party shall provide for the meeting, at a minimum, one senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within 30 calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they shall proceed directly to mediation as described below. Informal negotiation may be waived by a written agreement signed by both Parties, in which event the Parties shall proceed directly to mediation as described below.
- (1) The mediation shall take place in Austin, Texas. The Parties shall select a mediator within 30 calendar days of the written waiver, or within sixty 60 calendar days of the informal negotiation meeting. The Parties agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in this Agreement prevents the Parties from relying on the skills of a person who is trained in the subject matter of the dispute. If the time period for selecting the mediator has expired with no agreement on the mediator, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The Parties agree to participate in mediation in good faith for up to 30 calendar days from the date of the first mediation session. The Parties will share the costs of mediation equally.

**Section 4.04 Limitation of Liability.** THE PARTIES ACKNOWLEDGE AND AGREE THAT THE AGGREGATE LIABILITY OF THE PARTIES FOR ANY CLAIMS ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF SERVICE PAYMENTS ACTUALLY OWED. FURTHERMORE, NEITHER PARTY SHALL BE LIABLE FOR PUNITIVE, CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES IN ANY FORM OR AMOUNT TO THE OTHER PARTY FOR CLAIMS ARISING UNDER THIS AGREEMENT.

**Section 4.05 Audit and Inspection Rights.** ATP shall have the right, at its cost and expense, to have the books and records of the City related to this Agreement:

- (i) reviewed by ATP from time to time during the Term, and
- (ii) audited by a nationally or regionally recognized independent certified public accountant, under appropriate confidentiality provisions, for the purpose of verifying the accuracy of all service costs and cost calculations under this Agreement; provided, that any such audit shall be conducted no more than once per budget year (a "budget year" being defined as October 1 through September 30) and shall be conducted, in each case, upon at least 30 calendar days' advance written notice; provided further, that no review or audit shall be conducted outside of normal business hours or in a manner that interferes unreasonably with the City's business.
- (iii) The results of any such audit by the independent certified public accountant shall be reduced to writing and delivered to each Party. Any underpayment or overbilling determined by ATP pursuant to the review referenced in clause (i)

above shall, upon the agreement of the City (or if there is a dispute, then upon resolution of such dispute pursuant to Section 5(e)), promptly be paid by ATP or refunded by the City, as applicable. Any underpayment or overbilling determined by independent certified public accounting firm pursuant to the audit referenced in clause (ii) above shall, upon the agreement of ATP and the City (or if there is a dispute, then upon resolution of such dispute pursuant to Section 5(e)), promptly be paid by ATP or refunded by the City, as applicable. The Parties shall retain all records created or maintained under this Agreement for a period of three years after final payment on this Agreement or until all audit and litigation matters that the Parties have brought to the attention of the other Party are resolved, whichever is longer.

**Section 4.06 No Violation of Prevailing Law.** Neither Party shall be required to perform any act or refrain from performing any act under this Agreement if that performance or non-performance would constitute a violation of the constitution or laws of the State of Texas or federal law or regulation.

**Section 4.07 Governmental Purpose Statement.** ATP is entering into this Agreement in its capacity as a public, nonprofit corporation organized by the City and Capital Metro to accomplish the governmental purposes of the City and Capital Metro pursuant to Chapter 431 of the Texas Transportation Code, as amended and in accordance with ATP's The parties shall be in compliance with policies and procedures applicable to Project Connect as established by the Contract with the Voters, and the governing bodies of the parties.

**Section 4.08 Effect on Other Agreements.** Neither Party shall be justified or otherwise permitted, by virtue of an Event of Default of the other Party under this Interlocal Agreement, to withhold performance, or suspend performance of its obligations or responsibilities under any other agreement between the Parties, including without limitation, the Joint Powers Agreement.

**Section 4.09 No Waiver of Sovereign Immunity.** Neither Party waives or releases its rights and privileges, if any, it may have in any proceeding before any court or tribunal in any jurisdiction to assert the affirmative defense of sovereign immunity based upon their status as a governmental entity with respect to the adjudication of any claim arising or relating to this Agreement, including but limited to any breach of this Agreement.

**Section 4.10 Waiver of Attorneys' Fees.** The Parties do knowingly and intentionally waive their rights to attorney's fees under §271.153, Texas Local Government Code, in any administrative proceeding, alternative dispute resolution proceeding, or litigation arising out of or connected to this Agreement.

**Section 4.11 Waiver.** Any claim or right arising out of a breach of the Agreement cannot be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is in writing signed by the aggrieved Party. No waiver by either Party of any one or more events of default by the other Party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Agreement, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

**Section 4.12 Binding Effect, Successors and Assigns.** This Agreement shall be binding upon and shall inure to the exclusive benefit of, Parties and their respective successors and assigns. There are no third-party beneficiaries to this Agreement. Neither party may assign any part or all of its rights, interests or obligations under this Agreement without the prior written consent of the other Party, and any assignment



made by either Party without the prior written consent of the other Party shall be null, void and of no force or effect.

**Section 4.13 Headings.** The headings are for convenience and reference only and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Agreement.

**Section 4.14 Amendment.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party and approved by the City Council and Board of Directors of ATP. However, Exhibit A to this Agreement or any budget may be updated, supplemented or amended, without the approval of the City Council and Board of Directors of ATP, upon the written approval of their respective Chief Financial Officers so long as such update, supplement or amendment is not projected to increase the overall Service Payment from ATP to the City for the fiscal year, and the Services are not substantially different than as reflected in Exhibit A.

**Section 4.15 Notices.**

(a) **Requirements.** Except as otherwise specifically noted, any notice required or permitted to be given under this Agreement by one Party to another must be in writing and delivered in person or by email to the applicable address set forth in, or provided pursuant to, this Section 10 for the Party to whom the notice is given.

(b) **The City Address.** The address of the City for all purposes under this Agreement and for all notices:

Annick Beaudet (or her successor)  
Mobility Officer, Project Connect Office  
Email: [Annick.Beaudet@austintexas.gov](mailto:Annick.Beaudet@austintexas.gov)

With additional copy to:

Anne Morgan (or her successor)  
City Attorney  
Austin City Hall  
301 W. 2<sup>nd</sup> Street, 4<sup>th</sup> Floor  
Austin, TX 78701  
Email: [Anne.Morgan@austintexas.gov](mailto:Anne.Morgan@austintexas.gov)

(c) **ATP Address.** The address of the ATP for all purposes under this Agreement and for all notices:

Diane Siler (or her successor)  
Interim Chief Financial Officer  
203 Colorado Street  
Austin, Texas 78701  
Email: [Diane.Siler@atptx.org](mailto:Diane.Siler@atptx.org)

With additional copy to:

Casey Burack (or her successor)  
General Counsel and Chief Administrative Officer

203 Colorado Street  
Austin, Texas 78701  
Email: [Casey.Burack@atptx.org](mailto:Casey.Burack@atptx.org)

- (d) **Change of Address.** Each Party may change the address for notice to it by giving written notice of the change. Any change of address by a Party, including a change in the Party's authorized representative, must be reported to the other Parties within 20 days of the change.

**Section 4.16 Relationship of the Parties (Independent Contractor).** Nothing in this Agreement shall be deemed to create any partnership or agency relationship among the Parties, or confer upon any of the Parties any express, implied or apparent authority to incur any obligation or liability on behalf of the other. No Party shall bind the other Party to any obligation without the express written consent of the other Party.

**Section 4.17 City Employees.** The City may temporarily assign employees to perform work for ATP under this Agreement. At all times during any such temporary assignment, the City employee shall: (a) remain solely an employee of the City and not ATP or its affiliates for all compensation and benefits purposes; (b) remain under the exclusive direction, control and supervision of the City and not ATP; and (c) be subject to the personnel policies, benefits, perquisites, or privileges and other terms and conditions of employment administered by the City regarding its employees generally (including but not limited to payment of salary/compensation, health benefits and workers' compensation coverage), and shall not be entitled to receive any such benefits, perquisites, or privileges from ATP or its affiliates. The City shall accept full and exclusive responsibility for such employees' actions performed in service to ATP under this Agreement and the City shall have the sole right at all times to exercise all authority with respect to the employment (including termination of employment), assignment, and compensation of any City employee temporarily assigned to perform work for ATP under this Agreement. ATP funding for any City staff position is not funded beyond the terms and expiration of this Agreement.

**Section 4.18 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**Section 4.19 Governing Law and Venue.** This Agreement is governed by the laws of the State of Texas and all obligations under this Agreement are performable in Travis County, Texas. Venue for any cause of action arising under the terms of this Agreement shall be exclusively in the district courts of Travis County, Texas.

**Section 4.20 Severability.** 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 shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.

**Section 4.21 Entire Agreement.** This Agreement and Exhibit A shall constitute the entire understanding and agreement among the Parties to it in relation to the subject matter of this Agreement and shall together supersede all previous agreements among the Parties in relation to the same subject matter.

**Section 4.22 Legal Authority.** The persons signing this Agreement on behalf of each Party warrant that they have been duly authorized by their respective entities to sign this Agreement on behalf of the entity and to bind the entity validly and legally to all terms, performances, and provisions in this


Agreement. Each Party warrants that the Party possesses the legal authority to enter into this Agreement and to perform the services that Party has obligated itself to perform under this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first set forth above.

**CITY OF AUSTIN**

By:   
Gina Fiandaca  
Assistant City Manager (Mobility Outcome)

Approved as to form:  
By:   
Leela Fireside  
Assistant City Attorney

**AUSTIN TRANSIT PARTNERSHIP**

By:   
03488E0810024B0...  
Greg Canally  
Interim Executive Director

Approved as to form:  
By:   
DFB513EC0FFB4F5...  
Casey Burack  
General Counsel and Chief Administrative Officer

**EXHIBIT A**  
**SCOPE OF SERVICES**

The City of Austin Project Connect Office (City PCO) will provide the following support and coordination services for Project Connect implementation:

**1. Leadership and Management**

- a. City PCO executive and management staff to provide leadership and management of staff and resources to realize the City's role in the integrated program management approach to Project Connect implementation. Leadership staff will include a Mobility Officer-Project Connect and two Transportation Officers to serve as a Deputy Officer and Chief of Staff, as well program area leads;
- b. Coordinate with City Council, Boards and Commissions, and Mayor and Council information exchange;
- c. Prepare Requests for Council Action related to City business needed to implement Project Connect;
- d. Coordinate the City's role in assisting the Program to meet the Program Sequence Plan timelines and other milestones, as referenced in the Joint Powers Agreement;
- e. Monitor the Joint Powers Agreement and assist and/or lead on amendments or other actions related to the document and any other supplemental agreements.
- f. Assist with ATP Board business, Technical Advisory Committees and Community Advisory Committee as needed.
- g. Assist with planning participatory processes, public information, and community engagement.
- h. Process Public Information Requests for Project Connect submitted to the City.
- i. Prepare annual support services budget in coordination with Austin Transit Partnership staff;
- j. PCO to act as a single point of contact to assist Austin Transit Partnership staff with items needed from the City including, but not limited to, coordination of meetings with staff and policy makers, gathering and/or producing technical information and data.
- k. Work with the appropriate City staff to perform the responsibilities identified in Section 5.2.1.2 of the Joint Powers Agreement.
- l. Procure and manage consultant services as needed to support City-related planning, analyses, and technical review.

**2. Infrastructure and Traffic Operations Coordination**

- a. Coordinate project design, development and review with City departments as applicable and will include funding positions to reside in departments as necessary.
- b. Coordinate with the Austin Transportation Department to minimize conflicts with the Project(s) in relation to transportation operations and design; policy, regulation, process, and rules review and development, for design phase and construction phase;
- c. Assist with coordinating between City utilities and ATP to streamline review of utility criteria, relocations, upgrades and replacements and assist with production of documents and materials to memorialize agreements (including, but not limited to a Utilities Rules of Practice document and any City Code and/or criteria amendments needed;

**3. Environmental and Planning Coordination**

- a. Coordinate the City's role in the National Environmental Protection Act, Record of Decision, Full Funding Grant Agreement, and other federal processes for multiple program projects.

- b. Coordinate the City's role in equity related analysis, planning and programming;
- c. Assist ATP in ensuring that it is coordinating with the appropriate City staff in regard to equitable transit-oriented development planning and coordination;
- d. Coordinate City's role in meeting design milestones per ATP established and communicated deadlines.

4. Permitting Assistance

- a. PCO support to deliver Project Connect System Plan and Sequence Plan as per Contract with the Voters:
  - i. Coordinate with staff for streamlining of site inspections;
  - ii. Coordinate with staff for streamlining permitting;
  - iii. Coordinate with staff for Right of Way permits;
  - iv. Coordinate with staff for amendments to City code, criteria and/or administrative processes needed to realize Project Connect implementation;
- b. Assist in review of the City's applicable fees and processes to streamline review and minimize fees to the extent permissible by law;
- c. Advise and coordinate with ATP and CapMetro staff on current development applications from the perspective of Project Connect needs on behalf of the tri-party partnership (this includes but is not limited to rezoning and zoning, subdivision, site plan, building permits, variances).
- d. Coordinate with the City's real estate staff to assist with real estate acquisition.

5. Other Support

- a. Professional related travel, training, licenses and certifications and employee development opportunities that enhance City Project Connect Office staff's ability to perform support functions.