

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN AUSTIN TRANSIT PARTNERSHIP LOCAL GOVERNMENT CORPORATION
AND CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY
To
FUND CERTAIN CAPMETRO COMPONENTS OF PROJECT CONNECT
THROUGH FISCAL YEAR 2031**

This interlocal cooperation agreement (this "**Agreement**") is dated and entered into as of October 1, 2025 (the "**Effective Date**"), pursuant to Chapter 791 of the Texas Government Code, between **AUSTIN TRANSIT PARTNERSHIP LOCAL GOVERNMENT CORPORATION** ("**ATP**"), a public nonprofit local government corporation formed pursuant to Chapter 431 of the Texas Transportation Code, and **CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY** ("**CapMetro**"), a transportation authority and political subdivision of the State of Texas organized and existing under Chapter 451 of the Texas Transportation Code. ATP and CapMetro are referred to herein individually as a "**Party**" and collectively as the "**Parties**".

Background:

The Joint Powers Agreement made by CapMetro, the City of Austin (the "City"), and ATP effective as of December 17, 2021, and supplemented and amended in 2023 and 2024 respectively (the "**Joint Powers Agreement**"), establishes certain roles and responsibilities for implementation of the Project Connect System Plan previously approved by CapMetro and the City and amended by the Austin Light Rail Implementation Plan. The Joint Powers Agreement provides in part that CapMetro shall be responsible for the financing, design, engineering, construction, and implementation of certain components of the Project Connect System Plan, which are defined in the Joint Powers Agreement and referred to in this Agreement as the "**CapMetro Components**." The Joint Powers Agreement further provides that the Parties shall work together to ensure long-term planning for funding commitments or obligations of CapMetro that are payable or reimbursable from ATP funds.

The Parties intend through this Agreement to establish terms and conditions under which ATP will appropriate funds and provide reimbursement for capital expenses incurred by CapMetro through FY 2031 for the two CapMetro Components projects described in **Exhibit A**: (i) the CapMetro Rapid 800 Pleasant Valley and 837 Expo Line end of line park and rides, including electrification, located at the Travis County Expo Center and Goodnight Ranch; and (ii) the South Base Demand Response facility located at 5315 E. Ben White Blvd (each a "**Project**," and collectively the "**Projects**").

ACCORDINGLY, in consideration of the mutual covenants and agreements set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confirmed, ATP and CapMetro agree to the following:

Article 1

General Terms; Roles and Responsibilities; Purpose and Scope

Section 1.1 Defined Terms. Capitalized terms used in this Agreement and not otherwise defined have the meaning given in the Joint Powers Agreement.

Section 1.2 Purpose and Scope of This Agreement.

- (a) The purpose and scope of this Agreement is to establish the terms and conditions for the joint capital funding of the Projects through FY 2031, as described in this Agreement.
- (b) This Agreement does not address: (i) the Operating Costs of the CapMetro Components, (ii) capital costs for CapMetro Components not addressed in this Agreement, or (iii) the Austin Light Rail component of Project Connect.

Section 1.3 Collaboration and Communication Between the Parties. CapMetro and ATP agree to:

(a) share financial and operating information, data, and reports concerning expenditure of public funds for the CapMetro Components, including information relevant to the expenditure of the property tax revenue as authorized by Proposition A; and (b) support each other's annual budget processes, annual comprehensive financial reports, compliance with applicable federal requirements, and ATP's issuance of debt obligations in accordance with federal securities laws. Both Parties agree that their respective staffs shall work to support any such request for this information, data, and reports.

Section 1.4 Cooperation of the Parties. The Parties acknowledge their respective obligations and commitments in this Agreement and agree to cooperate in good faith to accomplish the completion of the Project(s).

Article 2

Capital Funding Commitments of the Parties

Section 2.1 CapMetro's Contributions.

- (a) CapMetro will complete the Projects listed in **Exhibit A** in accordance with applicable laws and in a professional and workmanlike manner, and in accordance with the applicable annual budget approved by CapMetro's governing body.
- (b) CapMetro will initially fund the design and construction of the Projects, subject to reimbursement by ATP as provided for in this Agreement.
- (c) Through its Funding and Commitment Resolution for Project Connect, CapMetro has committed to allocate funds toward the expenses associated with Project Connect (the "**CapMetro Contribution**"). The Parties agree that, throughout the term of this Agreement, CapMetro will retain and apply the CapMetro Contribution to cover the operating expenses related to the CapMetro Components. Additionally, CapMetro may utilize the CapMetro Contribution for any other expenses associated with the CapMetro Components. The CapMetro Contribution is a commitment of CapMetro's current revenues only, contingent upon appropriation by CapMetro's governing body. ATP agrees not to take any action that is inconsistent with CapMetro's ownership of the CapMetro Contribution and will not assert any ownership interest in the CapMetro Contribution. Furthermore, CapMetro will have no obligation or liability to ATP with respect to the CapMetro Contribution.

Section 2.2 ATP's Funding Contribution. Subject to the terms and conditions set forth in this Agreement, ATP agrees to reimburse CapMetro for capital costs associated with the Projects in a total amount not to exceed **\$148,600,000** through FY2031 (the "**ATP Funding Contribution**") in accordance with the appropriation schedule set forth in **Exhibit "B"** (the "**Appropriation Schedule**"). The terms for the payment of the ATP Funding Contribution are set forth in Article 4 hereof. The ATP Funding Obligation is a commitment of current revenues only, subject to appropriation by ATP's governing body.

Section 2.3 Capital Costs and Contributions; Updates. The CapMetro Chief Financial Officer and the ATP Chief Financial Officer have negotiated in good faith the Project Costs and the Appropriation Schedule applicable through September 30, 2031. Upon approval by the governing bodies of the Parties: (i) the Project Costs and/or the Appropriation Schedule may be periodically updated, supplemented or amended; and (ii) the Project Costs for the Term may be updated, supplemented, or amended. The Chief Financial Officers of CapMetro and ATP shall meet in August and February of each year to review estimated budgets for the following year and to review a mid-year check-in before the next budget cycle starts.

Article 3

Covenants and Obligations of CapMetro

Section 3.1 Use of the ATP Funding Contribution. CapMetro shall use the ATP Funding Contribution solely for purposes of paying for property acquisition necessary for the Projects and the capital costs of designing, constructing, and implementing the Projects (any such use defined as an "**Authorized Use**"), and for no other purpose. Specifically, the ATP Funding Contribution shall not be used to pay operating costs relating to the Projects or any other CapMetro Components. CapMetro shall maintain accurate records relating to the expenditure of the ATP Funding Contribution and shall ensure that no part of the ATP Funding Contribution is misappropriated or otherwise converted for any purpose other than an Authorized Use.

Section 3.2 Performance and Payment for Project Work. CapMetro assumes all responsibility for the procurement, design, permitting, construction, inspection, and completion of the Projects (the "**Project Work**") in a good and workmanlike manner in compliance with all applicable federal, state, and local laws, rules and regulations, and in compliance with this Agreement.

- (a) CapMetro shall not be responsible for any inability to provide the Projects or any delay in doing so to the extent that such inability or delay is the result or failure of ATP to provide, or any delay in providing, the ATP Funding Contribution necessary for CapMetro to deliver the Projects.
- (b) **EXCEPT FOR THE WARRANTIES AND UNDERTAKINGS EXPLICITLY SET FORTH HEREIN, (i) THERE ARE NO WARRANTIES BY CAPMETRO WITH RESPECT TO THE PROJECTS AND (ii) ALL WARRANTIES, STIPULATIONS AND UNDERTAKINGS AND ALL TERMS AND CONDITIONS (INCLUDING ANY IMPLIED BY STATUTE OR OTHERWISE) WITH RESPECT TO THE PROJECTS (WHETHER AS TO MERCHANTABILITY, QUALITY, DESCRIPTION, SATISFACTORY QUALITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE WHERE MADE KNOWN OR NOT, CARE, SKILL OR OTHERWISE) ARE HEREBY EXCLUDED AND WAIVED.**

- (A) CapMetro shall timely pay all contractor- submitted invoices for the Project Work based on work completed in accordance with the approved plans and specifications in accordance with the Tex. Gov't Code Chapter 2251.

Section 3.4 Audit Rights. The representatives of ATP, shall, upon reasonable written notice and during reasonable business hours, have access and the right to audit, examine, or reproduce, all records of CapMetro related to the performance under this Agreement. CapMetro must retain all such records for a period of three (3) years after final payment under this Agreement or until all audit and litigation matters that ATP has brought to the attention of CapMetro are resolved, whichever is longer. The Parties agree that audit rights hereunder shall survive termination of this Agreement.

Section 3.5 Project Reporting. CapMetro shall maintain appropriate records relating to the expenditure of the ATP Funding Contribution in accordance with applicable Cap Metro Board of Director financial policies. Beginning with the 2025-26 fiscal year, CapMetro shall provide ATP's Chief Financial Officer with a quarterly report on each Project as of the end of that quarter. The quarterly report shall be provided no later than 30 days following the end of the quarter on which it reports. Each quarterly report shall include the following information: (i) a narrative description of the status of the Project; (ii) any change in CapMetro's cost estimate for the Project; (iii) any change in CapMetro's schedule for completing the Project; (iv) the percentage of completion of the Project; (v) a list of any new contracts for goods or services for the Project entered into by CapMetro during the quarter with a contract amount in excess of \$500,000.00; and (vi) a discussion of any material risk identified by CapMetro to completing the Project on time and within budget. Provided, however, that any failure by CapMetro to provide the information as required in this Section shall not constitute a default or breach under Section 6.4 of this Agreement, and shall not constitute grounds to suspend contributions to CapMetro under Section 6.4.c.i. of this Agreement, if cured by CapMetro within 30 days after receiving notice from ATP of any such failure.

Section 3.6 CapMetro General Responsibilities. Except as hereinafter provided, CapMetro shall undertake all actions required for the procurement, design, construction, and execution of the Projects, including all required real property acquisitions; utility relocations and adjustments; the design, permitting, construction, equipping, and commissioning of any facilities. CapMetro shall provide a project manager for the Projects who will be responsible for the delivery of the project, including managing all aspects of the Projects and supervising and managing consultants, contractors, and vendors providing services to CapMetro for the completion of the Projects. CapMetro shall comply with applicable federal, state, and City of Austin requirements (as determined by CapMetro) for the Projects. CapMetro shall be fully responsible for, as applicable:

- (a) conducting all real property acquisitions necessary for the Projects, whether through donation, negotiation, or condemnation,
- (b) ensuring that all environmental permits, issues, and commitments are addressed in its Projects design,
- (c) addressing field changes for potential environmental impacts and obtaining any necessary environmental permits, issues, and commitments for such field changes,
- (d) selection of consultants, construction managers, engineers, architects, surveyors, testing engineers and laboratories, inspecting engineers, geotechnical engineers and scientists,

suppliers, contractors, subcontractors, vendors, insurers, and other parties retained in connection with the design or construction of the Projects,

- (e) commencement, sequencing and timing of design and construction activities and other work,
- (f) design of the Projects and all features thereof,
- (g) ensuring that all construction plans are signed, sealed and dated by a professional engineer duly licensed and registered by the Texas Board of Professional Engineers and Land Surveyors to engage in the practice of engineering in the State of Texas,
- (h) securing construction oversight and inspection, as well as materials testing, and for safety, safety inspections and any related certifications required by the Federal Transit Administration (FTA),
- (i) quality control and quality assurance and the acceptance or rejection of work or other deliverables,
- (j) investigations and risk assessments, site safety and security,
- (k) negotiation, bidding, letting and management of contracts for the Projects,
- (l) resolution of any disputes under such contracts,
- (m) testing and commissioning of the Projects prior to commencement of revenue service,
- (n) public information requests and communications relating to the Projects,
- (o) complying with applicable City of Austin utility requirements,
- (p) operational readiness of the Projects, and
- (q) preparing and submitting reports to the extent required by the FTA and Projects Management Plan.

Section 3.7 Required Program Compliance. CapMetro hereby represents and warrants to ATP, and further covenants that all contracts entered into by CapMetro for the planning, development, design, construction, and equipping of the Projects comply with, and shall in the future comply with, the following:

- (a) **Better Builder Program.** For all contracts for the performance of construction services, contractors shall comply with the Better Builder Program or similar program as required for Project Connect for all construction workers, including City of Austin hiring goals as allowed by federal law and regulations, completion of OSHA ten-hour training, workers' compensation, on-site monitoring independent of construction companies and their affiliates, and in compliance with all state, federal, and local laws.
- (b) **Disadvantaged Business Enterprise (DBE) Program.** CapMetro shall include the Disadvantaged Business Enterprise Program (the "**DBE Program**") requirements in all

procurement solicitations for future contracts for the implementation of Project Connect, and shall ensure that contractors comply with the terms and conditions of the DBE Program in accordance with 49 CFR Part 26, as they may be amended from time to time, which are incorporated herein by this reference.

- (c) **Living Wage Program.** For all contracts for the implementation of Project Connect, contractors shall comply with the City of Austin Living Wage program in effect as of June 1, 2023 or Davis-Bacon, whichever is higher, for wages and benefits for workers employed on the Project(s).

Article 4

Payment of ATP's Funding Contribution

Section 4.1 General. ATP agrees to pay or reimburse CapMetro for the Projects, subject to and in accordance with the terms and conditions in this Agreement.

Section 4.2 Concurrent Appropriation. Subject to approval by its governing body, ATP will make a budget appropriation during its 2025-26 fiscal year as detailed in **Exhibit B**. For fiscal years after 2025-26, ATP will make an annual budget appropriation in the amount of the appropriation allocated for the applicable fiscal year as set forth in **Exhibit B** to this Agreement.

Section 4.3 Subordination. CapMetro acknowledges and agrees that notwithstanding any present or future appropriation of funds by ATP to fulfill its payment obligations hereunder, all payment obligations of ATP to CapMetro under this Agreement shall constitute unsecured contractual obligations of ATP payable from current funds, 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. CapMetro 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, subject to the requirements of this Agreement. 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.

Section 4.4 Invoicing. Within thirty (30) days after the Effective Date of this Agreement, CapMetro shall submit to ATP an invoice including all reimbursable expenditures for each of the Projects that were incurred by CapMetro prior to the Effective Date. Thereafter, by the 15th of each month, CapMetro shall submit to ATP an invoice including all reimbursable expenditures for each of the Projects and including ACH or wiring instructions (full Routing Number and last four digits of the Account Number). Along with the invoice, CapMetro shall provide ATP supporting documentation that provides the following information for each transaction covered by the invoice:

- (i) Payee
- (ii) Invoice number or journal ledger number
- (iii) Date of payment

- (iv) Period covered by payment
- (v) Description of service provided
- (vi) Amount of payment
- (vii) Related Project, if applicable

Section 4.5 Invoice Corrections. In the event of an incorrect invoice for any reason, the adjustment may be applied to the next invoice. CapMetro may, but is not expected nor required to, issue a supplemental invoice for the adjustment amount.

Section 4.6 Processing Payments. ATP will process payments from within thirty (30) days of receipt of a complete and accurate invoice in accordance with Chapter 2251 of the Texas Government Code (the "**Prompt Payment Act**").

Section 4.7 Payment Method. ATP shall make payments using electronic funds transfer.

Article 5

Additional Agreements of the Parties

Section 5.1 Insurance Requirements. Before any part of the services is commenced, CapMetro and its contractors, consultants, and vendors providing services for the Project(s) shall, at their sole cost, cause to be issued and maintained, insurance policies providing for not less than the minimum levels of insurance coverage set forth below:

(a) **Commercial General Liability (CGL)**

Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability Insurance

Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

(b) **Workers' Compensation**

Workers' Compensation Insurance providing statutory limits in accordance with the Texas Workers' Compensation Act and/or other State or Federal law as may be applicable to the work being performed under this contract. Employer Liability Insurance with minimum limits of One Million Dollars and No/100 Dollars (\$1,000,000).

- (c) **Professional Liability (Errors and Omissions)** Insurance appropriate to the Contractor's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

Section 5.2 Insurance Certificates. CapMetro shall be responsible for maintaining copies of all insurance certificates and surety bonds required from its consultants, contractors and vendors, for the time period required pursuant to standard FTA grant requirements.

Article 6

Term and Termination

Section 6.1 Term. The term of this Agreement is from the Effective Date through the later of September 30, 2031, or until ATP has reimbursed all Project Costs that were incurred under this Agreement through September 30, 2031. The term may be extended upon approval of the governing bodies of the Parties. The Parties commit to working together in good faith to extend this agreement or enter into separate agreements, as necessary, to ensure continued delivery and funding of the CapMetro Components beyond the term of this Agreement.

Section 6.2 Termination for Cause. Either Party may terminate this Agreement in whole or in part for cause if the other Party has committed an Event of Default that has not been cured within the required Cure Period. In the event of termination for cause, ATP shall contribute compensation for undisputed Project invoices rendered and amounts owed.

Section 6.3 Termination by Agreement. If the Parties mutually determine that it is in the best interest of both Parties, the Parties may mutually agree, in a writing signed by both Parties, to terminate this Agreement prior to the expiration of the Term for any cause or no cause whatsoever either immediately or within an agreed timeframe.

Section 6.4 Event of Default. A Party shall not be in breach or default under the terms of this Agreement for any act, omission, or failure to perform hereunder except as expressly provided in this Section.

- (a) Prior to declaring an Event of Default, a Party must first deliver written notice to the other Party's Chief Financial Officer and General Counsel, specifying the events and circumstances regarding such alleged breach and specifying any action which the notifying party desires the receiving Party to take to remedy such alleged breach ("**Default Advisory Notice**"). The receiving Party shall work in good faith with the notifying Party to resolve the matter within a reasonable amount of time but in any event no less than sixty (60) days.
- (b) If after delivering a Default Advisory Notice, the alleged breach is not resolved to the reasonable satisfaction of the notifying Party within sixty (60) days, then the notifying Party may declare an Event of Default against the receiving Party by delivering written notice thereof to the defaulting Party (a "**Default Notice**"); provided, however, that no Party shall be authorized to deliver a Default Notice unless the governing body of the notifying Party has taken official action declaring the defaulting Party to be in material breach under the terms of this Agreement in an open meeting (an "**Event of Default**") and directing staff to deliver such Default Notice to the defaulting Party. After receiving a

Default Notice, the defaulting Party shall have an additional sixty (60) days to cure such Event of Default or such additional amount time as may be reasonably necessary to cure such Event of Default, but only so long as such defaulting Party is diligently seeking to cure such Event of Default the ("**Cure Period**").

- (c) **Remedies.** After providing a Default Advisory Notice and Default Notice and to the extent the material breach is not resolved during the Cure Period in accordance with this Article 6:
- i. CapMetro agrees that ATP may suspend contributions under this Agreement if CapMetro has materially breached, failed to comply with, or violated the terms of this Agreement. ATP's rights under this Section 6.4(c) are without prejudice to its right to terminate and other remedies under this Agreement and at law.
 - ii. CapMetro reserves its right to pursue ATP for failure to contribute under this Agreement if ATP has materially breached, failed to comply with, or violated the terms of this Agreement in addition to any other remedies under this Agreement and at law. CapMetro's rights under this Section 6.4(c) shall include, to the extent allowed by law, the right to interest on any amounts owed, up to 18% annually (or the maximum amount allowed by law).

Section 6.5 Material Breach. The Parties agree that a breach, failure, or violation by CapMetro with respect to this Agreement which cannot be cured and jeopardizes the delivery of either of the Projects under this Agreement will be deemed a material breach for the purposes of Article 6 of this Agreement. Third-party delays such as with City of Austin zoning, platting and permitting, eminent domain process, and Chapter 26 processes shall not be considered a material breach for purposes of Article 6 of this Agreement. CapMetro shall provide immediate written notice to ATP: (a) if any change in circumstances or event adversely affects CapMetro's ability to carry out its obligations under this Agreement or any related agreement.

Article 7

General Provisions

Section 7.1 Obligations Subject to Appropriation. Any payment obligations of either Party under this Agreement may be subject to appropriation from year to year in accordance with State law. The Parties further acknowledge and agree, notwithstanding anything else in this Agreement to the contrary, that ATP's obligation with respect to the Project(s) reimbursement compensation 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. ATP must make the described payments from current revenues available to ATP. Neither Party will be entitled to a refund of amounts previously contributed or owed in the event of a termination of this Agreement for lack of funding.

Section 7.2 Compliance with Prevailing Law.

- (a) 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.
- (b) CapMetro will cause its consultants, contractors and vendors performing Project Work to comply with all federal state and local laws, ordinances, statutes and regulations applicable to the Project and the services performed pursuant to this Agreement and in effect at the time such services are performed.

Section 7.3 No Agency Relationship. Nothing in this Agreement shall authorize the officers, representatives, agents or employees of either Party to bind the other Party or to make any commitments or representations on behalf of the other Party.

Section 7.4 Governmental Purpose Statement. ATP is entering into this Agreement in its capacity as a public, nonprofit local government corporation organized by the City and CapMetro to accomplish governmental purposes of the City and CapMetro pursuant to Chapter 431 of the Texas Transportation Code, as amended and in accordance with ATP's articles of incorporation. CapMetro is entering into this Agreement in its capacity as a transportation authority and political subdivision for the State of Texas organized and existing under Chapter 451 of the Texas Transportation Code, as amended.

Section 7.5 Records Retention. CapMetro shall manage all files pertaining to the Projects regardless of the format in accordance with its Records Retention Schedule and applicable FTA requirements. At a minimum, CapMetro shall maintain records required under the terms of this Agreement in accordance with 49 CFR 18.36(i), which requires project-related documents to be retained for 3 years following project completion.

Section 7.6 Ownership of Work Product. CapMetro contracted with third-party vendors for the Projects and ATP will jointly fund a portion of the Project through the invoicing process outlined in this Agreement. Ownership of the CapMetro Component assets will reside with CapMetro; and CapMetro will operate and maintain the Projects in accordance with this Agreement or any other subsequent agreement between the Parties. Such ownership does not create a gift of public funds because this Agreement is entered into in furtherance of, and for the fulfillment of, the purpose for which ATP was created, namely, to deliver Project Connect.

Section 7.7 Limitation on Liability. To the extent allowed by Texas law, the Parties agree that each Party is responsible for its own proportionate share of any liability for the negligent or grossly 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. **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 PROJECT COSTS 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 7.8 Effect on Other Agreements. Subject to the provisions of Section 7.14, neither Party shall be justified or otherwise permitted, by virtue of an Event of Default of the other Party hereunder,

to withhold performance, or suspend performance of its obligations or responsibilities under this Agreement or any other agreement between the Parties, including without limitation, the Joint Powers Agreement.

Section 7.9 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 7.10 Resolution of Disputes. Upon request of either Party, an informal attempt shall be made 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.

- a. The mediation shall take place in Austin, Travis County, 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.
- b. Nothing in this Section 7.10 shall limit either Party's right to terminate this Agreement for cause; provided, however, this Section 7.10 shall survive termination of this Agreement.

Section 7.11 Waiver of Attorneys' Fees. The Parties do hereby 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 7.12 Notices. Any notice, demand, statement, request or consent made hereunder shall be in writing and may be personally served or sent by mail or courier service and shall be deemed to have been given when delivered by mail or by courier service to the addresses set forth below. Notices delivered by email to the Parties' designated representatives shall also be deemed to have been delivered only if receipt is expressly and personally acknowledged in writing by the recipient.

- a. **ATP Address.** The address of ATP for all purposes under this Agreement and for all notices:

Bryan Rivera (or successor)
Chief Financial Officer
203 Colorado Street
Austin, Texas 78701
Email: bryan.rivera@atptx.org

With additional copy to:

Lee Crawford (or successor)
General Counsel
203 Colorado Street
Austin, Texas 78701
Email: lee.crawford@atptx.org

- b. **CapMetro Address.** The address of CapMetro for all purposes under this Agreement and for all notices:

Kevin Conlan (or successor)
Interim Executive Vice President, Chief Financial Officer
3100 E. 5th Street
Austin, Texas 78702
Email: Kevin.Conlan@capmetro.org

With additional copy to:

Brad Bowman (or successor)
Chief Counsel
3100 E. 5th Street
Austin, Texas 78702
Email: brad.bowman@capmetro.org

- c. **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 twenty (20) days of the change.

Section 7.13 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 7.14 Excusable Delay/Force Majeure. Neither Party shall be in default because of any failure to perform under the terms of this Agreement if the failure arises from causes beyond the control and without the fault of the Party. Examples of these causes are: (1) acts of God or of the public enemy, (2) acts of the state or federal government in either their sovereign or contractual capacity, (3) fires, (4)

floods and/or hurricanes, (5) epidemics and/or pandemics, (6) quarantine restrictions, (7) unforeseen strikes or labor shortages, (8) freight embargoes, (9) unusually severe weather, (10) court orders (*i.e.*, those causes generally recognized under Texas law as constituting unforeseeable and impossible conditions), (11) supply chain disruptions, (12) extended and unusual delays caused by third parties, such as the City of Austin regarding permit approvals or right-of-way agreements, and (13) shortages of materials or equipment (“**Excusable Delay/Force Majeure Event**”). Each Party will endeavor to notify the other Party of an Excusable Delay/Force Majeure Event within 10 calendar days of the occurrence of the event. The Parties shall continue to make Semi-annual contributions if there is an Excusable Delay/ Force Majeure Event and CapMetro is able to continue performing.

Section 7.15 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 federal and district courts of Travis County, Texas.

Section 7.16 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, if applicable. 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 or against applicable law shall be null, void and of no force or effect.

Section 7.17 Severability. If any agreement, condition, covenant or term hereof or any application hereof should be held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, all agreements, conditions, covenants and terms hereof and all applications thereof not held invalid, void or unenforceable shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Section 7.18 Survival. The rights and obligations of the Parties under this Agreement will survive the termination of this Agreement to the extent necessary to ensure ATP’s reimbursement of accrued Project Costs in accordance with Section 2.3 above.

Section 7.19 Entire Agreement; Amendment; Controlling Language. This Agreement represents the final, entire agreement among the Parties and supersedes any and all prior commitments, agreements, representations and understandings, whether written or oral, relating to the subject matter hereof and thereof and may not be contradicted or varied by evidence of prior, contemporaneous or subsequent oral agreements or discussions of the Parties hereto. There are no unwritten oral agreements among the parties hereto. The provisions hereof may be amended or waived only by an instrument in writing signed by the Parties. To the extent that any provisions of this Agreement contradict or are not in alignment with the Joint Powers Agreement or the Contract with Voters, the language of the Joint Powers Agreement and ultimately the Contract with Voters controls.

Section 7.20 Counterparts; e-Signatures. This Agreement may be signed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any Party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of

the Parties hereto. Any signature and acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages. The Parties agree that digital or facsimile signatures shall be given the same legal effect as original signatures, and the Parties hereby agree to accept delivery of digital signatures by e-mail in "pdf" form, or via DocuSign, Adobe Sign, or any similar means of digital delivery.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized executives and effective as of the date first set forth above.

**CAPITAL METROPOLITAN
TRANSPORTATION AUTHORITY**

AUSTIN TRANSIT PARTNERSHIP

By: _____
Dottie Watkins
President and Chief Executive Officer

By: _____
Greg Canally
Executive Director

Date: _____, 2025

Date: _____, 2025

DRAFT

EXHIBIT A
FUNDED PROJECTS THROUGH FY 2031

Expo Center and Pleasant Valley End of Line Charging and Park and Ride Facility

- **ATP Funding Contribution through FY2031: \$37,600,000**
- **Anticipated Completion Date:** Summer 2026
- **Responsible Department:** Capital Construction Engineering and Design (CCED)
- **Description of Project:** CapMetro is designing and constructing three Park and Ride facilities to serve the termini of CapMetro’s federally funded Bus Rapid Transit lines: Expo Center Park & Ride, Goodnight Ranch Park & Ride, and Delco Center Park & Ride. The projects included as reimbursable under this agreement are the Expo Center Park & Ride and Goodnight Ranch Park & Ride along with the end of line charging improvements.

The Expo Center Park & Ride is designed to enhance public transportation accessibility and connectivity in Central Texas. Strategically located near the Travis County Expo Center, this facility will provide commuters with a convenient and efficient transit hub, alleviating congestion and improving mobility in the region. Project features & amenities include but are not limited to:

- **Capacity & Parking:** The facility includes bus bays, designated pick-up/drop-off zones, and ample parking for commuters.
- **Electric Bus Infrastructure:** The site is equipped with End-of-Line (EOL) charging stations to support CapMetro’s growing fleet of electric buses, promoting sustainability.
- **Enhanced Pedestrian Access:** ADA-compliant pathways and covered waiting areas ensure a safe and comfortable experience for riders.
- **Traffic & Connectivity Improvements:** Infrastructure upgrades, including new driveways, traffic signals, and pedestrian crossings, will streamline entry and exit for transit users.
- **Sustainability Initiatives:** Green infrastructure elements, such as stormwater management systems and energy-efficient lighting, are incorporated into the design.

The Goodnight Ranch Park & Ride is designed to enhance transit accessibility, support the growing Goodnight Ranch community, and provide greater transit connections to serve the Central Texas community. The project is a key part of CapMetro’s expansion plans to provide sustainable, reliable, and efficient transit options for residents and commuters in the region. Project features include but are not limited to:

- **Bus Transit Hub:** Serves as a key connection point for CapMetro bus routes, improving service coverage in the southeast region of CapMetro’s service area.
- **Electric Bus Charging Infrastructure:** Includes end-of-line (EOL) charging for CapMetro’s zero-emission electric bus fleet, supporting the agency’s sustainability goals.
- **Parking Facilities:** Offers dedicated parking for commuters using public transit.

- **Bike and Pedestrian Connectivity:** Features bike racks, pedestrian walkways, and ADA-compliant facilities for multimodal access.
- **Sustainable Design Elements:** Incorporates green infrastructure, energy-efficient lighting, and environmentally friendly construction materials.

South Base Demand Response Facility (Support Facility)

- **ATP Funding Contribution through FY 2031: \$111,000,000**
- **Anticipated Completion Date:** Fall 2031
- **Responsible Department:** CCED
- **Description of Project:** Located at 5315 E. Ben White Blvd, CapMetro acquired ~11 acres of land in southeast Austin to be the home for the new South Demand Response operations and maintenance facility. The existing commercial buildings will be demolished to make way for the new project, which includes site utility upgrades as needed. The project includes a bus yard for transit vehicles, an administrative building, a maintenance garage, a vehicle service and fueling building, training functions for operators & mechanics. Due to the constrained site, a parking deck will be provided for employee parking. Sustainability features will be incorporated.
- **Note:** The total cost of this project is estimated to be \$185,795,947.00, which includes an FTA-required contingency of 40%.

EXHIBIT B
APPROPRIATION SCHEDULE THROUGH FY 2031

Projects	FY 26	FY 27	FY 28	FY 29	FY 30	FY 31	Total
Park and Ride	\$37,600,000	\$0	\$0	\$0	\$0	\$0	37,600,000
South Demand Response Center	13,500,000	\$0	\$0	30,000,000	30,000,000	37,500,000	111,000,000

***Amounts include costs incurred in prior fiscal years, to be reimbursed in the fiscal year indicated in this Schedule.**

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