

**Amendment to the Interlocal Agreements
for Build Greater Austin and Build Central Texas Program Projects
between Capital Metropolitan Transportation Authority
and City of Austin**

This Amendment (the “Agreement”) to those certain Interlocal Agreements, dated April 20, 1994 (“1994 Agreement”) and August 12, 2005 (“2005 Agreement”), for the “Build Greater Austin” and “Build Central Texas” programs is made by and between the City of Austin, a Texas home-rule municipal corporation (“City”) and Capital Metropolitan Transportation Authority, a transportation authority organized under Chapter 451 of the Texas Transportation Code (“Capital Metro”), collectively (“the Parties”).

I. RECITALS

The Parties entered into the above-referenced Interlocal Agreements regarding the “Build Greater Austin” and “Build Central Texas” programs, and now desire to amend the 1994 and 2005 Agreements as more fully set forth below in this Amendment.

The Parties have heretofore agreed that certain projects (the “Approved Projects”) identified in the 1994 Agreement, the 2005 Agreement, and/or resolutions of the Capital Metro Board related to the Build Greater Austin and Build Central Texas Programs (“Approval Resolutions”) constitute projects for which the City of Austin would be reimbursed by Capital Metro, as more particularly described in the 1994 Agreement, the 2005 Agreement, and in the Approval Resolutions. The Parties now desire to amend the 1994 Agreement and the 2005 Agreement to provide a method by which the Approved Projects may be modified by addition or removal of projects without specific approval of the Capital Metro Board, provided certain conditions are met and certification provided by Capital Metro staff.

Paragraphs III(I) and (N) of the 2005 Agreement provide that the 1994 Agreement is terminated except that claims or disputes under the 1994 Agreement, and any contractual claims based on the 1994 Agreement, which accrued during the term of that agreement, continue to be governed by the terms of the 1994 Agreement. The Parties now desire to amend the 1994 Agreement and 2005 Agreement to allow Approved Projects initially funded by the City of Austin under the 1994 Agreement and projects added under the terms of Paragraph II.(C) of this Agreement (“Added Projects”) to be reimbursed notwithstanding such projects may not be claims or disputes arising under the 1994 Agreement, or contractual claims based on the 1994 Agreement and accrued during its term.

II. AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, Capital Metro and the City agree as follows:

- A. The Parties agree that Approved Projects initially funded by the City of Austin under the 1994 Agreement and Added Projects shall constitute projects for which Capital Metro may provide reimbursement under the 1994 Agreement notwithstanding that such projects may not be claims or disputes arising under the 1994 Agreement, or contractual claims based on the 1994 Agreement that accrued during its term; Capital Metro will provide reimbursement under the 2005 Agreement and the Approval Resolutions for the Approved Projects (including Added Projects) that are not reimbursed under the 1994 Agreement.
- B. Reimbursements under the 1994 Agreement, the 2005 Agreement, or Approval Resolutions shall be in accordance with the payment method set forth in Exhibit B of the Interlocal Agreement for Regional Mobility and Transportation Projects between Capital Metropolitan Transportation Authority and City of Austin dated May 23, 2003.
- C. In the manner authorized herein, the City may add new transportation projects to, or remove transportation projects from the Approved Projects. To modify the Approved Projects by adding or removing projects, the City will provide written notice to Capital Metro 45 days prior to any proposed modification to the Approved Projects. So long as such modification does not increase Capital Metro's total funding commitment for reimbursement under the terms of the 1994 Agreement, the 2005 Agreement, and the Approval Resolutions, Capital Metro will certify the modification to the Approved Projects within 15 days after receipt of such notice if the modification meets either (1) the project criteria set forth in the 1994 Agreement, or (2) one or more of the following criteria:
1. enhances regional mobility;
 2. supports public transit;
 3. provides leverage for federal or private funds;
 4. adds to an existing program; and
 5. expedites a critical mobility project.

The certification by Capital Metro shall not be unreasonably withheld.

- D. Reimbursements provided by Capital Metro under the 1994 Agreement, the 2005 Agreement, and the Approval Resolutions shall not exceed the following amounts in the years indicated:

Fy 2010	\$1,000,000
Fy 2011	1,500,000
Fy 2012	1,800,000
Fy 2013	1,800,000
Fy 2014	1,200,000.

Any remaining amounts would be paid in fiscal years subsequent to FY 2014.

Should the total monthly invoices submitted by the City in any Fiscal Year be less than the not-to-exceed limit listed above for that year, the unused amount shall be combined with similarly unused amounts from other listed years, and the cumulative unused amount shall be used to supplement payment(s) in any Fiscal Year(s) when the monthly City invoices exceed the amount of the not-to-exceed limit.

In no event shall the total amount reimbursed by Capital Metro under the 1994 Agreement, the 2005 Agreement, and the Approval Resolutions exceed in aggregate the total amount to be reimbursed under the terms of the 1994 Agreement, the 2005 Agreement, and the Approval Resolutions.

E. Payments made by either of the Parties under this Agreement shall be made from current revenues available to the paying party.

F. Except as provided in this Amendment, the 1994 and 2005 Agreements shall remain unchanged.

G. This Amendment will be effective upon due execution by the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized officers.

Capital Metropolitan Transportation Authority

By: _____ Dated: _____, 2010.

Printed Name: _____

Title: _____

City of Austin

By: _____ Dated: _____, 2010.

Printed Name: _____

Title: _____