

## A G E N D A



Thursday, April 22, 2010

**Public Works****Item No. 22****RECOMMENDATION FOR COUNCIL ACTION**

**Subject:** Authorize negotiation and execution of an amendment to the interlocal agreements with Capital Metropolitan Transportation Authority ("Capital Metro") relating to regional mobility and transportation projects to modify the manner by which Capital Metro will reimburse the City for the construction of transportation projects.

**Amount and Source of Funding:** See attached fiscal analysis.

**Fiscal Note:** See attached fiscal analysis.

**For More Information:** Robert Goode, Assistant City Manager, 322-6157; Leslie Browder, Chief Financial Officer, 974-2283; Howard Lazarus, Director, Public Works Department, 974-2411;

**Prior Council Action:** April 19, 2001 - Council authorized negotiation and execution of an interlocal agreement (ILA) with Capital Metro to provide funding for transportation projects to be completed by the City with a portion of the funds from Capital Metro's sales tax collections.

March 6, 2003 - Council approved execution of a revised ILA that incorporated agreed upon administrative language not included in the original ILA and new provisions regarding the Saltillo redevelopment project and planning services.

In June 2001 and May 2003, the City and Capital Metro executed interlocal agreements relating to regional mobility and transportation projects. Under the terms of the agreements, Capital Metro agreed to pay the City a quarter cent of Capital Metro's one-cent sales tax from Fiscal Years 2001-2004 in exchange for the City constructing transportation projects agreed to by the parties (known as the "Quarter Cent Program"). The quarter cent for the four designated fiscal years amounts to approximately \$110 million dollars. As the City constructs transportation projects, it provides monthly invoices to Capital Metro and Capital Metro has paid approximately \$59 million thus far for these services.

In January 2009, Capital Metro ceased payment of the monthly invoices provided by the City under the agreements. Unpaid monthly invoices now total approximately \$7 million dollars. Capital Metro has cited a reduction in sales tax revenue as their reason for not paying the invoices. The purpose of this proposed amendment is to structure a new payment method to help Capital Metro make good on its remaining commitment of \$51 million under the Quarter Cent Program. This remaining commitment includes the \$7 million mentioned above that is currently owed but has not been paid. In addition to making good on its commitment to the City, Capital Metro has indicated that this payment plan will allow them to maintain core transit services, while helping them to address concerns expressed by their external auditor about their financial sustainability into the future.

Under the terms of this amendment, a certain amount of funds from Capital Metro's sales tax revenue will be designated each year to meet Capital Metro's annual expenses, including their estimated ongoing capital needs. The City and Capital Metro will share in any sales tax revenue that exceeds the amount designated for Capital Metro's annual expenses. The amendment establishes the initial baseline amount at \$134.1 million, which is equal to Capital Metro's budgeted sales tax revenue in the current fiscal year. Under the amendment, Capital Metro's payment of the remaining commitment of approximately \$51

million under the Quarter Cent program is projected to be completed around 2019. Capital Metro projects that its sales tax revenue will exceed the budget in the current fiscal year and the first payment to the City is expected to occur in November 2010 under this amendment. The payment to the City will total 35% of the sales tax revenue that exceeds the baseline, with the annual threshold adjusted for estimated inflation of 3.3% each year thereafter, until the remaining commitment is fully paid. Further, if 35% of the excess in any year is greater than the amount the City has invoiced, the remaining portion of the 35% must be set aside in a reserve account to pay future invoices. This will help prevent Capital Metro from spending down its cash before meeting its obligations due to the City.

Because Capital Metro did not anticipate having the ability to reimburse the City as project billings became due and payable, City staff began working on an interim funding plan earlier this fiscal year to help mitigate the immediate impact of Capital Metro's financial situation on the scheduled projects underway and planned under the Quarter Cent Program. This has been a lengthy discussion process with Capital Metro and a vitally important one since the projects that were to be funded by this program were slated to continue the City's focus on improving Austin's transportation system. Austinites have long put transportation among their top priorities and these funds were earmarked for projects that would indeed provide beneficial impacts to the transportation network. The interim funding plan is discussed in detail in the attached fiscal analysis memo.

The Capital Metro Board of Directors has considered and approved this proposed amendment at their special called meeting on April 15, 2010. City staff recommends approval of the proposed amendment. Capital Metro has considerably improved the terms of the amendment since discussions first began given the financial circumstances they are currently experiencing. Capital Metro's initial proposal to the City would not have yielded any repayment to the City until 2014 and only \$3 million was estimated to have been paid during the first five years after execution of the amendment. Under the proposed amendment, the first payment is expected in 2010, with \$14 million estimated to be paid over the first five years. As part of the amendment, Capital Metro has also agreed to a streamlined project review process when the City wishes to amend the designated project list, which will expedite the substitution of projects that occurs from time to time.

In addition to the fiscal analysis, attached to this Recommendation for Council Action is a copy of the proposed amendment. Also attached is a basic "term sheet" that outlines the key provisions of the amendment.