

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF AUSTIN AND
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY
FOR CREATION OF A LOCAL GOVERNMENT CORPORATION**

This Interlocal Agreement ("Agreement") is entered into between the City of Austin, a Texas (the "City"), and Capital Metropolitan Transportation Authority ("Capital Metro"), a transportation authority and political subdivision for the State of Texas organized under Chapter 451 of the Texas Transportation Code, each a "Party" and collectively referred to within this Agreement as the "Parties".

RECITALS

The City and Capital Metro have determined that Austin is unable to meet growing demands for safe, reliable and efficient transportation, and that the lack of a complete transit system results in increased traffic congestion, increased travel time, and limits access to jobs, schools, educational opportunities, hospitals, and healthcare for people in our community;

The City Council and the Capital Metro Board have recognized the benefits of a high capacity transit system and transit-oriented development and determined that implementation of the Project Connect System Plan ("Project Connect") will create an integrated transit system that eases traffic, creates jobs, improves the environment, and better connects people in our community;

The City Council and the Capital Metro Board have recognized that though the Project Connect System Plan will benefit all persons visiting, living, and working in Austin, as well as our local businesses, it is the residents, homeowners, renters, and businesses within the City's taxing jurisdiction that will bear the costs of implementing Project Connect, except for parts contributed through Federal transit programs and other non-tax related funding sources;

To address these growing demands Capital Metro adopted Project Connect by Capital Metro Resolution AI-2020-1273 on June 10, 2020 and the City formally supported Project Connect by City Resolution 20200610-02 on June 10, 2020;

The City and Capital Metro have further determined that Project Connect, which includes \$300 million for transit-supportive anti-displacement strategies related to the implementation of Project Connect, should be funded through a funding and investment strategy approved by the City on July 27, 2020 (Resolution No. 20200727-002), Capital Metro funding sources, and federal grant revenue;

The City and Capital Metro have further determined, with community and stakeholder input, that the funds dedicated for the implementation of Project Connect should be held, and the associated projects should be implemented, by a Joint Local Government Corporation ("Joint LGC") with the authority to finance, design, build, implement, and contract with Capital Metro to operate and maintain assets funded by the Joint LGC; and

The City and Capital Metro have further determined that the Joint LGC should be authorized to implement Project Connect in a manner independent of the City or Capital Metro; and

The City and Capital Metro have properly authorized their agreement in accordance with Tex. Gov't Code Sec. 791.011(d)(1) and desire to memorialize their agreement regarding

the creation of a Joint LGC, Articles of Incorporation [Exhibit A], Bylaws [Exhibit B] and their independent responsibilities and obligations to the Joint LGC in order to finance, design, build, implement and contract with Capital Metro to operate and maintain assets funded by the Joint LGC. The Parties are authorized to enter into this Agreement 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, in consideration of the mutual promises and agreements contained herein, the sufficiency of which is acknowledged, the Parties agree to the terms and conditions stated in this Agreement as follows:

SECTION 1. DEFINITIONS

1.1 Terms Defined. In this Agreement, in addition to the terms defined in the preamble to this Agreement, in the above recitals, and elsewhere in this Agreement, the following terms will have these meanings:

- 1.1.1 "Agreement" means this Interlocal Agreement between the City and Capital Metro together with all exhibits and other attachments thereto, as the same may be amended or restated from time to time.
- 1.1.2 "Board" means the Joint LGC Board of Directors.
- 1.1.3 "Capital Metro Board" means the Capital Metro Board of Directors.
- 1.1.4 "City Council" means the City Council of the City of Austin, Texas.
- 1.1.5. "Community Experts" shall mean three (3) individuals, each of whom must reside in the City, one of whom shall have expertise in finance, one of whom shall have expertise in engineering & construction, and one of whom shall have expertise in community planning or sustainability. More specifically, the Community Experts shall, respectively, meet the following criteria:

At the discretion of the Nominating Committee, City Council and Capital Metro Board, alternate forms of experience or qualifications may be substituted to meet the experience requirements below.

Finance	<ul style="list-style-type: none">• At least 10 years of experience in finance, financial management, banking, or investing with a focus on large capital projects; and• Experience with budgets over \$250M and/or comparable academic financial policy experience.
Engineering & Construction	<ul style="list-style-type: none">• At least 10 years of experience in engineering or construction of large capital projects in any sector (transit, energy, industrial, commercial); and• Experience with multiple projects over \$100M (price/value/cost) or \$250M cumulative.
Community Planning or Sustainability	<ul style="list-style-type: none">• At least 10 years of experience in urban planning, community planning, equitable Transit Oriented Development (eTOD), sustainability, or environmental planning; and

	<ul style="list-style-type: none"> • Experience with community engagement with preferably three (3) to five (5) years of specific experience.
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- 1.1.6 "Initial Community Expert Members" shall mean and include the three (3) Community Experts nominated to be initial members of the Board through the nomination process described in Section 3.8.2 below.
- 1.1.7 "Fiscal Year" means that twelve-month time period between any October 1 and the next following September 30.
- 1.1.8 "Initial Joint LGC Board Members" means the five (5) individuals nominated to be the initial members of the Board through the nomination process described in Section 3.8 below, each of whom must reside in either the City of Austin or Capital Metro's service area, as more specifically delineated herein.
- 1.1.9 "Nominating Committee" means and consists of the chairs of the City Council Audit & Finance Committee, City Council Mobility Committee, Capital Metro Finance, Audit and Administration Committee, and Capital Metro Operations, Planning and Safety Committee.
- 1.1.10 "Successful Election" means the passage of the City's planned November 2020 tax rate election providing for an \$0.0875 per \$100 valuation tax increase to fund Project Connect.
- 1.1.11 "Written Application" means a written application for the incorporation of the Joint LGC to act on behalf of the City and Capital Metro that includes the proposed articles of incorporation in substantially the form attached hereto as **Exhibit A** (with the position, name, street address, and term expiration of each nominated Initial Joint LGC Board Member filled in), and which is filed by at least three residents of each of the City and Capital Metro who are citizens of Texas and at least 18 years of age.

SECTION 2. GENERAL TERMS

- 2.1 **Purpose and Scope.** The purpose of this Agreement is to set forth the terms and conditions for the formation and creation of the Joint LGC and the individual roles and responsibilities of the Parties, including contributions to the operation and management of the Joint LGC.
- 2.2 **Agreement Term.** The term of this Agreement begins on September 1, 2020 (the "Effective Date") and will continue until the sooner of: (i) a Joint Powers Agreement is executed in accordance with Section 5; (ii) the date the results of the November 2020 election establishes there was not a Successful Election; or (iii) through June 30, 2021, if the Agreement is not renewed, or the last day of the Renewal Term, if the Agreement is renewed. This Agreement may be renewed for one (1) six-month term (the "Renewal Term") by agreement of the Parties.
- 2.3 **Entire Agreement.** All oral agreements between the Parties to this Agreement relating to the Joint LGC that were made prior to the execution of this Agreement, including the applicable terms of the Agreement, have been reduced to writing and are contained in this Agreement.

- 2.4 **Current Revenues.** The Parties acknowledge that (i) any payment(s) made by the Parties pursuant to this Agreement; and (ii) any funding for the Joint LGC will be from current revenues available to each Party, including any available revenues from other sources and potential federal grant revenues.
- 2.5 **Agreement Communications.** The Parties agree that, unless otherwise designated specifically in any provision, all communication, requests, questions, or other inquiries related to this Agreement must initially be presented by and through the President & CEO of Capital Metro and the City Manager for the City.
- 2.6 **Amendments.** Either Party may propose an Amendment to this Agreement. Requests for alterations, additions or deletions of the terms of this Agreement will be submitted to the President & CEO of Capital Metro for consideration and possible action by the Capital Metro Board and to the City Manager for consideration and possible action by City Council. An Amendment to this Agreement is effective when approved by all Parties.

SECTION 3. CREATION OF THE JOINT LGC; CITY AND CAPITAL METRO INITIAL ROLES AND RESPONSIBILITIES

- 3.1 Upon a Successful Election, and if a Written Application is filed with both the City Council and the Capital Metro Board, the City Council and the Capital Metro Board will each, respectively, take action to adopt a resolution (i) determining that the formation of the Joint LGC is wise, expedient, necessary, or advisable, and (ii) approving the form of the proposed articles of incorporation accompanying the Written Application.
- 3.2 If the City Council and the Capital Metro Board each adopt such a resolution, the articles of incorporation may be filed as provided by law.
- 3.3 Upon a Successful Election, the City and Capital Metro will also: (i) take all other necessary actions to create the Joint LGC; (ii) take all necessary actions to jointly appoint the initial directors of the Joint LGC's Board by January 1, 2021; and (iii) take all necessary actions to fulfill the commitments contained in the City Contract with the Voters (Res. No. _____) and the Capital Metro Funding and Community Commitment for Implementation of Project Connect Resolution (Res. No. _____) to appropriately fund the Joint LGC.
- 3.4 Upon creation of the Joint LGC, both Parties will support implementation of Project Connect as needed until such time as a Joint Powers Agreement, fully delineating the roles and responsibilities of all parties, is executed.
- 3.5 After the creation of the Joint LGC, the Parties will negotiate and execute, by June 30, 2021, a Joint Powers Agreement, as more fully described in Section 5 below.
- 3.6 **City Responsibilities.** The City will call and facilitate the tax rate election in accordance with Tex. Tax Code, Sec. 26.07.
- 3.7 **Capital Metro Responsibilities.** Capital Metro will seek and apply for all available federal funding sources and serve as the Federal Transit Administration ("FTA") Project Sponsor in the federal environmental review process and grantee in the federal grant process for all appropriate and eligible projects within Project Connect. Capital Metro will advance projects in the federal process in the Project Connect System Plan (Initial Investment Map and associated Implementation Sequence Plan

are attached as **Exhibit C**) or as modified from time to time jointly by Capital Metro and the City. Capital Metro will complete the federally required National Environmental Policy Act ("NEPA") Preliminary Engineering process to obtain an FTA Record of Decision for the Locally Preferred Alternatives approved in Project Connect for the Orange, Blue and Gold Lines and MetroRapid.

- 3.8 Initial Joint LGC Board Member Selection.** Capital Metro and the City will initiate a nomination process for the five (5) Initial Joint LGC Board Members in a timely manner. The position, name, street address, and term expiration of each nominated Initial Joint LGC Board Member shall be inserted into the proposed articles of incorporation attached hereto as **Exhibit A** prior to or at the time the Written Application is filed.

3.8.1 City and Capital Metro Board Appointees. By January 1, 2021, the City and Capital Metro will each nominate a member of their respective governing bodies to serve as Initial Joint LGC Board Members as follows:

3.8.1.1 City Council Director. The City will nominate one (1) Initial Joint LGC Board Member who must be a member of the City Council. The City Council will define its process for nominating the City Council Director.

3.8.1.2 Capital Metro Director. Capital Metro will nominate one (1) Initial Joint LGC Board Member who must be a member of the Capital Metro Board and reside within the Capital Metro service area. The Capital Metro Board will define its process for nominating the Capital Metro Director.

3.8.2 Initial Community Expert Members. Upon a Successful Election, the Nominating Committee shall begin a process for seeking Initial Community Expert Members. The Initial Community Expert Members shall be selected through a nomination and appointment process wherein qualified members of the community shall submit an application to the Nominating Committee. After review of the submitted applications, the Nominating Committee shall, by January 1, 2021, recommend a slate of three applicants based on their qualifications. It is the intent of the Capital Metro and City that the Nominating Committee will nominate individuals that represent our diverse and inclusive community. The City Council and the Capital Metro Board shall, upon their joint approval of the slate, jointly appoint the Initial Community Expert Members as nominated by the Nominating Committee.

SECTION 4. LOCAL GOVERNMENT CORPORATION INITIAL ROLES AND RESPONSIBILITIES

- 4.1 Overall Objectives.** The Parties intend that the Joint LGC must take actions as appropriate to implement Project Connect as adopted by the Capital Metro Board of Directors by Resolution AI-2020-1273 on June 10, 2020 and as it may be modified from time to time. The Parties will contribute funding as described in Section 6 below to accomplish the objectives herein. The Joint LGC will be authorized to accept funds that result from a Successful Election, from the City and Capital Metro, or from other available sources, and will not be prohibited from raising and utilizing funds from other legal sources.
- 4.2 Authority to Act.** It is the intent of the Parties that the Joint LGC shall have all powers allowed by law and as defined in its Articles of Incorporation necessary to carry out the Overall Objectives, as will be more fully defined in the Joint Powers Agreement, except that it is intended if Project Connect, or the associated Implementation Sequence Plan

require modification, such action may only be taken upon the approval of the governing bodies of the City and Capital Metro.

- 4.3 **Adoption of Bylaws.** Upon creation of the Joint LGC, the Parties will present proposed Bylaws, in substantially the form attached hereto as **Exhibit B**, to the Board. Upon approval of the proposed Bylaws by the Board, the Parties will present such Bylaws to the City Council and the Capital Metro Board for their respective approval by resolution.
- 4.4 **Expected Performance.** The Parties intend that the Board will ensure all appropriate staff and resources are provided to implement the overall objectives herein.
- 4.5 **Budget of the LGC.** The Parties will require the Board to develop an annual budget that must be approved by the Board annually.
- 4.6 **Audits.** The Parties will require the Board to engage or obtain independent auditing services that will produce annual reports for presentation to an annual joint meeting of the Capital Metro Board of Directors and City Council on the financial status of the Joint LGC and implementation of approved projects and other Joint LGC matters as more fully delineated in the Joint Powers Agreement.
- 4.7 **Community Advisory Committee ("Committee").** The Parties will require the Board to form a Community Advisory Committee, to assist Capital Metro and the City in engaging the community and advising on anti-displacement and equity matters related to Project Connect. The Joint Powers Agreement will further delineate membership, roles and responsibilities of the Committee. The recommendations made by the Committee related to displacement mitigation measures or social equity issues that impact vulnerable populations must be considered at a public meeting of the Board.

SECTION 5. JOINT POWERS AGREEMENT

The Parties intend that the City, Capital Metro and the Board will meet in a timely manner following appointment of the Initial Joint LGC Board Members to negotiate an agreement delineating the full roles and responsibilities of all three (3) parties with the intent to finalize and execute a Joint Powers Agreement by no later than June 30, 2021, at the first annual joint meeting of the Capital Metro Board and City Council. The Joint Powers Agreement will delineate roles and responsibilities of all three parties in a manner that confirms and establishes the LGC as the principal entity responsible for financing, designing, building, implementing, and contracting with Capital Metro to operate and maintain assets funded by the Joint LGC. The roles and responsibilities shall include, but not be limited to: establishment of corporate functions, responsibility and costs; financial policies; funding allocations and procedures for use of funds for transit-supportive anti-displacement strategies related to the implementation of Project Connect; term and conditions of appointment of the Capital Metro President & CEO as a succeeding Executive Director of the Joint LGC; utility and right of way agreements; design review and permitting standards; development of a Disadvantaged Business Enterprise program consistent with federal laws and regulations; development of worker safety and wage requirements; and a community engagement process, as contemplated in section 4.7 above.

SECTION 6. FINANCIAL TERMS

- 6.1 **Payment.** The Parties intend that, for and in consideration of the actions to be taken and the services rendered by the Joint LGC pursuant to this Agreement, that the City and Capital Metro will pay to the Joint LGC funds as enumerated more fully in the Joint Powers Agreement, the City Contract with the Voters (Res. No. _____) and

the Capital Metro Funding and Community Commitment for Implementation of Project Connect Resolution (Resolution No. _____).

- 6.2 Funding for the LGC.** All costs for operation of the Joint LGC, including but not limited to, all costs for the completion of projects, will be funded jointly by the City and Capital Metro from a variety of federal and local funding sources.

In the event of a significant disruption to expected revenue for the Joint LGC, the City and Capital Metro may jointly agree to require the Joint LGC to amend its annual budget or revise planned projects or sequencing, provided that it continues to operate in a manner that enables the LGC to honor financial commitments it has made with respect to debt or other obligations issued by the LGC.

In the event additional funds are available for the projects being implemented by the Joint LGC from any source, the City and Capital Metro agree to continue to contribute funding as agreed to in the Joint Powers Agreement to advance Project Connect elements or to provide additional transit operating service on the transit network located within the City.

SECTION 7. TERMINATION

- 7.1 Automatic Termination.** This Agreement will automatically terminate as provided under Section 22, should a Successful Election not occur, or upon execution by all Parties of a succeeding Joint Powers Agreement among the City, Capital Metro and the Joint LGC for the purposes outlined in this Agreement.
- 7.2 Other Reasons for Termination.** Any Party to this Agreement may terminate this Agreement if such Party is unable to comply with changes required by federal or state laws or regulations that relate directly to the purpose of this Agreement or the succeeding Joint Powers Agreement.
- 7.3 Notice of Termination.** Any Party to this Agreement may terminate this Agreement for the reasons described in this section by providing the other Party with thirty (30) days' written notice as described in Section 8.1, below.

SECTION 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

8.1.1 Requirements. Except as otherwise specifically noted herein, any notice required or permitted to be given under this Agreement by one Party to another must be in writing and will be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the Party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the Party at the address hereinafter specified.

8.1.2 Capital Metro Address. The address of Capital Metro for all purposes under this Agreement and for all notices:

Randy Clarke (or his successor)
President & CEO
2910 E. 5th Street

Austin, Texas 78702

With additional copy to:

Kerri Butcher (or her successor)
Chief Counsel
2910 E. 5th Street
Austin, Texas 78702

- 8.1.3 City Address.** The address of the City for all purposes under this Agreement and for all notices:

Spencer Cronk (or his successor)
City Manager
P.O. Box 1088
Austin, Texas 78767

- 8.1.4 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.

- 8.2 Dispute Resolution/Mediation.** Initial disputes and unresolved questions or issues of Parties must initially be presented by submission in writing in accordance with the Notice provisions above. If satisfactory resolution cannot be achieved between the representatives of the Parties within a reasonable time, and should mediation be acceptable to all Parties in resolving a dispute arising under this Agreement, the Parties agree to use the Dispute Resolution Center of Austin, Texas, as the provider of mediators for mediation as described in the TEX. CIV. PRAC. AND REM. CODE, Section 154.023. Unless all Parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in TEX. CIV. PRAC. AND REM. CODE, Section 154.073, unless both Parties agree, in writing, to waive the confidentiality.

- 8.3 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.

- 8.4 Force Majeure.** No Party will be financially liable to the other Party for delays or failures to perform under the Agreement where such failure is caused by force majeure (i.e. those causes generally recognized under Texas law as constituting unforeseeable and impossible conditions). Such delays or failures to perform will extend the period of performance until these exigencies have been removed or until the Parties agree in writing to either amend or terminate the Agreement. The Party seeking to avail itself of this clause shall notify the other Party within five (5) business days of the occurrence of the force majeure event or otherwise waive the right as a defense, unless notification is impractical under the circumstances, in which case notification shall be done in as timely a manner as possible.

- 8.5 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. Neither Party shall be liable to the other for any indirect, special, incidental, punitive or consequential damages (including, but not limited to loss of business, revenue, profits, or other economic advantage) however it arises, whether in an action of contract, negligence or gross negligence, tort or other action, arising out of or in connection with this Agreement, even if advised of the possibility thereof.

- 8.6 **Notice of Claim.** Within five (5) business days of receiving notice of any claim, demand, suit, or any action made or brought against any Party, arising out of the activities conducted pursuant to this Agreement, the Party will give written notice to the other Party of such claim, demand, suit or other action. Said notice will include: (a) the name and address of the claimant; (b) the basis of the claim, action or proceeding; (c) the court, if any, where such claim, action, or proceeding was instituted; and (d) the name or names of any person or persons against whom such claim is being made.
- 8.7 **Third Party Beneficiary.** This Agreement sets out the agreements and obligations between the Parties only, and no provision in this Agreement creates any rights in any person or entity that is not a Party to this Agreement. The rights to performance in this Agreement are only enforceable by the City and Capital Metro.
- 8.8 **Legal Authority.** The person or persons signing this Agreement on behalf of each Party warrant that he, she or 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.
- 8.9 **Invalid Provision.** 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 thereof shall be confined to the clause, sentence, provision, paragraph or article so held to be invalid, illegal or ineffective.

Exhibit A - Articles of Incorporation

Exhibit B - Bylaws

Exhibit C – Initial Investment Map and associated Implementation Sequence Plan

In witness whereof, the Parties have caused duly authorized representatives to execute this Agreement on the dates set forth below to be effective as of the Effective Date (as defined above).

**CAPITAL METROPOLITAN
TRANSPORTATION AUTHORITY**

By: [Signature]
Signature

Name: RANDY CLARKE
Printed Name

Title: CEO

Date: 10/7/2020

Approved as to Form:

[Signature]
CMTA Legal Department

CITY OF AUSTIN

By: [Signature]
Signature

Name: Spencer Cronk
Printed Name

Title: City Manager

Date: 9/18/2020

Approved as to Form:

Ashley Glotzer/s/
Assistant City Attorney

Exhibit A

ARTICLES OF INCORPORATION OF AUSTIN TRANSIT PARTNERSHIP LOCAL GOVERNMENT CORPORATION

The undersigned natural persons, each of whom is at least eighteen (18) years of age or more, is a resident of the City of Austin, Texas (the "City") and of the service area of the Capital Metropolitan Transportation Authority ("Capital Metro"), and is a citizen of the State of Texas, acting as incorporators of a corporation under the provisions of Subchapter D, Chapter 431, Texas Transportation Code ("Chapter 431"), Chapter 394, Texas Local Government Code. ("Chapter 394"), and Chapter 22, Business Organizations Code ("Chapter 22"), do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE I. NAME

The name of the corporation is the Austin Transit Partnership Local Government Corporation (the "Corporation").

ARTICLE II. PUBLIC NON-PROFIT

The Corporation is a public non-profit corporation.

ARTICLE III. DURATION

The period of duration of the Corporation shall be perpetual.

ARTICLE IV. PURPOSES, ACTIVITIES

The Corporation shall be incorporated to aid and to act on behalf of the City and Capital Metro to accomplish their governmental purpose; namely to implement the Project Connect System Plan ("Project Connect") as it is more particularly described in Capital Metro Resolution No. AI-2020-1273 and City Resolution 20200610-02, and as each resolutions may from time to time be amended or supplemented. The Corporation is to be the principal entity responsible for financing, designing, building, implementing, and contracting with Capital Metro to operate and maintain assets funded by the Joint LGC in a manner independent of the City and Capital Metro. The implementation of Project Connect is comprised of the financing, design, engineering, and construction of a fixed rail and bus rapid transit system, including customer technology, park & ride hubs, on-demand neighborhood circulators, and associated improvements to roadways, bikeways, sidewalks and street lighting. Project Connect also comprises transit-supportive anti-displacement strategies for the purpose of preventing displacement and encouraging transit-oriented affordable housing along Project Connect transit corridors. The Corporation shall implement Project Connect in accordance with the Initial Investment Map and associated Implementation Sequence Plan, as modified from time to time jointly by Capital Metro and the City. To accomplish said purpose, in the exercise of its powers, the Corporation shall be authorized to:

1. Contract with persons, governmental entities, and with for-profit and non-

profit entities, and employ individuals, for the purposes of implementing Project Connect, conducting the administrative operations of the Corporation, and to enter into interlocal agreements with Capital Metro for the operation and maintenance of assets constructed by the Corporation;

2. Acquire and hold title to real and personal property and interests in real and personal property, and sell real and personal property;
3. Procure professional and other services necessary for the design, construction, financing, and permitting of Project Connect;
4. Accept funds and property appropriated by the City and Capital Metro and by other entities;
5. Apply for grants of funds, services, and things of value and to accept awards of such grants;
6. Accept donations of funds, services and things of value;
7. Issue bonds, notes, and other debt obligations as necessary for the accomplishment of the implementation of Project Connect as stated above; and
8. Engage in other lawful activities to accomplish the implementation of Project Connect as stated above.

The Corporation is formed pursuant to the provisions of Chapter 431 as it now or may hereafter be amended and in the manner specified by Chapter 394, which authorize the Corporation to assist and act on behalf of the City and Capital Metro to accomplish any governmental purpose of the City and Capital Metro and to engage in activities in the furtherance of the purposes for its creation.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of the State of Texas to non-profit corporations incorporated under Chapter 431, including, without limitation, the powers granted under Chapter 22.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to non-profit corporations under Chapter 22 and which are necessary or useful to enable the Corporation to perform the purposes for which it is created.

The Corporation is created as a local government corporation pursuant to Chapter 431 and shall be a governmental unit within the meaning of Subdivision (3), Section 101.001, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 *et seq.* Texas Civil Practice and Remedies Code.

ARTICLE V. NO MEMBERS

The Corporation shall have no members and shall have no stock.

ARTICLE VI. BOARD

All powers of the Corporation shall be vested in a Board of Directors ("Board") consisting of five persons, each of whom must reside in either the City of Austin or Capital Metro's service area, one of whom shall be a member of the City Council of the City of Austin ("City Council") (the "City Council Director"), one of whom shall reside in Capital Metro's service area and be a member of the Capital Metro Board of Directors ("Capital Metro Board") (the "Capital Metro Director"), and three of whom shall be community expert members, all of whom must reside in the City, as follows: one member shall have expertise in finance, one member shall have expertise in engineering & construction, and one member shall have expertise in community planning or sustainability ("Community Expert Directors"). More specifically, the Community Expert Directors, respectively, shall meet the following criteria:

Finance	<ul style="list-style-type: none">• At least 10 years of experience in finance, financial management, banking, or investing with a focus on large capital projects; and• Experience with budgets over \$250M and/or comparable academic financial policy experience.
Engineering & Construction	<ul style="list-style-type: none">• At least 10 years of experience in engineering or construction of large capital projects in any sector (transit, energy, industrial, commercial); and• Experience with multiple projects over \$100M (price/value/cost) or \$250M cumulative.
Community Planning or Sustainability	<ul style="list-style-type: none">• At least 10 years of experience in urban planning, community planning, equitable Transit Oriented Development (eTOD), sustainability, and/or environmental planning; and• Experience with community engagement with preferably three (3) to five (5) years of specific experience.

The five (5) initial Directors are identified in Article IX below.

Succeeding Community Expert Directors shall be selected through a nomination and appointment process wherein qualified members of the community shall submit an application to the Corporation, which will provide the applications that meet the criteria to the Nominating Committee (as defined below). The Nominating Committee will consist of the chairs of the City Council Audit & Finance Committee, City Council Mobility Committee, Capital Metro Finance, Audit and Administration Committee, and Capital Metro Operations, Planning and Safety Committee (the "Nominating Committee"). At the discretion of the Nominating Committee, City Council and Capital Metro Board, alternate forms of experience or qualifications may be substituted to meet the experience requirements below. After review of the applications provided by the Corporation, the Nominating Committee shall recommend a slate of three applicants based on their qualifications, while also considering Austin's diversity, and an applicant's ability to consider wholly Project Connect's benefits and potential impacts particularly on vulnerable communities aimed to be served by transit. The City Council and the Capital Metro Board shall, upon their joint approval of the slate, jointly appoint succeeding Community Expert Directors as nominated by the Nominating Committee.

The City Council shall appoint each Director who succeeds the initial City Council Director, and the Capital Metro Board shall appoint each Director who succeeds the initial Capital Metro

Director. Each Director who succeeds the initial City Council Director must be a member of the City Council or a resident of the City of Austin, and each Director who succeeds the initial Capital Metro Director must be a resident of the Capital Metro Service area.

The initial City Council Director and initial Capital Metro Director and each subsequent City Council Director and Capital Metro Director shall serve for a term of two years. Each initial Community Expert Director, and each subsequent Community Expert Director, shall serve for a term of four years or until his or her successor is appointed and has qualified. Initial Directors and succeeding Directors may be reappointed.

A Director may be removed from the Board by a resolution approved by a majority vote of the City Council and the Capital Metro Board finding that the Director has committed one or more of the acts or omissions described in section 7.001(c) of the Business Organizations Code and described in Article XI, below.

A Director may be removed from the Board by a resolution approved by a majority vote of the City Council and Capital Metro Board finding that the Director is derelict in his or her duties by either: (i) failing to attend four consecutive scheduled meetings, including any combination of annual meetings, regular meetings, or special meetings; or (ii) failing to attend one-third or more of scheduled meetings during any fiscal year of the Corporation, including any combination of annual meetings, regular meetings, or special meetings, unless the Director can show good cause for the absences.

The failure of the Board to proceed with a directed dissolution of the Corporation in accordance with this Article XIV of these Articles of Incorporation shall be deemed a cause for the removal from office of any or all of the Directors.

In the event of a vacancy or vacancies in the Board, whether caused by removal, resignation, death, mental or physical incapacitation, or any other reason (other than due to the expiration of a Director's term), the City Council and the Capital Metro Board shall jointly appoint a Director or Directors to fill the vacancy or vacancies. The term of a Director appointed to fill an unexpired term shall expire on the expiration date of the term of the Director who he or she was appointed to replace.

The Board shall select a chair and a vice chair by a majority vote of Board members.

A change in the number of Directors can be made only by an amendment to these Articles of Incorporation.

The City Manager or his or her designee from the City Manager's Office is a non-voting ex-officio Director of the Corporation. Capital Metro shall not have an ex-officio Director of the Corporation. The initial Executive Director of the Joint LGC will be the Capital Metro President & CEO.

ARTICLE VII. REGISTERED OFFICE, AGENT

The street address of the initial registered office of the Corporation is 700 Lavaca St. Austin, Texas 78701, which is within the city limits of the City and the service area of Capital Metro, and the name of its initial registered agent at such address is Kerri Butcher, Capital

Metro Chief Counsel, an individual who is a resident of Texas.

ARTICLE VIII. INCORPORATORS

The names and street addresses of the incorporators, each of whom is more than 18 years of age and resides within both the City and Capital Metro's service area, are:

NAME	STREET ADDRESS

ARTICLE IX. INITIAL BOARD

The names and street addresses of the initial Directors, each of whom resides either within the City or Capital Metro's service area, are:

POSITION	NAME	STREET ADDRESS	TERM EXPIRES
1			
2			
3			
4			
5			

ARTICLE X. ADOPTION OF APPROVING RESOLUTION

Resolutions approving the form of these Articles of Incorporation have been adopted by the City Council on _____, and by the Capital Metro Board on _____.

ARTICLE XI. LIMITED LIABILITY

No Director shall be liable to the Corporation for monetary damages for an act or omission in the Director's capacity as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith that constitute a breach of duty of the person to the Corporation or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, regardless of whether the benefit resulted from an action taken within the scope of the Director's duties, or (iv) for acts or omissions for which the liability of a Director is expressly provided by an applicable statute. Any repeal or amendment of this Article shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes hereafter enacted that further limits the liability of a Director.

ARTICLE XII. INDEMNIFICATION

The Corporation shall have the power to indemnify any director or officer or former director or officer of the Corporation for expenses and costs (including attorneys' fees) actually and necessarily incurred by such director or officer in connection with any claim asserted against such director or officer for such director's or officer's acts or omissions as a director or officer, except in relation to matters as to which such director or officer shall have been guilty of negligence or misconduct in respect of the matter in which indemnity is sought. If the Corporation has not fully indemnified such director or officer, the court in the proceeding in which any claim against such director or officer has been asserted or any court having the requisite jurisdiction of an action instituted by such director or officer on such director's or officer's claim for indemnity may assess indemnity against the Corporation, its receiver, or trustee for the amount paid by such director or officer (including attorneys' fees) in satisfaction of any judgment or settlement of any such claim (exclusive in either case of any amount paid to the Corporation), actually and necessarily incurred by such director or officer in connection therewith in an amount the court considers reasonable and equitable; provided, nevertheless, that indemnity may be assessed under this Article XII only if the court finds that the person seeking indemnification was not guilty of negligence or misconduct in respect of the matter in which indemnity is sought.

ARTICLE XIII. TAX MATTERS; DISSOLUTION

In accordance with the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), and regardless of any other provisions of these Articles of Incorporation or the laws of the State of Texas, the Corporation: (i) shall not permit any part of the net earnings of the Corporation to inure to the benefit of any private individual (except that reasonable compensation may be paid for personal services rendered

to or for the Corporation in effecting one or more of its purposes); (ii) shall not direct any of its activities to attempting to influence legislation by propaganda or otherwise; (iii) shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of (or in opposition to) any candidate for public office; and (iv) shall not attempt to influence the outcome of any election for public office or to carry on, directly or indirectly, any voter registration drives. Any income earned by the Corporation after payment of reasonable expenses, debt, other obligations, and such reserves as may be necessary as set forth in the authorizing documents related to the issuance of debt by the Corporation shall accrue to the City and Capital Metro as agreed to by the City Council and the Capital Metro Board.

The City and Capital Metro shall, at all times, have an unrestricted right to receive any income earned by the Corporation, exclusive of amounts needed to cover reasonable expenses, debt or obligations and such reserves as may be necessary as set forth in the authorizing documents related to the issuance of debt by the Corporation. Any income of the Corporation received by the City and Capital Metro shall be deposited into such accounts or funds as determined by the City Council and the Capital Metro Board. No part of the Corporation's income shall inure to the benefit or any private interests.

If the Board determines by resolution that the purposes for which the Corporation was formed have been substantially met and all bonds issued by and all obligations incurred by the Corporation have been fully paid, the Board shall execute a certificate of dissolution which states those facts and declares the Corporation dissolved in accordance with the requirements of Section 394.026 of the Texas Local Government Code, or with applicable law then in existence. In the event of dissolution or liquidation of the Corporation, the net earnings of the Corporation and funds and properties of the Corporation shall be disbursed to the City and Capital Metro for deposit into such accounts or funds as the City Council and the Capital Metro Board shall direct.

ARTICLE XIV. PRIVATE FOUNDATION

If the Corporation is a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, the Corporation (a) shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code; (b) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code; (c) shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code; (d) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code; and (e) shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

ARTICLE XV. DIRECTED DISSOLUTION

The City Council and Capital Metro Board may at any time consider and approve resolutions directing the Board to proceed with the dissolution of the Corporation, at which time the Board shall proceed with the dissolution of the Corporation in accordance with applicable state law. The failure of the Board to proceed with the dissolution of the Corporation in accordance with this Article shall be deemed a cause for the removal from office of any or all of the Directors as permitted by Article VI of these Articles of

Incorporation.

ARTICLE XVI. PUBLIC INSTRUMENTALITY

The Corporation is a constituted authority and a public or governmental instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 of the Internal Revenue Code. Although the Corporation is authorized to act on behalf of one or more governmental entities as provided in these Articles of Incorporation, the Corporation is not a political subdivision or political authority of the State of Texas within the meaning of the Constitution and laws of the State of Texas, including, without limitation, Article III, Section 52 of the Texas Constitution, and no agreement, bond, debt, or obligation of the Corporation shall be deemed to be the agreement, bond, debt, or obligation, or the lending of credit, or a grant of public money or thing of value, of or by the City or Capital Metro or any other political subdivision or authority or agency of the State of Texas, or a pledge of the faith and credit of any of them. No action of the Corporation shall be an action of the City or Capital Metro or their agents or employees, and neither these Articles of Incorporation nor any action by the Board, the City Council, or the Capital Metro Board shall create a joint enterprise.

ARTICLE XVII. AMENDMENT

These Articles of Incorporation may be amended in either of the following manners: (1) the Board may file with the City Council and the Capital Metro Board an application in writing requesting permission to amend the Articles of Incorporation, specifying in the application the amendment proposed to be made, and the City Council and the Capital Metro Board, after considering the application and each finding and determining that it is wise, expedient, necessary, or advisable that the proposed amendment be made, may authorize by resolution that the proposed amendment be made and approve the form of the amendment, and then the Board may amend the Articles of Incorporation by adopting the amendment by resolution at a meeting of the Board and filing the amendment with the Office of the Texas Secretary of State, or (2) the City Council and the Capital Metro Board may jointly, at any time, alter or change the structure, organization, programs, activities, or duration of the Corporation, subject to any limitations on the impairment of contracts entered into by the Corporation, by adopting an amendment to the Articles of Incorporation of the Corporation at a meeting of the City Council and of the Capital Metro Board and filing the amendment with the Office of the Texas Secretary of State.

ARTICLE XVIII. EFFECTIVE DATE; AUTHORIZATION TO FILE

These Articles of Incorporation shall be effective when fully executed and filed by the Office of the Texas Secretary of State. The undersigned affirm that the person designated as initial registered agent herein has consented, either in electronic or written form, to the appointment. Each of the undersigned executes this instrument subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that he and she is authorized to execute this instrument.

ARTICLE XIX. OTHER MATTERS PERTAINING TO INTERNAL AFFAIRS

All other matters pertaining to the internal affairs of the Corporation and not addressed in these Articles of Incorporation shall be governed by the Bylaws of the Corporation, so long as such Bylaws are not inconsistent with these Articles of Incorporation or the laws of the State of Texas.

IN WITNESS WHEREOF, we have hereunto set our hands this ____ day of _____, 202__.

[Insert Typed Name]
City of Austin
301 West 2nd Street
Austin, Texas 78701

[Insert Typed Name]
Capital Metropolitan Transportation Authority
2910 East 5th Street
Austin, Texas 78702

[Insert Typed Name]
City of Austin
301 West 2nd Street
Austin, Texas 78701

[Insert Typed Name]
Capital Metropolitan Transportation Authority
2910 East 5th Street
Austin, Texas 78702

[Insert Typed Name]
City of Austin
301 West 2nd Street
Austin, Texas 78701

[Insert Typed Name]
Capital Metropolitan Transportation Authority
2910 East 5th Street
Austin, Texas 78702

This instrument was acknowledged before me on this ____ day of _____, 202__, by each of the foregoing signatories, each being duly sworn on his or her oath that he or she is an individual residing in the City of Austin, Texas and within Capital Metropolitan Transportation Authority's service area.

Given under my hand and seal of office this ____ day or _____, 202__.

Notary Public, State of Texas

Exhibit B

BYLAWS OF THE AUSTIN TRANSIT PARTNERSHIP LOCAL GOVERNMENT CORPORATION

ARTICLE 1 Name, Offices, and Purposes

1.1 Name.

The name of the corporation is the Austin Transit Partnership Local Government Corporation (the "Corporation").

1.2 Offices.

The Corporation may have, in addition to its registered office, offices at such places as the Board of Directors may from time to time determine or as the activities of the Corporation may require.

1.3 Purposes.

The Corporation shall be incorporated to aid and to act on behalf of the City of Austin ("City") and Capital Metropolitan Transportation Authority ("Capital Metro") to accomplish their governmental purpose; namely to implement the Project Connect System Plan ("Project Connect") as it is more particularly described in Capital Metro Resolution No. AI-2020-1273 and City Resolution 20200610-02, and as each resolutions may from time to time be amended or supplemented. The Corporation is to be the principal entity responsible for financing, designing, building, implementing, and contracting with Capital Metro to operate and maintain assets funded by the Joint LGC in a manner independent of the City and Capital Metro. The implementation of Project Connect is comprised of the financing, design, engineering, and construction of a fixed rail and bus rapid transit system, including customer technology, park & ride hubs, on-demand neighborhood circulators, and associated improvements to roadways, bikeways, sidewalks and street lighting. Project Connect also comprises transit-supportive anti-displacement strategies for the purpose of preventing displacement and encouraging transit-oriented affordable housing along Project Connect transit corridors. The Corporation shall implement Project Connect in accordance with the Initial Investment Map and associated Implementation Sequence Plan, as modified from time to time jointly by Capital Metro and the City. To accomplish said purpose, in the exercise of its powers, the Corporation shall be authorized to:

1. Contract with persons, governmental entities, and with for-profit and non-profit entities, and employ individuals, for the purposes of implementing Project Connect, conducting the administrative operations of the Corporation, and to enter into interlocal agreements with Capital Metro for the operation and maintenance of assets constructed by the Corporation;

2. Acquire and hold title to real and personal property and interests in real and personal property, and sell real and personal property;
3. Procure professional and other services necessary for the design, construction, financing, and permitting of the Plan;
4. Accept funds and property appropriated by the City and Capital Metro and by other entities;
5. Apply for grants of funds, services, and things of value and to accept awards of such grants;
6. Accept donations of funds, services and things of value;
7. Issue bonds, notes, and other debt obligations as necessary for the accomplishment of the governmental purpose stated above; and
8. Engage in other lawful activities to accomplish the governmental purpose stated above.

ARTICLE 2

Board of Directors

2.1 Management.

Subject to the Articles of Incorporation and these Bylaws, management of the affairs of the Corporation shall be vested in the directors, who together constitute the Board of Directors (the "Board").

2.2 Qualifications, Appointment and Removal.

The qualifications of the directors, as well as the procedures for their appointment and removal, shall be prescribed by the Articles of Incorporation.

2.3 Annual Meetings.

The Board shall meet at least annually at a time and place in the City designated by resolution of the Board.

2.4 Regular Meetings.

The Board may provide for regular meetings by resolution stating the time and place of such meetings.

2.5 Special Meetings; Emergency Meetings.

Special and emergency meetings of the Board shall be held whenever called by the Chair of the Board or by a majority of the directors who are serving duly appointed terms of office at the time the meeting is called.

The Secretary shall give notice of each special meeting in person, by telephone, electronic transmission (e.g., facsimile transmission or electronic mail), or mail at least three (3) days before the meeting to each director. Notice of each emergency meeting shall also be given in the manner required under Chapter 551, Texas Government Code (the "Open Meetings Act"). For purposes of these Bylaws, an "emergency meeting" is a meeting of the Board to consider a circumstance that, in the absence of immediate action by the Board, may have a material, adverse impact upon the Corporation. The person(s) calling the special or emergency meeting shall provide the Secretary of the Corporation with a statement of the reason(s) for the meeting, which statement shall be included in the notice of the meeting.

2.6 Notice of Meetings of the Board.

The Board shall meet in accordance with and file notice of each meeting of the Board in the same manner as required of the City Council of the City and Capital Metro's Board of Directors ("Capital Metro's Board") under the Open Meetings Act. Notice of each meeting shall be posted by the Secretary of the Board at the same location. Additional notice of each meeting may be posted at one or more other locations.

2.7 Manner of Conducting Meetings.

All directors necessary to provide a quorum of the Board must be physically present at a meeting to conduct business, unless otherwise provided by law.

At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order as the Board may determine.

At all meetings of the Board, the Chair shall preside, and in the absence of the Chair, the Vice Chair shall preside. In the absence of the Chair and the Vice Chair, an acting presiding officer shall be chosen by the Board from among the directors present.

The Secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

2.8 Quorum.

A majority of the Board shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. Ex-officio directors shall not count for the purposes of determining the presence of a quorum. If at any meeting of the Board there is less than a quorum present, business of the Board shall not be conducted. The act of a majority of the directors shall constitute the act of the Board, unless the act of a greater number is required by law, by the Articles of Incorporation, or by these Bylaws.

2.9 Compensation.

Directors, as such, shall not receive any salary or compensation for their services as Directors; provided, however, that nothing contained herein shall be construed to preclude a Director from receiving reimbursement of actual expenses incurred in connection with the business affairs of the Corporation, and no such reimbursement of expenses shall be made

unless approved by the Board.

2.10 Disclosure of Conflicts of Interest.

Each Director shall comply with: (i) Section 22.230 of the Business Organizations Code; and (ii) applicable provisions of Chapter 171 of the Local Government Code ("Chapter 171"), including disclosure of a substantial interest, as defined by Chapter 171, in a business entity or in real property.

2.11 Duties.

Directors shall discharge their duties with ordinary care and in a manner each director reasonably believes to be in the Corporation's best interests. In this context, "ordinary care" means the care that ordinarily prudent persons in similar positions would exercise under similar circumstances. In discharging their duties, directors may rely in good faith on information, opinions, reports, or analyses, including financial data, prepared or presented by persons reasonably appearing to be qualified in such matters. A director is not relying in good faith if he or she has knowledge that renders such reliance unwarranted or unreasonable. Directors are not deemed to have the duties of trustees of a trust with respect to the Corporation or with respect to property held or administered by the Corporation, including property subject to restrictions imposed by a donor or other transferor of the property.

ARTICLE 3 Officers

3.1 Titles and Term of Office.

The officers of the Corporation shall be the Chair, the Vice Chair, a Secretary, a Treasurer, an Executive Director, and such other officers as the Board may from time to time elect or appoint as described in section 3.7 below. One person may hold the position of one or more offices for the Corporation except that neither the Chair nor the Executive Director may also hold the office of Secretary. Capital Metro's President and CEO is hereby appointed to serve as the initial Executive Director. The term of office for each officer shall be two years commencing with the date of the annual meeting of the Board at which each such officer is elected. Officers may be re-elected or re-appointed.

3.2 Chair.

The initial and each succeeding Chair of the Board (the "Chair") shall be elected as provided by the Articles of Incorporation. The term of office for the initial Chair shall be two years commencing with the date of the first annual meeting of the Board, which shall be the Corporation's organization meeting for purposes of section 22.104 of the Business Organizations Code.

The Chair shall preside at all meetings of the Board. In furtherance of the purposes of the Corporation and subject to the limitations contained in the Articles of Incorporation, the Chair may, upon authorization by resolution of the Board, sign and execute all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, contracts, and other instruments of

any kind in the name of the Corporation.

3.3 Vice Chair.

The initial and each succeeding Vice Chair of the Board (the "Vice Chair") shall be elected as provided by the Articles of Incorporation, and shall be a member of the Board. The term of office for the initial Vice Chair shall be two years commencing with the date of the first annual meeting of the Board.

The Vice Chair shall perform the duties and exercise the powers of the Chair upon the Chair's death, absence, disability, or resignation, or upon the Chair's inability to perform the duties of his or her office. Any action taken by the Vice Chair in the performance of the duties of the Chair shall be conclusive evidence of the absence or inability to act of the Chair at the time such action was taken.

3.4 Executive Director.

The Executive Director of the Corporation shall be the chief executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. The Executive Director may sign, with the Secretary, the Chair, or any other proper officer of the Corporation authorized by the Board, all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, contracts and other instruments of any kind in the name of the Corporation which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board, or by these Bylaws, or by statute, to some other officer or agent of the Corporation. In general, the Executive Director shall perform all duties prescribed by the Board from time to time. The Executive Director shall not be a member of the Board.

3.5 Secretary.

The Board shall elect the Secretary of the Corporation (the "Secretary") to keep the minutes of the meetings of the Board in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, be custodian of the Corporation records, and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board or the Chair. The Secretary of the Corporation shall serve at the discretion of the Board, and may be removed as Secretary by the Board at any time, with or without cause. The Secretary need not be a member of the Board.

3.6 Treasurer.

The Board shall elect the Treasurer of the Corporation (the "Treasurer"), who shall have charge and custody of and be responsible for all funds and securities of the Corporation, receive and give receipts for monies due and payable to the Corporation for any source whatsoever, deposit all such monies in the name of the Corporation in such banks as shall be selected in accordance with the provisions of these Bylaws, and in general perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Chair or by the Board. The Treasurer of the Corporation shall serve at the discretion of the Board, and may be removed as Treasurer by the Board at any time, with or

without cause. The Treasurer need not be a member of the Board.

3.7 Other Officers.

The Board may appoint other officers of the Corporation and other authorized representatives of the Corporation, who shall have the powers and duties as may be delegated by the Board. Such additional officers and authorized representatives shall serve at the discretion of the Board, and may be removed by the Board at any time, with or without cause.

3.8 Compensation.

Officers may be entitled to receive such salary or compensation for personal services which are necessary and reasonable in carrying out the Corporation's purposes as the Board may from time to time determine, provided that in no event shall the salary or compensation be excessive. Board members, even if officers, are not entitled to compensation except as otherwise provided in Article II, Section 2.9. However, nothing contained herein shall be construed to preclude an Officer from receiving reimbursement of actual expenses incurred in connection with the business affairs of the Corporation, but no such reimbursement of expenses shall be made unless approved by the Board.

3.9 Disclosure of Conflicts of Interest.

Each Officer shall comply with: (i) Section 22.230 of the Business Organizations Code; and (ii) applicable provisions of Chapter 171 of the Local Government Code ("Chapter 171"), including disclosure of a substantial interest, as defined by Chapter 171, in a business entity or in real property.

ARTICLE 4

Contracts; Financial Matters; Seal

4.1 Fiscal Year.

The fiscal year of the Corporation shall commence on October 1 and end on September 30 each year.

4.2 Contracts.

The Board may authorize any officer or officers or agent or agents of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

4.3 Deposits.

All funds of the Corporation shall be deposited to the credit of the Corporation in a state or national bank or other federally insured depository institution selected by the Board, subject to and in accordance with the requirements of Chapter 105, Texas Local Government Code and, as applicable, the Public Funds Investment Act, Chapter 2256, Texas Government Code.

4.4 Payment of Funds.

All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers or agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Secretary or Treasurer and countersigned by the Executive Director, or the Chair in the absence of the Executive Director.

4.5 Audits.

The Board shall cause to be maintained a proper and complete system of records and accounts of all transactions, business, and affairs of the corporation. Within a reasonable time after the end of each fiscal year, the Board shall cause the preparation of a financial statement for the Corporation, which shall be audited by an independent certified public accountant or firm of independent certified public accountants retained by the Board for such purpose.

4.6 Books and Records.

The Corporation shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its Board. All books and records may be inspected by representatives of the City and Capital Metro at any reasonable time.

4.7 Seal.

The Board may but is not required to adopt a corporate seal in such form and to be used in such manner as may be approved by the Board.

ARTICLE 5 General Provisions

5.1 Supremacy of Articles of Incorporation.

These Bylaws are subject to and governed by the Articles of Incorporation.

5.2 Amendment.

A proposal to alter, amend, or repeal these Bylaws may be made by the affirmative vote of a majority of the full Board at any annual or regular meeting, or at any special meeting if notice of the proposed amendment be contained in the notice of said special meeting. However, any proposed change or amendment to the Bylaws must be approved by both the City Council of the City and Capital Metro's Board to be effective.

5.3 Effective Date.

These Bylaws shall be effective when: (i) adopted by an affirmative vote of a majority of the directors at a meeting of the Board, provided that notice of the proposed adoption shall have been received by each director at least five business days before the said meeting; and (ii) approved by resolution adopted by both the City Council of the City and Capital Metro's Board.