



## Travis County Commissioners Court Agenda Request

**Meeting Date:** December 20, 2013

**Prepared By/Phone Number:** Michael Long/854 4850; Marvin Brice/854 9765

**Elected/Appointed Official/Dept. Head:** Cyd Grimes

**Commissioners Court Sponsor:** Judge Biscoe

**Agenda Language:** Approve Interlocal Agreement with Capital Metro for Employee Transit Services.

- **Purchasing Recommendation and Comments:** Purchasing concurs with department and recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes.

The County and Capital Metro recognize the importance of a regional mobility system and the desire to encourage employees of Travis County to access public transportation.

On September 4, 2013, the Travis County Commissioners Court authorized funding in the amount of \$30,000 for employee transit services.

This Agreement is authorized and governed by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code.

- **Contract Expenditures:** Within the last \_\_\_ months \$0.00 has been spent against this contract/requirement.
- **Contract-Related Information:**
  - Award Amount: Not-to-exceed \$30,000
  - Contract Type: Interlocal Agreement
  - Contract Period: January 1, 2014 through September 30, 2014
- **Contract Modification Information: N/A**
  - Modification Amount:
  - Modification Type:
  - Modification Period:

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to [agenda@co.travis.tx.us](mailto:agenda@co.travis.tx.us) by Tuesdays at 5:00 p.m. for the next week's meeting.

➤ **Solicitation-Related Information: N/A**

Solicitations Sent:

Responses Received:

HUB Information:

% HUB Subcontractor:

➤ **Special Contract Considerations: N/A**

Award has been protested; interested parties have been notified.

Award is not to the lowest bidder; interested parties have been notified.

Comments:

➤ **Funding Information:**

SAP Shopping Cart #: N/A

Funding Account(s): 1490010001/511900

Funds Reservation No. 300000942

Comments:



**TRANSPORTATION AND NATURAL RESOURCES**  
**STEVEN M. MANILLA, P.E., COUNTY EXECUTIVE**

---

700 Lavaca, 5<sup>th</sup> Floor  
Travis County Administration Building  
P. O. Box 1748  
Austin, Texas 78767  
(512) 854-9383  
FAX (512) 854-4697

October 30, 2013

**MEMORANDUM**

**TO:** Cyd Grimes, County Purchasing Agent  
*Carol B. Joseph for*  
**FROM:** Steven M. Manilla, P.E., County Executive  
**SUBJECT:** Interlocal Agreement with Capital Metro

Attached for your review and preparation for Court approval, is a draft of an Interlocal Agreement between Travis County and Capital Metro for an Employee Transit Option Program. The Employee Transit Option Program is a pilot program funded by the Commissioners Court to provide all Travis County employees with an incentive to use public transit.

The program, while funded through Transportation and Natural Resources, will be administered by Travis County Human Resources as an employee voluntary benefit. Travis County will purchase individual passes, as described in the forthcoming inter-local agreement with Capital Metro, for all interested employees. Upon signing an affidavit and short user survey, employees will be issued Travis County-specific rider passes, which will be tracked by the program team. Employees can then swipe their passes on either a local bus, express bus, MetroRail, and future MetroRapid bus service free of charge. For each swipe, Travis County will be billed by Capital Metro.

Capital Metro will provide monthly ridership reports along with monthly invoices. The reports will allow us to track changes in the number of rides, number of unique riders, and types of service that are being accessed each month.

Once the final contract is approved by both the Travis County Commissioners Court and the Capital Metro Board of Directors, we can begin ordering and issuing passes. Target date for

employees to begin using the passes is January 2. The month of December will focus on marketing and distribution of passes.

The funding for the CapMetro transit passes were provided to TNR as a one-time FY 2014 allocation in the following cost center and commitment item:

Cost Center: 1490010001                      Commitment Item: 511900                      Budget: \$30,000

The funds have been reserved on Funds Reservation 300000942.

If you have any questions regarding this matter, please contact Adele Noel (512-854-7211).

cc:    Thomas Weber, Environmental Program Manager, TNR  
      Adele Noel, Air Quality Project Manager, TNR  
      Daniel Bradford, Attorney, County Attorney  
      Mark Gilbert, Sr. Planner, Planning and Budget



Attachment – Draft Interlocal Agreement

**INTERLOCAL AGREEMENT  
BETWEEN  
TRAVIS COUNTY AND  
THE CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY  
FOR  
EMPLOYEE TRANSIT SERVICES**

This Interlocal Agreement (“Agreement”) is entered into by and between Travis County, Texas (“Travis County”), a corporate and political body of the State of Texas and Capital Metropolitan Transportation Authority (“Capital Metro”), a transportation authority and political subdivision organized under Chapter 451 of the Texas Transportation Code, collectively referred to as the “Parties”.

**I. Background**

- The Parties recognize the importance of a regional mobility system and the desire to encourage employees of Travis County to access public transportation.
- On September 4, 2013, the Travis County Commissioners Court authorized funding in the amount of \$30,000 for employee transit services.
- This Agreement is effective upon execution by both parties and is effective until the funding is depleted.
- This Agreement is authorized and governed by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code.
- The Parties now desire to enter into a mutually beneficially agreement that meets the transportation mobility needs of both Parties

In consideration of mutual covenants and agreements contained herein, the Parties agree to the terms and conditions below as evidenced by the signatures of their respective authorized representatives.

**II. Scope**

1. **Transit Services.** The purpose of this Agreement is to provide eligible Travis County employees access to the use of Capital Metro’s bus and rail services (collectively, “Services”), including paratransit services (“Metro Access Service”) and, provided the employee possesses a valid and current Travis County Employee photo identification and is eligible to use the Services (“Eligible Travis County Employees”).
2. **Bus and Rail Services.** Eligible Travis County Employees will have use of the Bus and Rail Services provided each such employee presents a valid Capital Metro pass and Travis County Employee photo identification.
3. **MetroAccess.** MetroAccess Services will be provided to Eligible Travis County Employees who have been certified for MetroAccess Service via Capital Metro’s certification process. Certified Eligible Travis County Employees using Metro Access services must follow the Capital Metro process for reservations and services. Travis County understands that it will be charged on a per-ride basis for MetroAccess Services provided to certified Eligible Travis County Employees that use the MetroAccess Service.
4. **Coordination.** Capital Metro and Travis County understand the need for coordination and prior approval of the respective governing bodies regarding services, activities and initiatives; including services, activities and initiatives that involve additional funds. The Parties agree to work together in good faith to coordinate any approvals necessary to obtain services, activities and initiatives that further the goals of this Agreement.
  - A. Capital Metro and Travis County staff will outline the various roles and responsibilities needed to promote and increase Travis County employee ridership.

- B. Travis County will promote transit use to its employees with the assistance of the Capital Metro Communications and Marketing staff. In addition, Travis County will promote the use of bus and rail service to employees who can utilize these services prior to promoting the use of MetroAccess Services.
- C. Travis County will provide Capital Metro with the number of passes Travis County will require, which number will be determined no later than six (6) weeks before the desired delivery date. Capital Metro will deliver the annual transit passes to the Travis County Human Resources Management Department (HRMD). The cost per pass shall be \$1.95 with an annual replacement fee of \$0.45; provided, in the event Capital Metro's outside vendor increases the cost to Capital Metro then such additional cost shall be borne by Travis County and Travis County agrees to pay such cost. Travis County will be responsible for distributing the passes to Eligible Employees. Transit passes will not be available for Metro Access riders as provided in Section 2.1.

**5. Holidays.** The following holidays are observed by Capital Metro and may alter the level of services:

Holiday	Date Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

**6. Monitoring and Reporting.**

- 6.1 Ridership Reports.** Capital Metro will provide ridership reports to Travis County by day 10 of each month. Ridership reports will include the number of unique Travis County employee riders, the number of rides taken for each level/tier of service and for the total month, the total dollar amount per level/tier of service, and the total dollar amount due.
- 6.2 Bus and Rail Reconciliation.** Capital Metro will use the magnetic cards at the bus and rail fare boxes to monitor, compile and analyze bus and rail ridership data. Capital Metro and Travis County will review ridership services and employees eligibility each month to reconcile the services. Capital Metro will submit invoices to Travis County for these services based upon the reconciliation.
- 6.3 MetroAccess (Paratransit) Reconciliation.** Capital Metro will monitor, compile and analyze the Travis County Eligible Employee use of MetroAccess Services. This information will be reported to Travis County. Capital Metro and Travis County will review the ridership services and eligibility for MetroAccess Services each month to reconcile the services. Capital Metro will submit invoices to Travis County for these services based upon the reconciliation.

**III. Term and Termination**

- 1. Term.** The initial term of this Agreement shall commence on January 1 , 2014 and end on September 30, 2015; provided this Agreement may be renewed for three (3) additional 12 month optional renewals. All optional renewals and extensions are subject to the review and approval of the Capital Metro Board of Directors and the Travis County Commissioners Court. Any changes to the price per ride or payment terms will be negotiated in good faith between the Parties at least 90 calendar days prior to the expiration of the current term.

2. **Termination.** Either Party may exercise the right to terminate this Agreement, in whole or part, without cause, upon 60 calendar days prior written notice. Upon receipt of the termination notice Capital Metro will cease all work on the 60th day (“Early Termination”) following the date of the termination notice. Travis County will pay Capital Metro for all Services performed and obligations incurred prior to the Early Termination.

#### IV. Compensation and Payment

1. **Contract Amount.** Travis County will pay to Capital Metro an amount not to exceed **\$30,000** for the use of the Services beginning January 1, 2014. Capital Metro will invoice Travis County on a monthly basis for the Services.

- 1.1 During the term of this Agreement, Travis County will pay Capital Metro for bus and rail services on a per ride basis, except as otherwise provided. From January 1, 2014 to September 30, 2014, Capital Metro will charge Travis County a promotional fare of \$0.70 per ride for all level/tier classes of bus and rail service, excluding Metro Access Services and Ride Share. Promotional fares will end September 30, 2014. Prices for Services are noted in Table 1 below.

Table 1. Price for services from 1-1-14 through 9-30-14

Service	Promotional Fare Price
Local	\$0.70 per ride
Rapid/Flyer	\$0.70 per ride
Commuter Rail	\$0.70 per ride
MetroAccess (Paratransit)	\$1.50 per ride or \$40.00 per month per eligible employee

Beginning October 1, 2014 and ending September 30, 2015, Capital Metro will charge Travis County adjusted rates for bus and rail services to reflect the then-current, per-ride rates for each class of service that Capital Metro charges as established by Capital Metro’s fare structure for governmental agencies.

- 1.2 During the term of this Agreement, Travis County will pay Capital Metro on a per ride basis for MetroAccess Services (“Metro Access”) for eligible employees (“Metro Access Tickets”). Prices for Services are noted in Table 2 below. Capital Metro will submit monthly invoices with ridership data to Travis County.
  - 1.3 Travis County will pay for the production costs of the transit passes. Capital Metro will invoice Travis County at a cost of \$1.95 each for each transit pass and \$0.45 each for each replacement pass ordered. If the production costs of the transit passes increase during the term of this Agreement then Travis County agrees to reimburse Capital Metro for the additional fees at Capital Metro’s actual cost.
2. **Invoices.** Based upon reconciled ridership services and employee eligibility, Capital Metro will submit an itemized invoice and ridership data reports to Travis County monthly. Invoices and ridership data may be mailed or sent electronically to:

Sydnia.Crosbie@co.travis.tx.us  
 Sydnia Crosbie  
 Travis County  
 Transportation and Natural Resources Department  
 PO Box 1748  
 700 Lavaca  
 Austin, TX 78767

3. **Prompt Pay.** Travis County will pay all invoices on a monthly basis in accordance with Texas Prompt Payment Act, Chapter 2251, and Texas Government Code.

4. **Non-appropriations.** This Agreement is dependent upon the availability of Travis County funding. Travis County's payment obligations are payable only from funds appropriated and available for the Agreement. Travis County will provide Capital Metro written notice if it fails to appropriate the funds to pay the amounts due under this Agreement. Travis County will also notify Capital Metro as soon as practicable if there is a reduction of the appropriated funds necessary for Travis County to perform under this Agreement, or there are insufficient funds available for Travis County to pay its obligations under this Agreement.

## V. General Terms and Conditions

### 1. Right to Audit.

1.1 Travis County agrees to allow authorized Capital Metro representatives access to all records related to this Agreement. In addition, Travis County agrees to only distribute transit passes and MetroAccess tickets to eligible employees. Travis County will take adequate measures to prevent the transference of passes and tickets to individuals who are not employees of Travis County.

1.2 Capital Metro agrees to allow authorized representatives of Travis County or other authorized representatives of Travis County, access to, and the right to audit, examine, or reproduce, any Capital Metro records related to the performance of this Agreement. Capital Metro agrees to refund to Travis County any overpayments disclosed by a Travis County audit.

2. **Amendment.** This Agreement may be amended only in writing by an instrument signed by an authorized representative of the Parties; however, Capital Metro expressly reserves the right in its sole discretion, to amend this Agreement unilaterally with ten (10) business day's written notice to ensure compliance of this Agreement with state or federal law or other regulation.
3. **Texas Public Information Act.** It will be the responsibility of each Party to comply with the provisions of Chapter 552, Texas Government Code, (Texas Public Information Act) and the Attorney General Opinions issued under that statute. Neither Party is authorized to receive requests or take any other action under the Texas Public Information Act on behalf of the other Party. Responses to requests for confidential information shall be handled in accordance with the provisions of the Texas Public Information Act. The provisions of this paragraph survive the termination or expiration of this Agreement.
4. **Fiscal Records.** The Parties will maintain and retain supporting fiscal documents adequate to ensure that claims for Agreement funds are in accordance with applicable state of Texas requirements. These supporting fiscal documents will be maintained and retained for a period of three (3) years from the later of: (a) termination of this Agreement, (b) submission of the final invoices, or (c) until resolution of all billing questions.
5. **Applicable Law.** This Agreement will be governed by and construed in accordance with the laws and constitution of the State of Texas.
6. **Venue.** Venue for any action arising under this Agreement will be in Travis County, Texas.
7. **Successors and Assigns.** This Agreement may not be assigned, in whole or in part, by either Party without the prior written consent of the other party. Any attempt to assign this Agreement, without the consent of the non-assigning Party, will be void. This Agreement will be binding upon and inure to the benefit of the Parties and their successors and assigns (if any).
8. **Independent Contractor.** This Agreement will not be construed as creating an employer- employee relationship, a partnership, or a joint venture between the Parties.
9. **Disputes.** The Parties will make every possible attempt to resolve, in an amicable manner, all disputes between the parties concerning the interpretation of this Agreement. Travis County will submit written notice of any claim of breach of contract under this Agreement to the Capital Metro Board, who will examine Travis County's claim and any counterclaim and negotiate with Travis County in an effort to resolve the claim. In the event this negotiation is unsuccessful, then the parties will take the dispute to mediation.



**10. INDEMNIFICATION.** THE PARTIES AGREE THAT EACH GOVERNMENTAL ENTITY IS RESPONSIBLE FOR ITS OWN PROPORTIONATE SHARE OF ANY LIABILITY FOR THE 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, TORT OR OTHER ACTION, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

**11. Force Majeure.** Except as otherwise provided, neither Party is liable to the other for any delay in, or failure of performance, of a requirement contained in this Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the control of either Party and that by exercise or due foresight, such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each Party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure.

**12. Severance.** Should any one or more provisions of this Agreement be deemed invalid, illegal, or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provision held to be void, voidable, or for any reason whatsoever of no force and effect, such provision will be construed as severable from the remainder of this Agreement and will not affect the validity of all other provisions of this Agreement, which will remain of full force and effect.

**13. Headings.** The headings contained in this Agreement are for reference purposes only and do not in any way affect the meaning or interpretation of this Agreement.

**14. Notices.** Any notice required or permitted to be delivered under this Agreement will be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to Travis County or Capital Metro, at the addresses set forth below. Notice given in any other manner will be deemed effective only if and when received by the Party to be notified. Either Party may change its address for notice by written notice to the other Party.

**14.1 Designation of Key Personnel for Notice**

Travis County: Adele Noel  
Travis County  
Transportation and Natural Resources Department  
PO Box 1748  
Austin, TX 78767

David Escamilla  
Travis County Attorney  
PO Box 1748  
Austin, Texas 78767

Capital Metro: Kerri L. Butcher, Chief Counsel  
Capital Metropolitan Authority  
2910 East 5th Street  
Austin, Texas 78702

**15. Government Entities.** The Parties to this Agreement are governmental entities within the State of Texas and nothing in this Agreement waives or relinquishes the right of the Parties to claim any exemptions, privileges and

immunities as may be provided by law.

**16. Entire Agreement.** This Agreement represents the complete and entire Agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the Parties pertaining to the subject matter contained in this Agreement. This Agreement may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the Parties. No official, representative, agent, or employee of Capital Metro has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the Capital Metro Board of Directors. No official, representative, agent, or employee of Travis County has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the Travis County Commissioners Court.

**17. Certifications.** The Undersigned Parties do hereby certify that: (a) the services specified above are necessary and essential and are properly within the statutory functions and programs of the affected governmental entities; (b) the proposed arrangements serve the interest of efficient and economical administration of Capital Metro and Travis County; (c) the services contracted for are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under Agreement given to the lowest responsible bidder nor is this Agreement prohibited by Texas Government Code, Section 771.003(b); and (d) this Agreement neither requires nor permits either Party to exceed its duties and responsibilities or the limitations of its appropriated funds.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their undersigned, duly authorized representatives to be effective as of the date of the last party to sign.

**Capital Metropolitan  
Transportation Authority**

**Travis County, Texas**

By: \_\_\_\_\_

Linda S. Watson  
President/CEO

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

Legal

By: \_\_\_\_\_

Name: Samuel T. Biscoe  
Title: Travis County Judge

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

Travis County Attorney