

STATE OF TEXAS

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**INTERLOCAL CONTRIBUTION
AGREEMENT WITH VIA
METROPOLITAN TRANSIT**

COUNTY OF BEXAR

THIS INTERLOCAL CONTRIBUTION AGREEMENT (hereafter referred to as “Agreement”) entered into by and between the **CITY OF SAN ANTONIO, TEXAS**, a Texas Home Rule Municipality (hereafter referred to as “City”) and **VIA METROPOLITAN TRANSIT**, a Metropolitan Transit Authority created under Chapter 451 of the Texas Transportation Code (hereafter referred to as “VIA”), each acting by and through its officers, hereto duly authorized. City and VIA singularly or collectively shall be referred to herein as “Party” or “the Parties.” This Agreement is entered into pursuant to the authority granted by the Interlocal Cooperation Act, Texas Government Code, Chapter 791.

WITNESSETH

WHEREAS, City through its 2017-2022 Bond Program authorized \$3,000,000 for the reconstruction and geometric reconfiguration of the Five Points intersection on Fredericksburg Road from North Flores/North Laredo to La Harpe, as set out in Exhibit A Project Site, to improve pedestrian, bicycle and transit movement and allow VIA to provide additional transit facilities on the south side of the intersection (“Project”), as more fully described in Exhibit B Project Scope; and

WHEREAS, VIA’s mission is to provide mass transit services within its service area including the City, as set out and required under its enabling statute, Chapter 451 of the Texas Transportation Code, through which it is authorized to implement and control the manner and means by which to implement its system; and

WHEREAS, VIA will contribute \$500,000.00 in funding to City toward the completion of the Project for the construction of transit supportive improvements; and

WHEREAS, the City, in consultation with VIA, will design and construct the Project;

NOW, THEREFORE, in consideration of the mutual covenants and agreement stated herein, the Parties agree as follows:

ARTICLE I. PURPOSE

The purpose of this Agreement is to establish roles and responsibilities between the Parties for the public purpose of the reconstruction and geometric reconfiguration of the Five Points intersection on Fredericksburg Road from North Flores/North Laredo to La Harpe to improve pedestrian, bicycle and transit movement.

ARTICLE II. TERM

2.1 Unless sooner terminated in accordance with provisions in this Agreement, the term of this Agreement shall commence upon City Council approval and execution of the Agreement by all Parties and continue until Project Completion (defined in 2.2) at which time this Agreement shall terminate.

2.2 Project completion shall occur when the construction of the Project is accepted by the City and retainage is released to the contractor.

ARTICLE III. OBLIGATIONS OF THE PARTIES

3.01 VIA agrees to and shall pay to the City the sum of \$500,000.00 to be used towards the cost of the Project. This sum will be paid in in one lump sum on or before the thirtieth (30th) day after this Agreement has been signed by both Parties. This shall constitute VIA's total contribution to the Project and under no circumstance shall VIA be responsible for any amounts in excess of the \$500,000.00 for the Project. VIA's contribution shall be used by City solely in connection with the Project.

3.02 City agrees to deliver to VIA the Project schedule, design plans and specifications upon approval of this Agreement for VIA review and comment.

3.03 The City will provide VIA progress reports on construction of the Project as deemed warranted by the City, but such reports shall be provided on not less than on a monthly basis once construction starts. City will maintain full documentation of any and all activities, records and expenditures related to this Agreement. Upon three days written notice, VIA may audit and make copies of any and all records related to, or developed under, this Agreement. Should VIA determine that progress is not proceeding satisfactorily, VIA will provide to City a written explanation of the deficiencies observed and the Parties will cooperate in developing a remedial plan to complete the objectives within a reasonable timeframe.

3.04 The Parties agree to allocate sufficient funds for the salaries, supplies, equipment, capital expenditures and all other expenses necessary for the effective operation and administration of this Agreement. To the extent this Agreement extends beyond the current fiscal year, this Agreement shall terminate in the event sufficient funds are not appropriated by the Parties to meet their obligations herein in any subsequent fiscal year. It is agreed and understood that payment for the performance of governmental functions or services under this Agreement must only be made from current revenues available to the paying Party. If this Agreement is terminated under this paragraph, each Party agrees to give the other Party sixty (60) days written notice prior to termination.

3.05 The City shall be solely responsible for and agrees to undertake all of the activities and services required for the design, construction and construction management of the Project. Except for the Funding provided by VIA hereunder, City shall be responsible for all costs associated with the Project including but not limited to cost overruns. The transit infrastructure constructed under this Agreement by City is subject to and shall comply with VIA's standards as provided to City and shall be placed in accordance with the Americans With Disabilities Act ("ADA") requirements and all applicable Code requirements, including but not limited to the Building Code. All work performed under the Project and this Agreement shall be performed to industry standards.

ARTICLE IV. DEFAULT

In the event of a material breach of this Agreement, the non-breaching Party shall give the breaching party written notice of such breach which shall detail the nature of the breach. The Party receiving the notice of breach shall be given thirty (30) days to cure the breach. If the breach is not corrected to the reasonable satisfaction of the non-breaching Party by the end of the thirty (30) day period, the non-breaching Party may give written notice of termination of this Agreement to the breaching party and seek to recover damages not to exceed the amount paid by the non-breaching party for the

ARTICLE V. ENTIRE AGREEMENT

This Agreement, including exhibit(s), constitutes the entire Agreement of the Parties regarding the subject

matter of this Agreement and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter. If there is a conflict between or among the provisions of this agreement and any of the following items, the order of precedence shall be as follows: (a) the Agreement, and (b) the exhibits to the Agreement.

ARTICLE VI. ASSIGNMENT OR TRANSFER OF INTEREST

Neither Party may assign its rights, privileges and obligations under this Agreement, in whole or in part, without the prior written consent of the other Party. Any attempt to assign without such approval shall be void.

ARTICLE VII. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE VIII. RECITALS

The Recitals on Page 1 of this agreement are agreed to be true and correct and are incorporated herein and made a part of this agreement for all purposes inclusive of the Exhibits.

ARTICLE IX. COMPLIANCE WITH LAWS AND ORDINANCES

Both Parties shall comply with all federal, state and local laws and ordinances, in connection with the Project and all related work and services performed under this Agreement.

ARTICLE X. TEXAS LAW TO APPLY

10.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

10.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

ARTICLE XI. AMENDMENT

No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof, and be duly executed by the Parties hereto.

ARTICLE XII. NOTICES

All notices required to be given under this Agreement shall be in writing and either shall be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid and addressed to the proper party at the address which appears below, or at such other address as the Parties hereto may hereafter designate in accordance herewith, unless a provision of this Agreement designates another party and provides a different address. All notices given by mail shall be deemed to have been given at the time of deposit in the United States mail and shall be effective

from such date.

If to City: Razi Hosseini, P.E., R.P.L.S.
Interim Director
City Engineer, Transportation & Capital Improvements
P.O. Box 839966
San Antonio, Texas 78283-3966

With a copy to: City Clerk
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

If to VIA: Mr. Jeffrey C. Arndt
President/CEO
VIA Metropolitan Transit
The Grand
123 N. Medina St.
San Antonio, TX 78207

ARTICLE XIII. FORCE MAJEURE

Neither Party shall be responsible for delays or lack of performance by such entity or its officials, agents or employees which result from acts beyond that entity's reasonable control, including acts of God, strikes or other labor disturbances or delays by federal or state officials in issuing necessary regulatory approvals and/or licenses. In the event of any delay or failure excused by this Article, the time of delivery or of performance shall be extended for a reasonable time period to compensate for delay.

ARTICLE XIV. MULTIPLE COUNTERPARTS

This Agreement may be executed in separate identical counterparts by the Parties hereto and each counterpart, when so executed and delivered, shall constitute an original instrument and all such separate identical counterparts shall constitute but one and the same instrument.

-----*Signatures follow*-----

EXECUTED IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original, on this _____ day of _____, 2020.

CITY OF SAN ANTONIO

VIA METROPOLITAN TRANSIT

By: _____

By: _____

ERIC WALSH
City Manager

JEFFREY ARNDT
President/CEO

APPROVED AS TO FORM:

City Attorney's Office

EXHIBIT A PROJECT SITE



EXHIBIT B PROJECT SCOPE

- Reconstruction of the Flores and Fredericksburg (Five Points) intersection
- Reconfigure the intersection within the limits of the Project shown on Exhibit A, to accommodate improved flow of transit traffic through the intersection and make available locations for new passenger amenities, including bus stop, seating, lighting and shelters.
- Improve pedestrian and bicycle mobility through the intersection
- Traffic Signal Upgrades to include queue jump operations and pedestrian actuated signals.
- This project is in partnership with VIA Metropolitan Transit