

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2021-014 Project Connect Ordinance

Description: Consider an amendment to Title 25 City Code for Transit System Projects to facilitate the construction of critical transportation infrastructure.

Proposed Language: See attached draft ordinance and background information.

Summary of proposed code amendment

This is a Foundational Ordinance, creating a place for any future code amendments, and proposes 5 main components:

- Structure (as a foundational ordinance)
- Requiring a construction noise and mitigation plan
- Adjustments to site plan
- Establish uses
- Fiscal exemption beyond the ROW

Background: Initiated by City Council Resolution 20211029-003

In October of 2021, Council passed a resolution directing staff to scan code, criteria and processes looking for obstacles to efficient implementation and permitting of Project Connect. The resolution cites the City's mobility plan, the voter referendum for Project Connect, the ENO report, and the known difficulties of Austin's codes and ordinances in implementing a linear project.

Staff Recommendation: Staff recommends the proposed code amendment.

Board and Commission Actions

September 21, 2022: Went before Codes and Ordinances Joint Commission; unable to hear item due to lack of quorum.

October 4, 2022: Urban Transportation Commission. Approved motion of support.

October 5, 2022: Environmental Commission. Approved motion of support (see EV commission recommendation attached)

October 11, 2022: Planning Commission. Approved motion of recommendation.

October 18, 2022: Scheduled to go before the Zoning and Platting Commission.

October 19, 2022: Scheduled to go before the Downtown Commission

October 24, 2022: Scheduled to go before the Design Commission.

Council Action

December 1, 2022: Suggested date/time

Ordinance Number: NA

City Staff: Donna Galati **Phone:** 512-974-2733 **Email:** donna.galati@austintexas.gov

PROPOSED LANGUAGE FOR PROJECT CONNECT ORDINANCE
DRAFT SUBJECT TO ADDITIONAL CHANGES

PART 1. Project Connect is the City’s high-capacity transit system expansion, which will ultimately consist of multiple light rail lines, a downtown subway, an expanded bus system, and associated transportation terminals. To facilitate the construction of this critical transportation infrastructure, certain modifications and waivers to City Code are necessary to ensure that construction of a high-capacity transit system is completed in a timely manner.

PART 2. This ordinance and the attached Exhibits A and B consist of the “Transit System Regulations”. Development of the Transit System shall conform to the limitations and conditions set forth in this ordinance. If this ordinance and the attached exhibits conflict, this ordinance controls. Except as otherwise provided by this ordinance, all other rules, regulations, and ordinances of the City apply.

PART 3. The attached exhibits are incorporated into this ordinance in their entirety as though set forth fully in the text of this ordinance. The exhibits are as follows:

- A. Transit System Exhibit
- B. Transit System Noise and Mitigation Plan Requirements

PART 4. Definitions.

- A) Transit System Project means a transportation project with any related appurtenances, including but not limited to a rail and public transit line, rail station, or a transportation terminal, funded by a public entity that is located on publicly owned land, either in fee or public easement and generally depicted on attached Exhibit A.
- B) Unless otherwise specifically defined, all terms in this ordinance shall have the meaning established in Title 25 of Code of the City of Austin, Texas (the “Land Development Code”).

PART 5. Any construction activities associated with a Transit System Project must comply with a noise and mitigation plan approved by the City that meets the requirements listed in Exhibit B. To the extent there is a conflict with Chapter 9-2 (*Noise and Amplified Sound*), the Transit System Noise and Mitigation Plan will control.

PART 6. Transit System Uses

- A) The use of a site for a traction powered substation is a Local Utility Service use as described in 25-2-6(28).

PROPOSED LANGUAGE FOR PROJECT CONNECT ORDINANCE
DRAFT SUBJECT TO ADDITIONAL CHANGES

- B) The use of a site for the provision of maintenance, repair, vehicular or equipment servicing, material storage, or similar activities for light rail lines is a Maintenance and Facilities use as described in 25-2-6 (29).

PART 7. Code Modifications. The following code modifications apply to a site plan application for a Transit System Project.

A) Site Plan

1. Subsection (B) of Section 25-5-21 (*Phased Site Plan*) is modified to allow the director to approve development phasing if the date on the final phase is not more than ten years after the approval date of the site plan. Planning Commission approval is required for development phasing if the date proposed for beginning construction of a phase is more than ten years after the approval date of the site plan.
2. Section 25-5-22 (*Engineering Plans for a Phased Site Plan*) is modified to allow additional development phases to be added to an approved site plan. Any additional development phases shall be considered an update under Section 25-5-113 (*Updates*).
3. Section 25-5-23 (*Fast Track Permit*) is modified to allow the director to approve a fast-track permit that does not require a certificate of occupancy. Section 25-5-23 (*Fast Track Permit*) is further modified to allow the director to approve a fast-track permit that requires a variance.
4. Section 25-5-81 (*Site Plan Expiration*) is modified to allow a site plan to expire 10 years after its approval.
5. Section 25-5-113 (*Updates*) is modified to allow an applicant to file an update to a site plan up to five years after the date the application is filed. Days may still be added to the update deadline under Section 25-1-88 (A)(*Extension of Update Deadline*).

B) Fiscal

City Code Section 25-1-112 (*Fiscal Security*) is modified such that a Transit System Project is not required to post fiscal.



ENVIRONMENTAL COMMISSION MOTION 20221005-004

Date: October 5, 2022

Subject: Project Connect

Motion by: Kevin Ramberg

Seconded by: Rick Brimer

RATIONALE:

WHEREAS, the Environmental Commission supports the implementation and operation of Project Connect.

WHEREAS, the Environmental Commission understands this proposed ordinance will not change the code requirements that trigger Boards and Commissions review and approvals.

THEREFORE, the Environmental Commission recommends the proposed ordinance in response to Resolution 20211029-003 with the following Environmental Commission Conditions:

1. Project Connect commits to brief the Environmental Commission and seek our recommendations on the project development annually at a minimum;
2. Project Connect commits to implementing multilingual public outreach based on the languages spoken in the target populations; and
3. Project Connect commits to presenting to the Environmental Commission early in the Draft EIS NEPA public involvement period to seek Commission comments and recommendations related to sound mitigation and management and other environmental elements.

VOTE 8-0

For: Aguirre, Bedford, Brimer, Ramberg, Schiera, Scott, Thompson, and Qureshi

Against: None

Abstain: None

Recuse: None

Absent: Barrett Bixler, Bristol, Nickells

Approved By:

A handwritten signature in dark ink that reads "KEVIN RAMBERG". The signature is written in a cursive, slightly slanted style.

Kevin Ramberg, Environmental Commission Chair

INITIAL INVESTMENT | August 2021

- LIGHT RAIL**
- Orange Line
 - Potential Future Extension
 - Blue Line
- METRORAIL**
- Red Line
 - Green Line
 - Potential Future Extension
- METRORAPID**
- Gold Line
 - Enhanced MetroRapid Route
 - Potential Future Extension
- METROBUS**
- Current Frequent Local Routes

- METROEXPRESS**
- Current MetroExpress
 - Future MetroExpress
- ADDITIONAL AVAILABLE SERVICES**
- MetroAccess
 - MetroBike
 - CURRENT PARK & RIDE
 - PROPOSED PARK & RIDE
 - CIRCULATOR (PICKUP)
 - APPROXIMATE ZONE LOCATION
 - POTENTIAL TUNNEL LOCATION
 - TRANSFER POINT
- SCHEMATIC MAP NOT TO SCALE

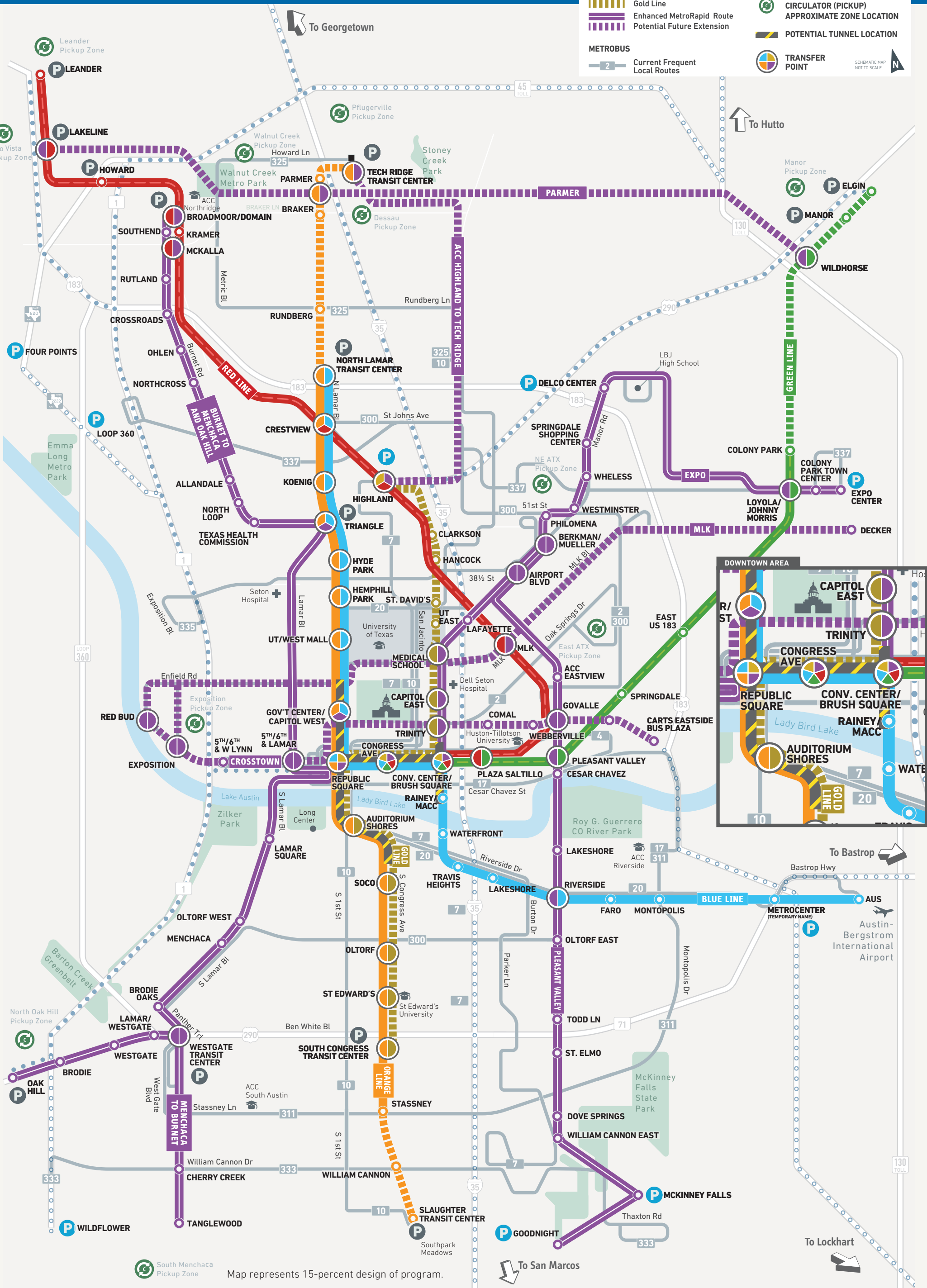


EXHIBIT B – Rail Construction Noise and Mitigation Plan Requirements

The Austin Transit Partnership (ATP) will submit the required components listed below to be reviewed and approved by City Staff. City Staff will review the plan to ensure that all required components are present in the plan and are satisfactory to City Staff before approval.

ATP commits to adhere and ensure that contracted parties responsible for light rail construction activities adhere to the policies and procedures housed within the submitted plans.

The following components are required:

1. Construction Noise Mitigation and Monitoring Plan

Construction noise impacts will be documented in the Final Environmental Impact Statement (FEIS), completed in compliance with the National Environmental Policy Act (NEPA) process. Mitigation measures identified in the Mitigation Monitoring Plan, affirmed in the FEIS and Record of Decision, will be included in contract documents, monitored for implementation during final design and construction. Measures to minimize impacts will include, but are not limited to:

- Sound monitoring during construction
- Limiting idling and back up alarms of equipment
- Limiting certain activities during certain times

2. Noise Control Plan Requirements for Contractors during Construction

ATP will require all contractors to submit a Noise Control Plan as part of their contract that addresses mitigation for their specific schedule, equipment, and methods of construction. ATP will submit their requirements of contractors for this plan to the City. The requirements will include, but are not limited to:

- Contractor's specific equipment types
- Schedule (dates and times of day) and methods of construction
- Maximum noise limits for each piece of equipment with certification testing
- Prohibitions on certain types of equipment and processes during the night or daytime hours
- Identification of specific sensitive locations near construction sites
- Methods for projecting construction noise levels
- Implementation of noise control measures where appropriate
- Methods for responding to community complaints in line with the Programmatic Project Communications Plan.

3. Programmatic Project Communications Plan

This plan will contain requirements for programmatic communications including how the program will communicate to the public about construction impacts and timelines, posting of public-facing materials, procedures for submission of noise and construction impact complaints, and how complaints will be handled.

- This plan will be adhered to by all contractors for the program. This plan will dictate high-level requirements that ensure consistency of information, noticing, monitoring, reporting, and responding to complaints.
- Items that are required in this plan are:

- Provisions for a Construction Noise webpage on the ProjectConnect.com website that will communicate:
 - construction plans and timelines,
 - notification of construction impacts,
 - what efforts are being made to minimize noise,
 - where noise complaints can be filed,
 - description of format of response to noise complaints and steps for corrective action to address verified complaints,
 - links to documents mentioned in this policy and
 - monitoring data.
- Procedures for notifying surrounding residents and businesses of temporary construction impacts and providing complaint information
- Procedures that detail how the public can submit noise complaints, how that information will be shared with the public, format of response and steps for corrective actions taken to address verified complaints.
- Commitment to post noise monitoring information on at least a quarterly basis to the Project Connect Construction Noise webpage detailing noise readings and monitoring locations.

RESOLUTION NO. 20211029-003

WHEREAS, the Austin Strategic Mobility Plan ("ASMP") (Ordinance No. 20190411-033) is the transportation element of the Imagine Austin Comprehensive Plan and calls for a 50/50 mode share by 2039, which includes increasing use of sustainable modes such as walking, bicycling, teleworking and transit;

WHEREAS, City Council adopted Resolution No. 20190808-081 directing the City Manager to "analyze and report on options for the City of Austin and other related or interested public or private entities to leverage resources to support the creation, operation, and maintenance of a high-capacity transit system”;

WHEREAS, Austin voters approved Project Connect, the regional high-capacity transit system, on November 3, 2020;

WHEREAS, on December 18, 2020, the City of Austin and the Capital Metropolitan Transportation Authority created a local government corporation named the Austin Transit Partnership Local Government Corporation to aid the City and Capital Metro and act on their behalf to accomplish the governmental purpose of implementing the Project Connect System Plan;

WHEREAS, in a report entitled *Saving Time and Making Cents: A Blueprint for Building Transit Better* (“Eno Report”), published in 2021, the Eno Center for Transportation identified local regulation, permitting, and decision-making procedures throughout the United States as an obstacle to achieving viable, cost-effective transit systems on par with those of peer nations;

WHEREAS, noting that local development codes are generally ill-suited to the nature and scale of mass transit, the Eno Report found that jurisdictions that have successfully constructed mass transit systems apply modified regulations and review procedures to accommodate the unique challenges

transit construction presents and the ways it differs from private development or conventional transportation and public works projects;

WHEREAS, the City of Austin's Land Development Code does not provide for the design and permitting of linear construction required for mobility and transit facilities that encompass large areas, include subsurface and above-ground elements, and span multiple zoning districts and watersheds;

WHEREAS, greater flexibility and more carefully tailored regulations are required to facilitate construction of Project Connect;

WHEREAS, City staff routinely interprets and applies City Code to development and capital improvement applications;

WHEREAS, the Land Development Code, existing regulations, criteria, and procedures should be flexibly applied to facilitate construction of Project Connect to the greatest extent possible until existing requirements can be amended;

WHEREAS, there are Project Connect MetroRapid and MetroRail projects currently moving forward in advance of the Orange and Blue Line light rail projects; and

WHEREAS, motor vehicle trip conversion to high-capacity transit and other sustainable modes yields benefits to the environment; **NOW,**

THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

1. The City Council directs the City Manager to:
 - a. Review City Code, including, but not limited to, the Land Development Code, Criteria Manuals, and permitting procedures to identify

impediments to the design, construction, implementation, and operation of Project Connect;

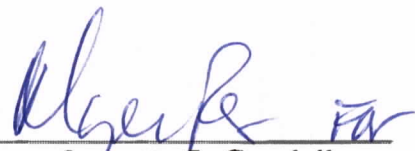
- b. Develop new regulations and procedures to address the impediments and assure implementation and construction of Project Connect consistent with the sequence plan approved in the Contract with Voters in a manner cognizant of other City policies, including commitments in the Project Connect Joint Powers Agreement and consistent with environmental protections in various adopted plans, including but not limited to those that identify the range of environmental benefits that can be achieved by reducing single occupancy motor vehicle trips;
- c. Present any Code amendments necessary to accomplish the goals of Paragraphs 1.a and 1.b to City Council no later than April 2022; and
- d. After Council adoption of Code amendments, follow appropriate procedures to issue any rules necessary to implement the Code amendments;

BE IT FURTHER RESOLVED:

Until City Council adopts new or amended Code provisions, the City Council directs the City Manager to interpret and apply existing requirements to Project Connect permits and approvals in a manner that considers the framework established by the Contract with the Voters, and other applicable City policies while working to support implementation of Project Connect.

ADOPTED: October 29, 2021

ATTEST:


Jannette S. Goodall
City Clerk