



## **AGENDA FOR THE MASS TRANSIT DEPARTMENT BOARD MEETING**

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**May 09, 2023**

**COUNCIL CHAMBERS, CITY HALL, 300 N. CAMPBELL AND VIRTUALLY  
10:00 AM**

**THE LOCAL HEALTH AUTHORITY STRONGLY RECOMMENDS THE USE OF  
MASKS IN ALL CITY FACILITIES AND INDOOR SPACES**

**Teleconference phone number: 1-915-213-4096**

**Toll free number: 1-833-664-9267**

**Conference ID: 795-447-859#**

**AND**

**AGENDA REVIEW MEETING**

**COUNCIL CHAMBERS, CITY HALL, 300 N. CAMPBELL AND VIRTUALLY**

**May 08, 2023**

**9:00 AM**

**Teleconference phone number: 1-915-213-4096**

**Toll free number: 1-833-664-9267**

**Conference ID: 454-412-447#**

Members of the public may view the meeting via the following means:

Via the City's website. <http://www.elpasotexas.gov/videos>

Via television on City15,

YouTube: <https://www.youtube.com/user/cityofelpasotx/videos>

In compliance with the requirement that the City provide two-way communication for members of the public, members of the public may communicate with Council during public comment, and regarding agenda items by calling either of the numbers listed above and entering the corresponding conference ID.

**The public is strongly encouraged to sign up to speak on items on this agenda before the start of this meeting on the following links:**

<https://www.elpasotexas.gov/city-clerk/forms/>

<https://app.smartsheet.com/b/form/cc20aad8258146ab8f63761079bd1091>

A quorum of the Mass Transit Department Board must participate in the meeting.

### **ROLL CALL**

### **CALL TO THE PUBLIC – PUBLIC COMMENT:**

This time is reserved for members of the public who would like to address the Mass Transit Department Board on items that are not on the Mass Transit Department Board Agenda.

Members of the public may communicate with Board Members during public comment, and regarding agenda items by calling 1-915-213-4096 or toll free number 1-833-664-9267 at the prompt please enter the following Conference ID: 795-447-859#

A sign-up form is available on line at:

<https://app.smartsheet.com/b/form/dc001f113c14440db558b9da4e973ce2>

for those who wish to sign up in advance of the meeting date. Requests to speak must be received by 9:00 a.m. on the date of the meeting. 30 Minutes total is allotted for speakers. Three to five minutes may be allowed for each speaker.

### **NOTICE TO THE PUBLIC:**

All matters listed under the CONSENT AGENDA, including those on the Addition to the Agenda, will be considered by Mass Transit Department Board to be routine and will be enacted by one motion unless separate discussion is requested by Board Members. Prior to the vote, members of the audience may ask questions regarding items on the consent agenda. When the vote has been taken, if an item has not been called out for separate discussion, the item has been approved. The Mass Transit Department Board may, however, reconsider any item at any time during the meeting.

### **CONSENT AGENDA - APPROVAL OF MINUTES:**

#### **Goal 6: Set the Standard for Sound Governance and Fiscal Management**

1. Approval of minutes of the Special Mass Transit Department Board Meeting of March 28, 2023. [23-600](https://www.elpasotexas.gov/city-clerk/forms/)

#### **All Districts**

Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

### **CONSENT AGENDA – REQUEST TO EXCUSE ABSENT MASS TRANSIT BOARD**

## **MEMBERS**

2. Request to excuse Board Member Joe Molinar from the May 9, 2023, Mass Transit Department Board meeting.

[23-601](#)

### **All Districts**

Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

## **CONSENT AGENDA - RESOLUTIONS:**

### **Goal 6: Set the Standard for Sound Governance and Fiscal Management**

3. The linkage to the Strategic Plan is subsection 6.7 - Deliver effective and efficient processes to maximize value in obtaining goods and services.

[23-615](#)

Resolution that the City of El Paso Mass Transit Department hereby approves the adoption of the Purchasing & Strategic Sourcing Amended and Restated Procurement and Sourcing Policy for the City of El Paso, which is attached as Exhibit A of this resolution.

### **All Districts**

Purchasing and Strategic Sourcing, K. Nicole Cote, (915) 212-1092

### **Goal 7: Enhance and Sustain El Paso's Infrastructure Network**

4. The linkage to the Strategic Plan is subsection 7.3 - Enhance regional comprehensive transportation system.

[23-598](#)

Resolution that the City Manager be authorized to sign the Consent to Assignment of Contract No. 2018-1293 Printed Bus Passes by and between the City of El Paso, Electronic Data Magnetics, Inc. ("Assignor") and EDM Technology, Inc. ("Assignee").

### **All Districts**

Purchasing & Strategic Sourcing, K. Nicole Cote, (915) 212-1092

Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

## **CONSENT AGENDA - REQUESTS TO ISSUE PURCHASE ORDERS:**

### **Goal 7: Enhance and Sustain El Paso's Infrastructure Network**

5. The linkage to the Strategic Plan is subsection 7.3 - Enhance regional comprehensive transportation system.

[23-597](#)

Request that the Managing Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Avail Technologies, Inc. the sole and authorized distributor for 2023-0420 Enterprise Resource Management (ERP) Software and Support for a term of three (3) years for an

estimated amount of \$254,284.00, with the stipulation that the vendor provides an updated sole source letter and affidavit each year. This contract will allow for the purchase of myAvail Enterprises Transit Management Solution (ETMS) software cloud base conversion, warranty, maintenance, and support directly from Avail necessary to support the converted software cloud base system and maintain the functionality of the Enterprise Resource Management (ERP) software.

Department: Mass Transit (Sun Metro)  
Award to: Avail Technologies, Inc.  
State College, PA  
Year 1 Total: \$105,450.00  
Year 2 Total: \$72,602.00  
Year 3 Total: \$76,232.00  
Total Estimated Amount: \$254,284.00 (3 years)  
Account No.: 560-3200-60030-522020-P6005  
Funding Source: Sun Metro Operating Fund  
District(s): All  
Sole Source No.: 2023-0420

This is a Sole Source contract.

The Purchasing & Strategic Sourcing and Mass Transit (Sun Metro) Departments recommend that the contract be awarded as indicated to Avail Technologies, Inc. the sole source and authorized distributor for myAvail Enterprises Transit Management Solution (ETMS) software cloud base conversion, warranty, maintenance, and support.

**All Districts**

Purchasing & Strategic Sourcing, K. Nicole Cote, (915) 212-1092  
Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

6. The linkage to the Strategic Plan is subsection 7.3 - Enhance regional comprehensive transportation system. [23-599](#)

**Award Summary:**

Request that the Managing Director of Purchasing & Strategic Sourcing be authorized to issue a Purchase Order to Ace Government Services, LLC referencing Contract 2017-1280 Janitorial Services - Mass Transit (Sun Metro). This will be a change order to increase the award by \$228,187.74 for a total amount not to exceed \$2,139,911.99. This change order will add capacity to the current contract for an additional six (6) months of janitorial services for bus shelters.

Department: Mass Transit (Sun Metro)  
Award to: Ace Government Services, LLC  
El Paso, TX  
Total Estimated Amount: \$228,187.74  
Account No: 560-3215-522060-60050-P6018-P60FTA117  
-G60195307  
Funding Source: FTA Formula 5307 Grant

District(s): All

**All Districts**

Purchasing & Strategic Sourcing, K. Nicole Cote, (915) 212-1092  
Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

**REGULAR AGENDA - OTHER BUSINESS:**

**Goal 6: Set the Standard for Sound Governance and Fiscal Management**

7. Discussion and action to authorize the City Manager or his/her designee to amend the FY 2023 Mass Transit Budget to allow the transfer of \$2.5 million from the Sun Metro Operating fund to the Sun Metro Capital fund to complete the purchase of buses and equipment as approved by City Council in Schedule A of the FY2023 Mass Transit Board Budget Resolution. [23-612](#)

**All Districts**

Purchasing and Strategic Sourcing, K. Nicole Cote, (915) 212-1092  
Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

**EXECUTIVE SESSION**

The Mass Transit Department Board of the City of El Paso may retire into EXECUTIVE SESSION pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, to discuss any of the following: (The items listed below are matters of the sort routinely discussed in Executive Session, but the Mass Transit Department Board of the City of El Paso may move to Executive Session any of the items on this agenda, consistent with the terms of the Open Meetings Act.) The Mass Transit Department Board will return to open session to take any final action and may also, at any time during the meeting, bring forward any of the following items for public discussion, as appropriate.

Section 551.071	CONSULTATION WITH ATTORNEY
Section 551.072	DELIBERATION REGARDING REAL PROPERTY
Section 551.073	DELIBERATION REGARDING PROSPECTIVE GIFTS
Section 551.074	PERSONNEL MATTERS
Section 551.076	DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS
Section 551.087	DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS
Section 551.089	DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS; CLOSED MEETING

**ADJOURN**

**NOTICE TO THE PUBLIC:**

Sign Language interpreters are provided for this meeting. If you need Spanish Interpreter Services, you must email [CityClerk@elpasotexas.gov](mailto:CityClerk@elpasotexas.gov) at least 72 hours in advance of the meeting.

**MASS TRANSIT BOARD AGENDAS ARE PLACED ON THE INTERNET THE THURSDAY  
PRIOR TO EACH MEETING AT THE FOLLOWING ADDRESS:  
<https://elpasotexas.legistar.com/Calendar.aspx>**

<http://www.elpasotexas.gov/>



Legislation Text

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**File #:** 23-600, **Version:** 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Approval of minutes of the Special Mass Transit Department Board Meeting of March 28, 2023.



**SPECIAL MASS TRANSIT DEPARTMENT BOARD MINUTES  
CITY COUNCIL CHAMBERS  
March 28, 2023**

A special meeting of the Mass Transit Department Board was called to order at 10:55 a.m. Board Chair Oscar Leeser was present and presiding and the following Board Members answered roll call: Board Members Brian Kennedy, Alexandra Anello, Cassandra Hernandez, Joe Molinar, Isabel Salcido, Art Fierro, Henry Rivera, and Chris Canales.



**CALL TO THE PUBLIC – PUBLIC COMMENT**

**This time is reserved for members of the public who would like to address the Mass Transit Department Board on items that are not on the Mass Transit Department Board Agenda.**

No members of the public commented.



**CONSENT AGENDA**

Motion made by Board Member Anello, seconded by Board Member Canales, and unanimously carried to **APPROVE** all matters listed under the Consent Agenda unless otherwise noted (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk.)

**1<sup>ST</sup> MOTION**

AYES: Board Members Kennedy, Anello, Hernandez, Molinar, Salcido, Fierro, Rivera, and Canales

NAYS: None

**2<sup>ND</sup> MOTION**

Motion made by Board Chair Leeser, seconded by Board Member Molinar, and unanimously carried to reconsider the consent agenda to allow for the Board Chair to vote.



**3<sup>RD</sup> AND FINAL MOTION**

Motion made by Board Member Rivera, seconded by Board Member Salcido, and unanimously carried to **APPROVE** all matters listed under the Consent Agenda unless otherwise noted (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk.

AYES: Board Members Kennedy, Annello, Hernandez, Molinar, Salcido, Fierro, Rivera, Canales, and Board Chair Leeser  
NAYS: None

.....  
**CONSENT AGENDA – APPROVAL OF MINUTES**

**Goal 6: Set the Standard for Sound Governance and Fiscal Management**

- 1. \*Motion made, seconded, and unanimously carried to **APPROVE** the minutes of the Special Mass Transit Board Meeting of February 28, 2023.

.....  
**CONSENT AGENDA – REQUEST TO EXCUSE ABSENT MASS TRANSIT BOARD MEMBERS**

- 2. **NO ACTION** was taken on this item.

.....  
**CONSENT AGENDA – BOARD APPOINTMENTS**

**Goal 8: Nurture and Promote a Healthy, Sustainable Community**

- 3. \*Motion made, seconded and unanimously carried to **APPROVE** the appointment of Scott White to the Sun Metro Citizen’s Advisory Committee by Board Member Chris Canales.

.....  
**REGULAR AGENDA – OTHER BUSINESS**

**Goal 7: Enhance and Sustain El Paso’s Infrastructure Network**

4. **RESOLUTION**

**WHEREAS**, the Federal Transit Administration ("FTA") is currently accepting applications for the FY2023 Low or No Emission Grant Program and the Grants for Buses and Bus Facilities Competitive Program; and

**WHEREAS**, the City of El Paso, Texas ("City") wishes to submit a grant application for the FY2023 Low or No Emission Grant Program and the Grants for Buses and Bus Facilities Competitive Program ("Grant"); and

**WHEREAS**, the Grant funding is in the amount of \$13,487,721.60 and requires a 20% cash match of \$3,371,930.40; and

**WHEREAS**, if awarded, the funds received under the Grant would be utilized for improving public transit, funding the acquisition of zero emission vehicles and provide opportunities for workforce development; and

**WHEREAS**, the project will improve City’s Transit system, support the City’s workforce development, further the City’s goal to improve air quality throughout the City and therefore support a high quality of life for the El Paso community.

**NOW THEREFORE, BE IT RESOLVED BY THE MASS TRANSIT DEPARTMENT BOARD OF THE CITY OF EL PASO:**

1. That the City Manager or his designee is authorized to sign the documents related to the FY2023 Low or No Emission Grant Program and the Grants for Buses and Bus Facilities Competitive Program which offers funding in the amount of \$13,487,721.60 and requires a 20% cash match of \$3,371,930.40 for a total amount of \$16,859,652; and

2. That the City Manager or his designee is authorized to sign any agreements or verifications required to submit an application for the FY2023 Low or No Emission Grant Program and the Grants for Buses and Bus Facilities Competitive Program; and

3. That the City shall provide all matching funds, in the amount of \$3,371,930.40, for said grant.

**1<sup>ST</sup> MOTION**

Motion made by Board Member Rivera, seconded by Board Member Hernandez, and unanimously carried to **APPROVE** the Resolution.

AYES: Board Members Kennedy, Anello, Hernandez, Molinar, Salcido, Fierro, Rivera, and Canales

NAYS: None

**2<sup>ND</sup> MOTION**

Motion made by Board Member Canales, seconded by Board Member Hernandez, and unanimously carried to **RECONSIDER** this item to allow for the Board Chair to vote.

AYES: Board Members Kennedy, Anello, Hernandez, Molinar, Salcido, Fierro, Rivera, Canales, and Board Chair Leaser

NAYS: None

**3<sup>RD</sup> AND FINAL MOTION**

Motion made by Board Member Hernandez, seconded by Board Member Molinar, and unanimously carried to **APPROVE** the Resolution.

AYES: Board Members Kennedy, Anello, Hernandez, Molinar, Salcido, Fierro, Rivera, Canales, and Board Chair Leaser

NAYS: None



**ADJOURN**

Motion made by Board Member Rivera, seconded by Board Member Canales, and unanimously carried to **ADJOURN** the meeting at 10:59 a.m.

AYES: Board Members Kennedy, Annello, Hernandez, Molinar, Salcido, Fierro, Rivera, Canales,  
and Board Chair Leeser  
NAYS: None

.....  
Approved as to content:

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Ellen A. Smyth, Chief Transit & Field Operations Officer



Legislation Text

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**File #:** 23-601, **Version:** 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Request to excuse Board Member Joe Molinar from the May 9, 2023, Mass Transit Department Board meeting.



Legislation Text

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**File #: 23-615, Version: 1**

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, K. Nicole Cote, (915) 212-1092

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to the Strategic Plan is subsection 6.7 - Deliver effective and efficient processes to maximize value in obtaining goods and services.

Resolution that the City of El Paso Mass Transit Department hereby approves the adoption of the Purchasing & Strategic Sourcing Amended and Restated Procurement and Sourcing Policy for the City of El Paso, which is attached as Exhibit A of this resolution.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**AGENDA DATE:** May 9, 2023  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

**DISTRICT(S) AFFECTED:** K. Nicole Cote, Managing Director (915) 212-1092  
All

**STRATEGIC GOAL:** No. 6 – Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:** 6.7 – Deliver effective and efficient processes to maximize value in obtaining goods and services

**SUBJECT:**

That the Mass Transit Board hereby approves the adoption of the Purchasing & Strategic Sourcing Amended and Restated Procurement and Sourcing Policy for the City of El Paso, which is attached as Exhibit A of the resolution.

**BACKGROUND / DISCUSSION:**

The City Approved a Policy Statement 1984.

Then City Council approved on April 17, 2018 Procurement and Sourcing Policy for the City of El Paso.

For the Policies adopted in 2018, a consultant was hired to review the procurement policies and procedures to ensure that the City was following existing Federal, State, and local laws. In addition, the City requested that the consultant identify best practices. 13 best practices were identified in the third party and all recommendations were incorporated.

The Amended and Restated Policy Statement has been updated to reflect best practices and adherence to applicable Federal, State and Local Laws and practices.

**SELECTION SUMMARY:**

N/A

**CONTRACT VARIANCE:**

N/A

**PROTEST**

N/A

**PRIOR COUNCIL ACTION:**

Then City Council approved on April 17, 2018 the Amended and Restated Procurement and Sourcing Policy for the City of El Paso.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES \_\_\_ NO

**PRIMARY DEPARTMENT:** Purchasing & Strategic Sourcing **SECONDARY DEPARTMENT:** All Departments

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



---

K. Nicole Cote, Managing Director of Purchasing and Strategic Sourcing

**COUNCIL PROJECT FORM  
(Resolution)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **CONSENT AGENDA** for the City Council and Mass Transit Board Meeting of **May 9, 2023**.

**STRATEGIC GOAL: No. 6 – Set the Standard for Sound Governance and Fiscal Management**

The linkage to the Strategic Plan is subsection 6.7 – Deliver effective and efficient processes to maximize value in obtaining goods and services

Request that the Mass Transit Board hereby approves the adoption of the Purchasing & Strategic Sourcing Amended and Restated Procurement and Sourcing Policy for the City of El Paso, which is attached as Exhibit A of the resolution.



**RESOLUTION**

**BE IT RESOLVED BY THE CITY OF EL PASO MASS TRANSIT DEPARTMENT:**

That the the City of El Paso Mass Transit Department hereby approves the adoption of the Purchasing & Strategic Sourcing Amended and Restated Procurement and Sourcing Policy for the City of El Paso, which is attached as Exhibit A of this resolution.

**APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023.**

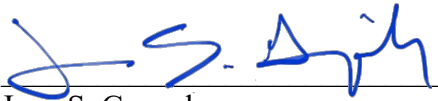
CITY OF EL PASO  
MASS TRANSIT DEPARTMENT BOARD:

\_\_\_\_\_  
Oscar Leeser,  
Chair

ATTEST:

\_\_\_\_\_  
Laura D. Prine,  
Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Juan S. Gonzalez  
Senior Assistant City Attorney

APPROVED AS TO CONTENT

  
\_\_\_\_\_  
K. Nicole Cote, Managing Director  
Purchasing & Strategic Sourcing Dpt.

**EXHIBIT A**

City of El Paso

Purchasing and Strategic Sourcing Department

Amended and Restated Procurement and Sourcing Policy

# PROCUREMENT SOURCING POLICY

AMENDED AND RESTATED  
AS OF MAY 9, 2023

CITY OF EL PASO



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City of El Paso  
***PURCHASING & STRATEGIC SOURCING***

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**CITY OF EL PASO  
THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

**MISSION**

Deliver exceptional services to support a high quality of life and place for our community.

**VISION**

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.

**VALUES**

- Integrity
- Respect
- Excellence
- Accountability
- People



**CITY OF EL PASO  
THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

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CITY OF EL PASO

THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY

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**CITY OF EL PASO**  
**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

**SECTION 1 – INTRODUCTION**

The City of El Paso is a political body, with power to exercise all powers of local self-government, which are or come to be conferred upon constitutional home rule cities in the State of Texas. The City of El Paso (hereinafter referred to as “the City”) shall exercise these powers as a municipal corporation, subject to the Constitution of the laws of the State of Texas.

**1.1 Purpose and Scope**

The purpose of The Amended and Restated Procurement and Sourcing Policy (hereinafter referred to as “the Policy”) is to establish the general guidelines for conducting procurements, sourcing and qualification-based selections in accordance with applicable, federal, state, local laws, ordinance(s) and/or statutes.

**1.2 Application**

This Policy applies to all solicitations, negotiations, purchase orders and contracts, agreements for the procurement of goods, services, construction/public works and a sub-grant entered in to by City. It shall apply to every expenditure of Federal funds by City for public purchasing, including contracts which do not involve an obligation of funds (such as concession contracts); however, nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with law. The term procurement, as used in this Policy, includes purchase orders, contracts and modifications (including change orders) for goods, services and construction, as well as qualification-based selections, purchase, lease, or rental of supplies and equipment, but shall not be applicable in agreements wherein the City serves as the fiscal agent or to sub-grant.

Based on these policies, the Purchasing Director will establish procedures for procurements, qualification-based selections and sourcing in accordance with general procurement practices and in compliance with applicable laws. The Purchasing & Strategic Sourcing Department will implement and disseminate the procedures and practices adhering to the policies provided in this Procurement Policy and applicable local, state, and federal laws. In accordance with this purpose, the Purchasing & Strategic Sourcing Department has defined its mission as follows:

*“Our mission is to facilitate the procurement of goods and services in an open, fair, transparent, economically competitive and respectful process with the goal of maximizing taxpayers’ dollars. Therein promoting and fostering a climate of good business relationships between our suppliers and the City.”*

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#### 1.3 Modification to The Amended and Restated Procurement and Sourcing Policy

Modification of any of the policies set forth in this Policy, after the adoption of this Policy by City Council, must be approved by the same except that the City Manager or Purchasing Director without the further approval of the City Council.

The City Manager or Purchasing Director is authorized to correct inconsistencies, make such non-material changes, additions, corrections or amendments as he/she may deem necessary or advisable, or make such other changes as may be required by City Council, or as a result of changes in federal regulations, or results from a Six Sigma process improvement. *[Revised May 9, 2023]*

## SECTION 2 – PROCUREMENT AUTHORITY AND RESPONSIBILITIES

### 2.1 City of El Paso's Governing Body

#### 2.1.1 Mayor

The Mayor, elected by qualified El Paso voters in a regular election, is recognized as the head of the City government for all ceremonial and military purposes. The Mayor is the presiding member over City Council. The Mayor has no administrative duties in accordance with the City Charter [Abbreviated].

#### 2.1.2 City Manager

The City Manager, appointed by City Council, based on executive and administrative qualifications, is the Chief Administrative Officer of the City. The City Manager is responsible for the administration of all City affairs as provided in the City Charter [Abbreviated].

#### 2.1.3 City Council - Eight (8) District Representatives

There are eight (8) District Representatives, as established by City Council, elected in a regular election of qualified El Paso voters. The eight (8) District Representatives, along with the Mayor, have legislative powers [Abbreviated].

### 2.2 Procurement and contract award duties of the Governing Body

#### 2.2.1 The Mayor

Under the authority of the Council, the Mayor shall sign all lawful acts of the Council, such as ordinances, resolutions, conveyances, grant agreements, plats, contracts and bonds. The Council may, by ordinance, provide that additional designated officials may sign such acts of Council on behalf of the Mayor as provided by law.



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**2.2.2 City Council**

Approval of the City Council is required for contracts and contract modifications that alone, or in the aggregate, total an amount in excess of (\$50,000). In addition to the above, only City Council has the authority to terminate formal contracts in accordance with the terms of such contracts and enter agreements relating to resolution of any contract dispute.

**2.2.3 The City Manager**

The City Manager shall have the authority to execute intergovernmental agreements, as delineated within Ordinance 16015, contracts, purchase orders and/or modifications up to fifty thousand dollars (\$50,000) without City Council approval.

In the event the City Manager determines it would be in the best interest of the City, the City Manager may execute a contract and/or modification that requires City Council's approval before the next City Council meeting, provided that said contract and/or modification(s) are presented to the City Council for ratification at the next regular or special City Council and/or Mass Transit Board meeting.

**2.2.4 The Purchasing Director**

The Purchasing Director shall serve as the Chief Procurement and Contracting Officer and is authorized to execute intergovernmental agreements, contracts, purchase orders and/or modifications in accordance with the authority delegated by the City Manager. The Purchasing Director may also sign contracts/agreements for the acquisition of any city goods and services in an amount of \$5,001 to \$50,000 per annum, or an aggregate of \$100,000 on a multi-year contract. All single purchases equal to or greater than \$50,000 must be approved by City Council upon review by the City Manager. The Purchasing Director can issue purchase orders in an amount greater than \$50,000 if approved by City Council. The City Council herein delegates the authority to the Purchasing Director to exercise options of contracts wherein the initial term was approved by City Council. ***[Revised May 9, 2023]***

**SECTION 3 – COMPLIANCE WITH PROCUREMENT POLICIES**

All City of El Paso personnel responsible for any aspect of a qualification-based selection, evaluation of contractor, or procurement process shall comply with the laws, regulations, policies and procedures established for conducting processes delineated in this Policy and Purchasing & Strategic Sourcing Manual. All personnel involved shall conduct his/her duties with the highest ethical standards and business practices.

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**SECTION 4 – DUTIES OF THE PURCHASING DIRECTOR**

The Purchasing Director shall have the following duties:

- 4.1. Lead the day-to-day operations of the Purchasing & Strategic Sourcing Department and shall lead all city procurements.
- 4.2. Serve as the Wage Theft Coordinator.
- 4.3. Serve as Chief Contract Compliance Officer.
- 4.4. Exert good business acumen by seeking to establish contracts that represent the best value or most advantageous for the City of El Paso.
- 4.5. When advantageous, seek to collaborate with other agencies within the region and nationally to reduce costs and improve services.
- 4.6. Promote standardization and/or category management to improve the City's efficient use of resources.
- 4.7. Provide procurement planning and consultation services to City departments with the goal of enhancing value-added in related procurement and contracting activities.
- 4.8. Promulgate procedures in accordance with all applicable laws, regulations, and policies, including but not limited to the applicable provisions of the City of El Paso Resolutions or Ordinances, State of Texas Statutes, and the Federal Acquisition Regulations, if applicable [Abbreviated].

**SECTION 5 – RESPONSIBILITY OF CITY STAFF INVOLVED IN PROCUREMENT AND SELECTION PROCESSES**

City employees involved in the procurement, qualification-based selection, sourcing, contracting, or purchasing process must uphold the highest ethical standards. City employees carrying out procurement, contracting, or purchasing duties must become familiar with all requirements associated with their roles.

**5.1 Purchasing Representatives**

- 5.1.1. Purchasing Representatives must become familiar with policies, procedures and laws associated with the role assigned and understand the requirements.
- 5.1.2. Maintain the confidentiality of any and all procurements assigned, or that it comes into contact whether or not it has been assigned to the Purchasing Representative.
- 5.1.3. Promptly respond to the End User requests and advise the User Department of any deficiencies in the submission.
- 5.1.4. Provide guidance to the End User in the procurement, sourcing and contracting process.
- 5.1.5. Effect any allowable contract changes requested by the End User's Contract Administrator throughout the life of the contract [Abbreviated]
- 5.1.6. Ensure all requirements are identified which an offeror must fulfill and all other factors to be used in evaluating bids or proposals. **[Revised March 12,2021]**

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**5.2 Contract Administrators**

Understand and follow the procurement policies, procedures, and principles of contract administration.

End Users' Contract Administrators shall manage contract(s) for compliance with all terms and monitor vendor performance to ensure that vendor performance adheres to contract terms. Vendor performance reports shall enter into the Vendor Performance Tracking System at a frequency to be determined by the Contract Administrator. A vendor performance report shall be completed upon closing out a contract. Any compliance issues must be reported to the End User's Director and Purchasing Director no later than one business day after the department first becomes aware of the issue. The Legal Department shall be engaged by the Purchasing Director on matters that have escalated to require a cure letter and/or termination.

**SECTION 6 – PROCUREMENT GUIDELINES**

**6.1 Cone of Silence/Anti-Lobbying Policy**

The City's Cone of Silence/Anti Lobbying Policy was adopted to ensure a fair and competitive bidding environment by preventing communication or lobbying between City officials, employees, or representatives and parties involved in the bidding process that could create an unfair advantage to any party with respect to the award of a City contract.

The City's Cone of Silence/Anti-Lobbying Policy prohibits any communication or lobbying activities with City officials, employees and/or its consultants or contractors on matters of a solicitation from its advertisement through the date said item is posted on the forthcoming City Council agenda.

In the case of an unsolicited or competing proposal for a public-private partnership, the period shall commence on the date that the City receives a notice of intent from a vendor declaring its intention to submit an unsolicited proposal and will end on the date the notice of award has been posted on the City Council agenda. All provisions of the Cone of Silence/Anti-Lobbying Policy are hereby incorporated by reference.

**6.2 Sustainability**

Purchasing & Strategic Sourcing recognizes its responsibility to minimize negative impacts to the environment and to the public health when procuring products and services that have an inherent social, environmental and economic impact. Purchasing & Strategic Sourcing is committed to make procurement decisions that will contribute to promote sustainability by purchasing products and services whose equality, function and cost are equal or superior to more traditional goods or services.

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**6.2 Sustainability (Continued)**

The following factors will be considered when preparing a solicitation:

- a) In conjunction with User Departments and in a case-by-case basis and when relevant sustainability factors will be included in solicitations, including but not limited to:
  - 1. Resource conservation;
  - 2. Reduction of waste generated by construction projects;
  - 3. Energy efficiency;
  - 4. The use of recycled/recyclable supplies and material;
  - 5. LEED Certification;
  - 6. Minimum packing;
  - 7. Maximum durability, reparability, reusability, recyclability and upgradeability;
  - 8. Reduction usage of hazardous material;
  - 9. Disposal Cost;
  - 10. Disposal Methodology; and
  - 11. Recycling.

**6.3 Public Notice Requirement**

**6.3.1 Publication**

It is the policy of the City of El Paso to promote an open and transparent procurement process by giving public notice to bidders and/or offerors of upcoming opportunities.

The term “Publicize” or “Publication” as used in this Policy refers to the process of advertising in the official legal organ (hereinafter the “local newspaper”) a synopsis of solicitations that are available for review on the City’s website. All qualification based selections and procurements with an estimated value of fifty thousand dollars (\$50,000) or greater shall be advertised in the local newspaper a minimum of once a week for two consecutive weeks.

The date of the first publication must be before the 14<sup>th</sup> day that the bids or proposals are publicly opened and read out loud. The Purchasing Director shall implement standards for advertisements. Consideration shall be given to the cost estimate, complexity of the requirement, market condition and other relevant factors. Such standards shall be applicable to all procurements, unless there are extenuating circumstances that may cause the Purchasing Director to authorize a deviation from the standard provided that such deviation meet the legal advertisement requirement.

**6.3.2 Post on the City’s Online Bidding System [Revised May 9, 2023]**

To enhance transparency, the City shall post all contracting opportunities to the City’s Online Bidding System. The terms “Posting” or “Posted” as used in this Policy refers to the process of placing a solicitation on the City’s Online

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Bidding System and thereby making it immediately available for downloading. Informal bids, Formals, Qualification based selections and Alternative procurement methods shall be posted in City's Online Bidding System

The documents shall be available no later than the first day that the procurement opportunity is advertised and appears in the local newspaper.

#### SECTION 7 – INITIATION OF PROCUREMENT ACTION

Documents authorized to initiate a procurement action shall include, but are not limited to, the following:

1. Initial Procurement Start-Up Package (Scope of Work, Specifications, Procurement Request Form, Independent Cost Estimate).
  - a. Specifications must be clear and have accurate description of the technical requirements for the materials, products or services to be procured or sourced.
  - b. Shall not contain features or functionality which unduly restrict competition.
  - c. Detailed product specifications should be avoided if possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used to define the performance or other salient requirements of procurement.
  - d. The specific features and/or functionality of the named brand which must be met by offers must be clearly stated.
  - e. In cases where a name brand is listed, the City shall provide a qualified alternative product list; or
  - f. Identify a process for submitting and having alternate products approved prior to submission of the bid.
  - g. Scope of Work shall consist of the qualitative nature, functionality or have a problem statement to be solved and/or service to be sourced. The scope of work shall clearly set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended End User. ***[Revised March 12, 2021]***
2. Encumbrance (requisition), and
3. Justification memo for non-competitive procurement (if applicable) or other forms that are developed and approved by the Purchasing Director (or designee) to facilitate the procurement action in compliance with this Policy.

#### SECTION 8 – EVALUATION COMMITTEE ***[Revised January 1, 2019]***

Evaluation Committee (EC) Purpose: These evaluation guidelines apply to evaluation committees of any procurement with a qualitative process. An evaluation committee shall be

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formed for the purpose of evaluating the qualifications of proposals received in response to a particular qualitative procurement.

**EC Formation:** The End User and Purchasing Director shall identify candidates to serve as evaluation committee members for a particular project. Prior to issuance of the procurement document receipt of the proposals or submittals, the user department and Purchasing shall agree on the weight of criteria. It is ideal for the EC members to participate during the development of the solicitation. Their involvement will help them understand the goals of the project and not get lost in the mechanics of the process.

On non-routine and/or complex projects where the City desires to supplement its skill set or industry knowledge, the City may determine that non-City employees may be engaged to participate as either voting or non-voting members. The participation of non-City employees shall be approved in advance by the Purchasing Director upon confirming there are no conflicts of interests.

Non-City employees shall only be considered as voting members if it is determined that within all City employees said skill set or expertise does not exist or the expertise has been contracted out to a third party for said purposes of the evaluation.

**EC Size:** The ideal size of the committee may range from 3 to 5 people depending on the project. The larger the committee, the more critical it is to set the evaluation.

**EC Size:** The ideal size of the committee may range from 3 to 5 people depending on the project. The larger the committee, the more critical it is to set the evaluation schedule (rainbow report) in advance of the due date of proposals or submittals.

**EC Notation:** Each EC member shall be signed a valuation number and shall not be identified on the scoring documentation by name.

**Role of EC members:** A committee may include voting and observer members. Their role is similar in that they review and evaluate submittals or proposals, except that observer members are generally providing their technical or policy expertise where needed. Observer members need not be present for the deliberations of the voting members; but depending on the project, they may not be restricted from participating. All EC members must be available for all meetings and shall decline participation if he/she anticipates unavailability during the evaluation process.

**Voting members:** Voting members are required to read all proposals, evaluate, and contribute comments to the evaluation process based on information received from vendors in their submission, interviews or presentations (if applicable). Voting members must attend all evaluation meetings, interviews and/or presentations, if applicable. Therefore, a voting member must be committed to participate so as not to cause delays in the evaluation process of the project.

**Confidentiality:** All EC members, regardless of role, are required to sign a Cone of Silence and confidentiality statement committing to non-disclosure of any information associated with the content of proposals, conversations, or anything associated with the evaluation of the proposals or submittals to any other person who have not signed the confidentiality statement.

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Evaluation of Documents: EC members are encouraged to read the material more than once and rate each proposal/submittal in accordance with the evaluation guidelines provided in the solicitation. The EC member shall provide comments noting strengths and weaknesses of each proposal or submittal based on the criteria in the solicitation.

These will help develop the evaluation summary, which will help support the selection and later debrief unsuccessful vendors, as appropriate.

Ranking: Upon preliminary evaluation of proposals/submittals, the EC may be required to rank the proposals/submittals so as to establish a shortlist/competitive range to move to the next step in the evaluation process.

The evaluation process may require that each evaluation team member rate the response or proposal and submit to the Purchasing Representative to average scores in order to determine the ranking.

Evaluation Summary: The evaluation summary provides an objective set of reasons why the selected vendor was successful. The summary should be based on the strengths and weaknesses that help support the selection, regardless of whether a point system was used for the evaluation. This summary helps reconcile the selection to the evaluation criteria and ultimately the original goals of the RFP or RFQ. It is important to avoid any subjective comments in this document. Include only relevant qualitative information that separates the selected vendor from the others.

**SECTION 9 – SELECTION OF PROCUREMENT METHOD**

All procurement transactions will undergo a procurement selection rationale process to determine which of the procurement methods identified is applicable, based upon the complexity of the scope of work and the estimated dollar amount of the procurement in accordance with this Policy. The Purchasing Director will provide a written determination (Procurement Rationale Form) of the procurement method that will be utilized.

**9.1 Procurement Methods**

In accordance with Chapter 252 of the State of Texas Local Government Code, all purchases exceeding \$50,000 are deemed as formal and require public notice. All purchases and/or qualification-based selection processes exceeding \$50,000 shall be competitively awarded. The Purchasing Director shall, as part of his duties, implement procedures for qualification-based selection processes and the procurement of goods and services in compliance with City, State, and Federal requirements. Such procedures shall promote fair and open competition. Procurement methods for formal procurements shall be in accordance with acceptable procurement practices and legal requirements established for each type of procurement.

All requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals shall be clearly delineated within each bid. ***[Revised May 9, 2023]***

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The Amended and Restated Procurement and Sourcing Policy also includes applicable informal processes for purchases, sourcing and/or selections under \$50,000.

#### **9.1.1 EP MarketPlace**

The City of El Paso's Purchasing & Strategic Sourcing Department has implemented "EP MarketPlace," a catalogue-type system to facilitate access to strategic and cooperative contracts. The use of EP MarketPlace is authorized by City Council in accordance with annual Adopted Budget Resolution. **[Revised May 9, 2023]**

In an effort to enhance efficiency and maximize City resources, Departments shall first search the EP MarketPlace for the availability of goods and/or services. If the goods or services are not available on the EP MarketPlace, the department will submit the Procurement Request Form to initiate the bidding or sourcing process.

The purchase of vehicles, trucks and/or fire apparatus/pumpers shall be expressly prohibited from being sourced through the e-catalog. In addition to the above, the sourcing or selection of services identified within the Professional Service Act shall be prohibited from being sourced through the EP MarketPlace.

#### **9.1.2 Procurements under 50K**

##### **9.1.2.1 Commercially available goods and services**

It shall be the policy of the City of El Paso that upon approval from the Purchasing Director End Users are allowed the purchase of commercially available items. Such items may be purchased with the P-Card provided that it is more efficient to purchase from a retail store to meet the needs of the City. Typically, this will be used for one-time purchases with an estimated value less than \$3,000. Whenever feasible, End User should plan to utilize any strategic contracts that may be available through EP MarketPlace or other approved means.

**[Revised May 9, 2023]**

##### **9.1.2.2 Non-Competitive Procurements**

Whenever a need is identified by an End User for goods or services available from a single source or meeting the sole source definition, the End User may submit a request for such purchase. The End User shall conduct its due diligence to ascertain that such goods or services are not available from other sources before submitting such request.

##### **9.1.2.3 Purchases under \$3,000 [Revised May 9, 2023]**

Competition is not required for one-time purchases under \$3,000 dollars. End User is responsible for determining the cost reasonableness of said purchase. Purchases may be executed using the P-Card payment



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method, direct payment, or purchase order. However, the End User shall not use the purchase order process when the total amount of such purchases is equal to or less than \$250.

#### **9.1.2.4 Purchases between \$3,000 and \$49,999.99 [Revised May 9, 2023]**

It shall be the policy of the City of El Paso to require three (3) quotes for non-commercially available purchases estimated between \$3,000 and \$49,999.99. In accordance with Section 252.0215 of the State of Texas Local Government Code, shall solicit quotes from a minimum of two (2) Historically Underutilized Businesses (HUBs).

If more than two (2) HUBs are available to provide goods and services for a specific category, the City can establish a rotation process and source directly based on the rotation process shall ensure an equitable distribution of opportunities to provide goods and/or services.

#### **9.1.2.5 Direct Purchase Order - Purchases between \$3,001.00 and \$5,000.00 [Revised May 9, 2023]**

User department must follow section 9.1.2.4. for purchases under this threshold.

### **9.1.3 Competitive Sealed Bid**

#### **9.1.3.1 Low Bid**

In accordance with Section 252.043 (a) of the State of Texas Local Government Code, it shall be the policy of the City of El Paso to conduct a competitive sealed bid on purchases estimated at \$50,000 or more, unless the Purchasing Director determines that a different procurement method is most advantageous to the City.

#### **9.1.3.2 Best Value Bid**

In accordance with Section 252.043 (b) of the State of Texas Local Government Code, if a best value bid is conducted, the selection will be based on a combination of qualifications/quality and price. The procurement documents shall indicate that selection of the successful bidder will be based on the best value bid and shall identify the criteria that will be considered for the determination of the best value bid selection. The Purchasing & Strategic Sourcing Department, in conjunction with the User Department, shall select the factors applicable to best value bids. No single evaluation factor shall have a numerical value greater than price. In addition to the above, price alone shall not be weighted to result in de-facto low-bid. Price shall not have a numerical value exceeding 35 out of 100 points.

Best value considerations may include but not be limited to the following:

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1. Purchase price;
2. Reputation of bidder;
3. Quality of bidder's services;
4. Extent to which bidder's services fit City's needs;
5. Past relationship with the City;
6. Impact on owner to comply with laws & rules relating to Historically Underutilized Businesses (HUB's) and nonprofit organizations that employ persons with disabilities;
7. Long-term costs to owner (Cost of Ownership);
8. Employee Medical Benefits (Resolution 8/28/12); and
9. Any other relevant factor.

**9.1.4 Request for Proposals**

**9.1.4.1 *Competitive Sealed Proposals***

Pursuant with Chapter 252 and 2269 of the State of Texas Local Government Code, the City of El Paso may conduct competitive sealed proposals for construction projects whenever it is determined to be in the best interest of the City.

The competitive sealed proposals require that the contract be awarded to the responsible proposer whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals. Purchasing & Strategic Sourcing Department shall select the Evaluation Factors in collaboration with Capital Improvement Department. No single evaluation factor shall have a numerical value greater than price.

In addition to the above, price shall be weighted in accordance with Texas Government Code Chapter 2269. **[Revised May 9, 2023]**

**9.1.4.2 *Request for Proposals***

It is the policy of the City of El Paso to seek to obtain the best value offered by a responsive and responsible proposer. In accordance with Section 252.042 of the State of Texas Local Government Code, the City may use the Request for Proposal method on certain procurements. The Request for Proposal must indicate the relative importance of the price and other evaluation factors.

The City of El Paso may consider various factors, as determined by the Purchasing & Strategic Sourcing Department in collaboration with the User Department.

These include, but may not be limited to:

1. Purchase Price;
2. Reputation of the proposer and of the goods or services;

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3. Quality of the proposer's goods and services;
4. Extent to which the proposer's goods or services meet the City of El Paso's needs;
5. The proposer's past relationship with the City;
6. The proposer's impact on the ability of the City to comply with laws and rules regarding Historically Underutilized Businesses (HUB's) and nonprofit organizations that employ persons with disabilities;
7. Long term-cost to owner (Cost of Ownership); and
8. Any other relevant criteria specifically listed in the Request for Proposal.

#### 9.1.5 Request for Qualifications

It shall be the policy of the City of El Paso not to give consideration to price in the selection of vendors to provide professional services as defined in Chapter 2254 of the State of Texas Local Government Code. Professional services include certified public accountants, architects, landscape architect, land surveyor, physicians, optometrists, professional engineer, and state certified real estate appraiser. The Purchasing Director may make a determination that this process is appropriate as the first step to other solicitations where the area of services requires certain specialized qualifications. Other professional services not delineated within Chapter 2254 shall be procured using the Request for Proposal process.

#### 9.1.6 Alternative Delivery Methods

It shall be the policy of the City of El Paso to enter into contract with vendors for the construction, alteration, rehabilitation, or repair of facilities using an alternative delivery method. The appropriate procurement method will be applied for the procurement and selection of such vendor. Alternative delivery methods include those authorized by the Texas Legislation, including any methods approved in the future (i.e., online bidding).

Examples of the alternative delivery methods include:

##### 9.1.6.1 Design-Build

Pursuant with Section 2269 of the State of Texas Government Code and this Policy, the City may elect to use design-build as an alternative delivery method for certain capital projects as determined by the City. This delivery method is a turnkey option to the traditional design-bid-build. The design-build is a project delivery method by which the City contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility. The evaluation factor for a design-build selection process shall incorporate the evaluation factors delineated within Chapter 2269 of the State of Texas Government Code.

##### 9.1.6.2 Construction Manager at Risk (CMAR)

In accordance with the provisions of Section 2269 of the State of

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Texas Government Code and this Policy, the City may elect to procure construction services through the use of Construction Management at Risk, an alternative delivery method. The construction manager-at-risk method is a delivery method by which the City contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

#### **9.1.6.3 Public Private Partnerships (P3)**

Pursuant to Chapter 2267 of the State of Texas Government Code, the City may enter into Public Private Partnerships for the design, construction, operation, and/or financing of public facilities. The P3 selection process can only be utilized for qualifying projects as defined within Chapter 2267 of the State Government Code.

Prior to proceeding with this alternative delivery method, the City shall conduct the required analyses and processes, including but not limited to: cost-benefit analysis, assessment of opportunity cost, legal analysis, public hearings, and others as detailed in Chapter 2267. This method is generally used for development-type projects or governmental facility available for public use. This delivery method generally includes the design, construction management, construction, and may include financing and operation for a defined period of time.

Any Private Entity submitting an Unsolicited Proposal or a Competing Proposal shall pay a preliminary review fee to the City in the amount of Five Thousand and No/100 Dollars (\$5,000) at the time it submits the proposal to the City, by check, money order, credit card or electronic transfer.

#### **9.1.7 Cooperative Purchases [Revised 8/18/2020]**

- a. Participation in or use of a cooperative program and the resultant contracts/schedules require City Council approval prior to the use of said cooperative program. In accordance with Chapter 791 of the Texas Government Code, Chapter 271 of the State of Texas Local Government Code, and subsequent annual City Council Budget Resolution, the Purchasing Director is authorized to source or purchase under an approved cooperative program. **[Revised May 9, 2023]**
- b. To mitigate conflicts with the advertisement requirement of this policy, a cooperative program and/or consortium (hereinafter “the cooperative”, is deemed to have fulfilled the advertisement requirement if said cooperative can demonstrate that public notifications (electronic bidding “event invitations/notifications”) or advertisements were in issued for the specific contract and/or

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scheduled being sourced. ***[Revised November 30, 2021]***

- c. The City shall not use cooperative contracts which only establishes a pre-qualified listing and require the end user to facilitate advertising and conducting a second evaluation. An example is HGAC will issue a Request for Proposal to establish a pre-qualified listing and requiring end users to advertise and conduct a second evaluation. ***[Revised November 30, 2021]***
- d. The City shall not use a cooperative contract where notification (electronic bidding) or advertising has not been demonstrated. ***[Revised November 30,2021].***
- e. The City shall only use cooperative contracts that comply with the competitive procurement standards set forth by a granting agency i.e., 2CFR200. The City shall maintain the procurement file of the awarding cooperative.
- f. The currently approved cooperative programs include:
  - 1. State of Texas Department of Information Resources (DIR);
  - 2. Harris County Department of Education Cooperative;
  - 3. Houston-Galveston Area Council (HGAC);
  - 4. ESC Region 19 Cooperative Purchasing Program;
  - 5. Tarrant County Cooperative Purchasing Program;
  - 6. Texas Association of School Boards (TASB Buy Board);
  - 7. Texas Procurement and Support Services TPASS);
  - 8. The Cooperative Purchasing Network (TCPN/National IPA);
  - 9. Texas Multiple Award Schedule (TXMAS);
  - 10. Omnia Partners;
  - 11. U. S. General Services Administration (GSA); and
  - 12. Technology Bidding and Purchasing Program (PEPPM).
  - 13. ESC Region 8 (TIPS) Cooperative Purchasing Program
  - 14. Division of Purchases and Supply (DPS), a business unit of the Department of General Services for the Commonwealth of Virginia

**9.1.7.1 Job Order Contracting**

The City may use a Job Order contract whenever it is determined to be the most advantageous to the City. Job Order Contracting is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite, according to Texas Local Government Code 2269.

**9.1.8 Non-Competitive Procurement Methods**

**9.1.8.1 Sole Source**

In accordance with Section 252.022 of the State of Texas Government

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### THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY

Code, it shall be the policy of the City of El Paso to employ a non-competitive process on a limited basis on goods and services that may only be acquired from a single source or when a specific source may be the only one to meet the City's requirements.

Examples of such situation may include but not be limited to:

1. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
2. If a contract cannot be awarded after two competitive procurements/selection process. The requirement can be fulfilled by a non-competitive award. *[Revised August 19, 2019]*
3. A procurement necessary to preserve or protect the public health or safety of the municipality's residents;
4. Public exigency will not permit a delay resulting from a competitive solicitation;
5. A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
6. A procurement for personal, professional, or planning services;
7. A procurement for work that is performed and paid for by the day as the work progresses;
8. A purchase of land or a right-of-way;
9. Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
10. Films, manuscripts, or books;
11. Gas, water, and other utility services;
12. Captive replacement parts or components for equipment;
13. Books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials;
14. Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;
15. A purchase of rare books, papers, and other library materials for a public library;
16. Paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
17. A public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
18. A payment under a contract by which a developer participates in

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### THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY

- the construction of a public improvement as provided by Subchapter C, Chapter 212;
19. Personal property sold: (A) at an auction by a state licensed auctioneer; (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or (D) under an inter-local contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;
  20. Services performed by blind or severely disabled persons (Texas Industries for the Blind and Handicapped);
  21. Goods purchased by a municipality for subsequent retail sale by the municipality;
  22. Electricity;
  23. Advertising, other than legal notices;
  24. The City had previously conducted a formal competitive procurement leading to the standardization of goods or services and is seeking to add or replace portions of the original purchase, and
  25. The purchase of a specific brand, make or model is necessary to prevent a warranty from becoming void.

#### **9.1.8.2 Emergency Purchase – Public Health and Safety**

Pursuant to Section 252.022 of the State of Texas Government Code, whenever there are circumstances that present a threat to the health or safety of the public and/or that may cause damage to public property, the City may authorize an emergency purchase, which will not require a competitive process. Whenever possible, however, the City may request quotes from more than one vendor including certified socioeconomic firms. The opportunity shall include, preferably three vendors. The Purchasing Director is authorized to approve emergency purchases under \$50,000.

Emergency purchases of \$50,000 or more must be approved by the City Manager. Emergency purchases of \$50,000 or more shall be submitted to City Council for ratification.

#### **9.1.8.3 Declared Disaster or Pandemic – Continuity of Operations**

Under Chapter 418 of the Texas Government Code, the Governor may by executive order or proclamation declare a state of disaster 286 if a disaster has occurred or that the occurrence or threat of disaster is imminent. The Governor may suspend the provisions of any regulatory statute 287 prescribing the procedures for conduct of City business or the orders or rules of an agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster. For example, the Governor may suspend enforcement of statutes and administrative rules regarding contracting or procurement that would impede the City's emergency

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response that is necessary to protect life or property threatened by a declared disaster.

A purchase made under a disaster must clearly relate to the disaster, conform to the directives of the disaster declaration, and occur within the timeframe specified in the disaster declaration. The procurement file shall state at a minimum, a copy of the disaster declaration and/or emergency exemption being utilized, documentation to support the purchase (procurement rational package, independent cost estimate, debarment checks, cost or price analysis), receipt of goods or services, and approval of the payment.

**9.2 Commodity Types**

The type of commodities or services may generally dictate the procurement method. It should be noted that there are different categories that fall within each type of procurement. The general types of commodities include the following:

**9.2.1 Goods**

This type generally includes a variety of commodities that are commercially available such as materials and/or supplies.

**9.2.2 Equipment**

Equipment may generally include but is not limited to building equipment, office equipment, rolling stock, medical equipment, research equipment, and any other equipment necessary for the operation of the City.

**9.2.3 General Services or Work Services**

Some examples of categories within the general services may include custodial services, security services, and others. Janitorial/Security and Land management contracts require both a Payment and Performance Bond.

**9.2.4 Construction/Public Works**

Construction services shall be procured in accordance with of the Texas Government Code and Chapters 252, 2253, 2269 and 2267. Public works projects of 25,000 or more require both a Payment and Performance Bond in the amount of the contract.

**9.2.5 Other Professional Service Agreements**

Pursuant to the State of Texas Government Code, Chapter 2254, Subchapter B, consulting/other professional services shall be competitively procured provided they are not professional services as defined in Subchapter A. Consulting/other professional services may include but are not limited to management consulting services, training services, systems consulting services and others.

Professional Services not listed under Chapter 2254 shall be selected by a Request for Proposal. Disciplines that require a license and/or registered professional include legal, planning services, computer programmers, consultants, third party administrators, law enforcement consultants, property tax consultants and auditors.

**9.2.6 Professional Services**

**9.2.6.1 Categories**



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Professional services include certified public accountants, architects, landscape architect, land surveyor, physicians, optometrists, professional engineer, and state certified real estate appraiser as provided in the Professional Service Act, Chapter 2254 of the State of Texas, Local Government Code. For purposes of this policy and resulting Purchasing & Strategic Sourcing Manual, a qualification-based section process is a Request for Qualifications.

#### **9.2.6.2 Architectural and Engineering (A&E) Services**

Architectural and Engineering services are procured through the Request for Qualification procurement method. While the State of Texas Government Code Chapter 2254 and Chapter 252 of the Local Government Code do not explicitly require the use of a Request for Qualifications, for purposes of this policy and resulting Purchasing & Strategic Sourcing Manual, a qualification-based section process is a Request for Qualifications. It is exempt from the competitive bid process as defined in Chapter 252; however, competition is required under the Professional Service Act. Price is not an evaluation factor.

#### **9.2.7 Technology**

Technology may include the purchase of goods, supplies, equipment, software, and consulting services; therefore, technology may be included in various categories depending on the type of purchase required.

### **9.3 Strategic Sourcing**

The Purchasing Director may, upon appropriate analysis, elect to designate a category under a type of purchase as a candidate for strategic sourcing. The purpose of strategic sourcing is to leverage spend across the organization in order to realize operational efficiencies and optimize resources. The Purchasing & Strategic Sourcing Department will conduct an annual spend analysis. The spend analysis will collect, cleanse, classify and analyze expenditure data with the purpose of decreasing procurement costs, improving efficiency, and monitoring compliance.

Upon determination that a category is a candidate for strategic sourcing, the Purchasing Director will issue notice to departments seeking department participation, cooperation or input in the process. End User shall cooperate with the Purchasing Representative responsible for leading the procurement effort so as to allow for the implementation of the strategic contract in an expeditious manner. Whenever feasible, such contracts will be made available on the EP MarketPlace.

### **9.4 Cost and Price Analysis**

As part of the evaluation of bids or proposals, the Purchasing Representative will conduct a price analysis to determine the reasonableness of the price proposed by the vendor. The extent and form of analysis will depend on the type of goods or services being sought and the structure of pricing that was required from vendors.

A cost analysis is required for every sole source, change order, amendment, or

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**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

modification to existing contract(s).

A cost or price analysis is required on all competitive procurements and qualification-based selection processes.

**9.5 Responsiveness and Responsibility**

**9.5.1 Responsiveness**

The Purchasing Representative shall review all bids, proposals, quotes, or offers for responsiveness to the requirements stated in the solicitation document. Responsiveness means that the bid, proposal or offer meets the specifications in all material respects.

**9.5.2 Responsibility**

The Purchasing Representative shall also assess the responsibility of the vendor submitting an offer and its ability to meet the performance and quality requirements stated in the solicitation document. The responsibility assessment may include, but not be limited to, qualifications of the vendor to deliver the goods or services, financial capacity, availability of personnel or goods to be provided, and any other aspect necessary for the successful performance of the contract.

**9.6 Contract Administration and the Contract Compliance Manager**

The Purchasing & Strategic Sourcing Department shares the contract administration responsibility with End Users. The Contract Compliance Manager, under the direction of the Purchasing Director, is responsible for the oversight and management of Contract Administrators throughout the City. Contract administration duties include but are not limited to contract management, vendor performance appraisal, vendor management, corrective action of any potential or real issues in the performance of the contract, and contract closeout. Contract Administrators will manage any and all daily matters associated with Vendor Performance Tracking System; however, Purchasing Representatives shall process any changes to the contracts that are initiated by the End User's Contract Administrator provided that said changes are approved.

**9.7 Contract Types**

The City may enter into different types of contracts in order to meet the operational needs of the City. Such types may include but not be limited to annual contracts, multi-year contracts; task order contracts; one-time or project-specific contracts; or a requirements contract. A maximum dollar value may be established over a specific period of time. The dollar limit on a project-specific contract may be equal to the estimated price proposed for the completion of a project.

**9.8 Contract Files**

The City shall maintain records sufficient to detail the history of the procurement, including but not limited to rationale for method of procurement, clearly defined specification, selection requirements, selections of contract type, demonstration of competition, basis of contractor selection, cost or price analysis. **[Revised 2/05/2021]**

**SECTION 10 – PROHIBITED PRACTICES**

## CITY OF EL PASO

### THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY

#### 10.1 Separate or Sequential Purchases

It is the policy of the City of El Paso to implement procedures to prohibit practices that circumvent the purchasing process. Failure to follow purchasing requirements may have detrimental consequences for the City and personnel in accordance with State of Texas Local Government Code, Chapter 252, Subchapter D. Chapter 252.1 of the State of Texas Local Government Code defines Separate Purchases and Sequential Purchases as follows:

- "Separate purchases," means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
- "Sequential purchases" means purchases of items made over a period of time that, in normal purchasing practices, would be purchased in one purchase.
- No City personnel shall authorize the purchase of separate or sequential purchases as defined above for the purposes of circumventing or avoiding the appropriate procurement and approval process.

#### 10.2 Approval prior to Delivery

City employees shall not request or accept goods or services without having first received written authorization in the form of a purchase order, contract, or other acceptable form of approval by the Chief Procurement and Contracting Officer.

#### 10.3 Competition

Contractors, consultants that develop or draft specifications, requirements, and statements of work or invitation for bids, request for proposals or RF (x) shall be excluded from competing for such procurements. **[Revised 2/05/2021]**

### SECTION 11 – SPECIAL APPROVALS

It is the policy of the City of El Paso to maintain uniformity and implement best practices in the purchase of certain types or categories of spend, such as technology and rolling stock.

All purchases of rolling stock shall require prior approval by the Director of Streets & Maintenance Department or his/her duly authorized representative. **[Revised 2/05/2021]**

### SECTION 12 – SOCIOECONOMIC PROGRAMS

#### 12.1 Hire El Paso First

It is the policy of the City of El Paso to enhance opportunities for economic development for local businesses. In accordance with amendment to the Texas Local Government Code Sections 271.905 and 271.9051, the City may give consideration of location of a bidder's principal place of business when awarding certain contracts. Provisions of the Hire El Paso First policy is hereby incorporated by reference.

Pursuant to the provisions of the policy, the City's Purchasing & Strategic Sourcing Department will apply incentives of 5% for Tier 1 and 2.5% for Tier 2. These incentives are applicable to construction projects of \$100,000 or less, and to

**CITY OF EL PASO**  
**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

personal property or services of \$500,000 or less.

The incentives applicable to purchases in excess of \$500,000 are 3% for Tier 1 and 1.5% for Tier 2. In order to ensure that the best interests of the City are served, the City reserves the right to award a contract to the low bidder or to the local business, based on the local incentives applied. This policy is not applicable when the funding source prohibits consideration local preference criteria.

On August 26, 2014, The City of El Paso's City Council approved the use of Hire El Paso First Local Bid preference for alternative procurement methods. Said resolution allows the award of a construction contract to a Tier 1 bidder who is within 5 points of the highest ranked proposer, if the amount of the bid is within 5% of the highest ranked proposer; or Tier 2 proposer who is within 5 points of the highest ranked proposer, if the amount of the bid is within 2.5% of the highest ranked proposer.

**122 Equal Opportunity Contracting**

The City's contracting opportunities are open to all and it is City policy that no person or firm will be discriminated against because of race, color, national origin, sex, or disability in the award of City contracts. Further, contractors shall not discriminate on the basis of race, color, national origin, sex, or disability in the performance of City contracts.

**123 HUB/DBE Participation [Revised May 9, 2023]**

It is the policy of the City to seek participation in its contracts by local small businesses and by small businesses owned by minorities, women and disadvantaged persons. The City has two strategies for achieving this policy objective. For locally or state-funded projects, the provisions of Section 252.0214 of the State of Texas Local Government Code Historically Underutilized Business (HUB) shall apply. The provisions of 49 CFR Part 26 Participation by Disadvantaged Business Enterprises (DBE) in Department of Transportation Financial Assisted Programs shall apply whenever contracts are funded with federal funds. Whenever contracts are funded with federal funds, the City will comply with the regulations indicated in 2 CFR 200 under General Procurement Standards for this purpose.

**124 Geographical Preferences**

Procurements must prohibit the use of state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal or State statutes expressly mandate or encourage or allows geographic preference. *[Revised 2/05/2021]*

**125 Wage Theft**

Pursuant to the City of El Paso Code, Ordinance No. 018370, adopted by City Council on June 16, 2015, the City may not award a contract to a vendor with wage theft adjudication. Prior to the recommendation of a City contract, the Purchasing Director shall verify that the vendor does not have a wage theft violation in accordance with said Ordinance. The Wage Theft Ordinance is applicable to all City contracts. The provisions of said Ordinance are hereby incorporated by

**CITY OF EL PASO**  
**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**  
reference.

**SECTION 13 – DUE DILIGENCE**

**13.1 Vendor Indebtedness to the City**

For all formal bids, in accordance with Ordinance No. 016529, it is the policy of the City to refuse to do business with a contracting entity, or any owner of 5% or more of such entity, who is indebted to the City or a qualifying governmental entity except in cases where the City deems it in its best interest to enter into such transactions. In the context the Indebtedness Ordinance, debt shall mean any delinquent sum of money in an amount greater than one hundred dollars (\$100.00) levied, imposed or assessed against any contracting entity, or owner thereof, by the City or any qualifying entity for ad valorem taxes on real or personal property located within the boundaries of the city.

This Ordinance is applicable to all purchases and contracts, formal bids, proposals or otherwise, that require City Council approval. Contracts that are awarded without the submission of a proposal, including but not limited to, contracts for engineering and architectural services, shall be subject to this Policy and shall not be approved by Council until a determination as to any indebtedness of the contracting entity or any owner to the City has been made as provided for in this Policy.

**13.2 Debarment Check *[Revised May 9, 2023]***

It shall be the policy of the City of El Paso to check if a vendor has been debarred prior to entering into a contract. The Purchasing Representative, in conducting his/her due diligence, shall verify that the vendor does not appear on the list at the System for Award Management website maintained by the federal government.

**13.3 State Reciprocity**

It is the policy of the City of El Paso to equalize the opportunities of local vendors before awarding a contract to a non-resident bidder. When evaluating bidders from other States, that nonresident bidder's state reciprocity laws are applied to the bidder. For example, if a 10% preference would be applied to a nonresident bidder's home state on their contracts, then the City would penalize the nonresident bidder 10% when bidding in Texas.

**SECTION 14 – FEDERAL PROVISIONS**

The City of El Paso receives federal funds for a number of projects. Whenever a contract is funded in full or in part with federal funds, the City will procure those goods and services in compliance with federal guidelines (2 CFR 200: General Procurement Standards) and the appropriate federal provisions shall be included in the contract documents. When conducting the procurement process on federally funded projects, the procurement documents shall indicate the source of funding, as the vendor will be required to comply with all applicable federal requirements.

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Federal funds generally include but are not limited to Federal Transit Administration, Federal Aviation Administration, Community Development Block Grant, and any other grant funds as may be applicable from time to time. All applicable federal provisions for the respective funding sources are hereby incorporated by reference. *[Revised May 9, 2023]*

**SECTION 15 – CONFLICT RESOLUTION**

**15.1 Protest/Dispute**

Only a vendor who has actually submitted a response to a solicitation may appeal an award decision. Failure to follow the requirements of the protest procedures established by the City of El Paso and included in all solicitations, shall constitute a waiver of all protest rights. Protest must be made after the Council agenda has been posted and by 5 p.m. the day before the Council meeting in which the award will be made.

**15.2 Debriefing**

Vendors that responded to a solicitation may request a debriefing to the Purchasing representative that procured said solicitation within five (5) days after the date of the award. Debriefing requests will be scheduled with the appropriate evaluation committee and Purchasing representative.

**City of El Paso**

**The Amended and Restated Procurement  
and Sourcing Policy**

~~(Effective April 17, 2018)~~

(Effective May 9, 2023)



City of El Paso  
**PURCHASING & STRATEGIC SOURCING**

CITY OF EL PASO  
THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY

**MISSION**

Deliver exceptional services to support a high quality of life and place for our community.

**VISION**

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.

**VALUES**

- Integrity
- Respect
- Excellence
- Accountability
- People





**CITY OF EL PASO  
THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

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**CITY OF EL PASO**  
**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

**SECTION 1 – INTRODUCTION**

The City of El Paso is a political body, with power to exercise all powers of local self-government, which are or come to be conferred upon constitutional home rule cities in the State of Texas. The City of El Paso (hereinafter referred to as “the City”) shall exercise these powers as a municipal corporation, subject to the Constitution of the laws of the State of Texas.

**1.1 Purpose and Scope**

The purpose of The Amended and Restated Procurement and Sourcing Policy (hereinafter referred to as “the Policy”) is to establish the general guidelines for conducting procurements, sourcing and qualification-based selections in accordance with applicable, federal, state, local laws, ordinance(s) and/or statutes.

**1.2 Application**

This Policy applies to all solicitations, negotiations, purchase orders and contracts, agreements for the procurement of goods, services, construction/public works and a sub-grant entered in to by City. It shall apply to every expenditure of Federal funds by City for public purchasing, including contracts which do not involve an obligation of funds (such as concession contracts); however, nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with law. The term procurement, as used in this Policy, includes purchase orders, contracts and modifications (including change orders) for goods, services and construction, as well as qualification-based selections, purchase, lease, or rental of supplies and equipment, but shall not be applicable in agreements wherein the City serves as the fiscal agent or to sub-grant.

Based on these policies, the Purchasing Director will establish procedures for procurements, qualification-based selections and sourcing in accordance with general procurement practices and in compliance with applicable laws. The Purchasing & Strategic Sourcing Department will implement and disseminate the procedures and practices adhering to the policies provided in this Procurement Policy and applicable local, state, and federal laws. In accordance with this purpose, the Purchasing & Strategic Sourcing Department has defined its mission as follows:

*“Our mission is to facilitate the procurement of goods and services in an open, fair, transparent, economically competitive and respectful process with the goal of maximizing taxpayers’ dollars. Therein promoting and fostering a climate of good business relationships between our suppliers and the City.”*

**CITY OF EL PASO**

**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

**1.3 Modification to The Amended and Restated Procurement and Sourcing Policy**

Modification of any of the policies set forth in this Policy, after the adoption of this Policy by City Council, must be approved by the same except that the City Manager or Purchasing Director without the further approval of the City Council.

The City Manager or Purchasing Director is authorized to correct inconsistencies, make such non-material changes, additions, corrections or amendments as he/she may deem necessary or advisable, or make such other changes as may be required by City Council, or as a result of changes in federal regulations, or results from a Six Sigma process improvement. *[Revised May 9, 2023]*

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**SECTION 2 – PROCUREMENT AUTHORITY AND RESPONSIBILITIES**

**2.1 City of El Paso’s Governing Body**

**2.1.1 Mayor**

The Mayor, elected by qualified El Paso voters in a regular election, is recognized as the head of the City government for all ceremonial and military purposes. The Mayor is the presiding member over City Council. The Mayor has no administrative duties in accordance with the City Charter [Abbreviated].

**2.1.2 City Manager**

The City Manager, appointed by City Council, based on executive and administrative qualifications, is the Chief Administrative Officer of the City. The City Manager is responsible for the administration of all City affairs as provided in the City Charter [Abbreviated].

**2.1.3 City Council - Eight (8) District Representatives**

There are eight (8) District Representatives, as established by City Council, elected in a regular election of qualified El Paso voters. The eight (8) District Representatives, along with the Mayor, have legislative powers [Abbreviated].

**2.2 Procurement and contract award duties of the Governing Body**

**2.2.1 The Mayor**

Under the authority of the Council, the Mayor shall sign all lawful acts of the Council, such as ordinances, resolutions, conveyances, grant agreements, plats, contracts and bonds. The Council may, by ordinance, provide that additional designated officials may sign such acts of Council on behalf of the Mayor as provided by law.

**CITY OF EL PASO**  
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**2.2.2 City Council**

Approval of the City Council is required for contracts and contract modifications that alone, or in the aggregate, total an amount in excess of (\$50,000). In addition to the above, only City Council has the authority to terminate formal contracts in accordance with the terms of such contracts and enter agreements relating to resolution of any contract dispute.

**2.2.3 The City Manager**

The City Manager shall have the authority to execute intergovernmental agreements, as delineated within Ordinance 16015, contracts, purchase orders and/or modifications up to fifty thousand dollars (\$50,000) without City Council approval.

In the event the City Manager determines it would be in the best interest of the City, the City Manager may execute a contract and/or modification that requires City Council's approval before the next City Council meeting, provided that said contract and/or modification(s) are presented to the City Council for ratification at the next regular or special City Council and/or Mass Transit Board meeting.

**2.2.4 The Purchasing Director**

The Purchasing Director shall serve as the Chief Procurement and Contracting Officer and is authorized to execute intergovernmental agreements, contracts, purchase orders and/or modifications in accordance with the authority delegated by the City Manager. The Purchasing Director may also sign contracts/agreements for the acquisition of any city goods and services in an amount of ~~\$5,0013,504~~ to \$50,000 per annum, or an aggregate of \$100,000 on a multi-year contract. All single purchases equal to or greater than \$50,000 must be approved by City Council upon review by the City Manager. The Purchasing Director can issue purchase orders in an amount greater than \$50,000 if approved by City Council. The City Council herein delegates the authority to the Purchasing Director to exercise options of contracts wherein the initial term was approved by City Council. *[Revised May 9, 2023]*

**SECTION 3 – COMPLIANCE WITH PROCUREMENT POLICIES**

All City of El Paso personnel responsible for any aspect of a qualification-based selection, evaluation of contractor, or procurement process shall comply with the laws, regulations, policies and procedures established for conducting processes delineated in this Policy and Purchasing & Strategic Sourcing Manual. All personnel involved shall conduct his/her duties with the highest ethical standards and business practices.

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**SECTION 4 – DUTIES OF THE PURCHASING DIRECTOR**

The Purchasing Director shall have the following duties:

- 4.1. Lead the day-to-day operations of the Purchasing & Strategic Sourcing Department and shall lead all city procurements.
- 4.2. Serve as the Wage Theft Coordinator.
- 4.3. Serve as Chief Contract Compliance Officer.
- 4.4. Exert good business acumen by seeking to establish contracts that represent the best value or most advantageous for the City of El Paso.
- 4.5. When advantageous, seek to collaborate with other agencies within the region and nationally to reduce costs and improve services.
- 4.6. Promote standardization and/or category management to improve the City's efficient use of resources.
- 4.7. Provide procurement planning and consultation services to City departments with the goal of enhancing value-added in related procurement and contracting activities.
- 4.8. Promulgate procedures in accordance with all applicable laws, regulations, and policies, including but not limited to the applicable provisions of the City of El Paso Resolutions or Ordinances, State of Texas Statutes, and the Federal Acquisition Regulations, if applicable [Abbreviated].

**SECTION 5 – RESPONSIBILITY OF CITY STAFF INVOLVED IN PROCUREMENT AND SELECTION PROCESSES**

City employees involved in the procurement, qualification-based selection, sourcing, contracting, or purchasing process must uphold the highest ethical standards. City employees carrying out procurement, contracting, or purchasing duties must become familiar with all requirements associated with their roles.

**5.1 Purchasing Representatives**

- 5.1.1. Purchasing Representatives must become familiar with policies, procedures and laws associated with the role assigned and understand the requirements.
- 5.1.2. Maintain the confidentiality of any and all procurements assigned, or that it comes into contact whether or not it has been assigned to the Purchasing Representative.
- 5.1.3. Promptly respond to the End User requests and advise the User Department of any deficiencies in the submission.
- 5.1.4. Provide guidance to the End User in the procurement, sourcing and contracting process.
- 5.1.5. Effect any allowable contract changes requested by the End User's Contract Administrator throughout the life of the contract [Abbreviated]
- 5.1.6. Ensure all requirements are identified which an offeror must fulfill and all other factors to be used in evaluating bids or proposals. ***[Revised March 12,2021]***

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**5.2 Contract Administrators**

Understand and follow the procurement policies, procedures, and principles of contract administration.

End Users' Contract Administrators shall manage contract(s) for compliance with all terms and monitor vendor performance to ensure that vendor performance adheres to contract terms. Vendor performance reports shall enter into the Vendor Performance Tracking System at a frequency to be determined by the Contract Administrator. A vendor performance report shall be completed upon closing out a contract. Any compliance issues must be reported to the End User's Director and Purchasing Director no later than one business day after the department first becomes aware of the issue. The Legal Department shall be engaged by the Purchasing Director on matters that have escalated to require a cure letter and/or termination.

**SECTION 6 – PROCUREMENT GUIDELINES**

**6.1 Cone of Silence/Anti-Lobbying Policy**

The City's Cone of Silence/Anti Lobbying Policy was adopted to ensure a fair and competitive bidding environment by preventing communication or lobbying between City officials, employees, or representatives and parties involved in the bidding process that could create an unfair advantage to any party with respect to the award of a City contract.

The City's Cone of Silence/Anti-Lobbying Policy prohibits any communication or lobbying activities with City officials, employees and/or its consultants or contractors on matters of a solicitation from its advertisement through the date said item is posted on the forthcoming City Council agenda.

In the case of an unsolicited or competing proposal for a public-private partnership, the period shall commence on the date that the City receives a notice of intent from a vendor declaring its intention to submit an unsolicited proposal and will end on the date the notice of award has been posted on the City Council agenda. All provisions of the Cone of Silence/Anti-Lobbying Policy are hereby incorporated by reference.

**6.2 Sustainability**

Purchasing & Strategic Sourcing recognizes its responsibility to minimize negative impacts to the environment and to the public health when procuring products and services that have an inherent social, environmental and economic impact. Purchasing & Strategic Sourcing is committed to make procurement decisions that will contribute to promote sustainability by purchasing products and services whose equality, function and cost are equal or superior to more traditional goods or services.

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6.2 **Sustainability (Continued)**

The following factors will be considered when preparing a solicitation:

- a) In conjunction with User Departments and in a case-by-case basis and when relevant sustainability factors will be included in solicitations, including but not limited to:
  - 1. Resource conservation;
  - 2. Reduction of waste generated by construction projects;
  - 3. Energy efficiency;
  - 4. The use of recycled/recyclable supplies and material;
  - 5. LEED Certification;
  - 6. Minimum packing;
  - 7. Maximum durability, reparability, reusability, recyclability and upgradeability;
  - 8. Reduction usage of hazardous material;
  - 9. Disposal Cost;
  - 10. Disposal Methodology; and
  - 11. Recycling.

6.3 **Public Notice Requirement**

6.3.1 **Publication**

It is the policy of the City of El Paso to promote an open and transparent procurement process by giving public notice to bidders and/or offerors of upcoming opportunities.

The term “Publicize” or “Publication” as used in this Policy refers to the process of advertising in the official legal organ (hereinafter the “local newspaper”) a synopsis of solicitations that are available for review on the City’s website. All qualification based selections and procurements with an estimated value of fifty thousand dollars (\$50,000) or greater shall be advertised in the local newspaper a minimum of once a week for two consecutive weeks.

The date of the first publication must be before the 14<sup>th</sup> day that the bids or proposals are publicly opened and read out loud. The Purchasing Director shall implement standards for advertisements. Consideration shall be given to the cost estimate, complexity of the requirement, market condition and other relevant factors. Such standards shall be applicable to all procurements, unless there are extenuating circumstances that may cause the Purchasing Director to authorize a deviation from the standard provided that such deviation meet the legal advertisement requirement.

6.3.2 **Post on the City’s Online Bidding System [Revised May 9, 2023]Website**

To enhance transparency, the City shall post all contracting opportunities to the City’s Online Bidding Systemwebsite. The terms “Posting” or “Posted” as used in this Policy refers to the process of placing a solicitation on the City’s Online Bidding Systemwebsite and thereby making it immediately available for downloading. Informal bids, Formals, Qualification based selections and Alternative procurement methods shall be posted in City’s Online Bidding

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[System the e-Procurement page under the Purchasing & Strategic Sourcing Department of the City of El Paso's web site.](#)

The documents shall be available no later than the first day that the procurement opportunity is advertised and appears in the local newspaper.

**SECTION 7 – INITIATION OF PROCUREMENT ACTION**

Documents authorized to initiate a procurement action shall include, but are not limited to, the following:

1. Initial Procurement Start-Up Package (Scope of Work, Specifications, Procurement Request Form, Independent Cost Estimate).
  - a. Specifications must be clear and have accurate description of the technical requirements for the materials, products or services to be procured or sourced.
  - b. Shall not contain features or functionality which unduly restrict competition.
  - c. Detailed product specifications should be avoided if possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used to define the performance or other salient requirements of procurement.
  - d. The specific features and/or functionality of the named brand which must be met by offers must be clearly stated.
  - e. In cases where a name brand is listed, the City shall provide a qualified alternative product list; or
  - f. Identify a process for submitting and having alternate products approved prior to submission of the bid.
  - g. Scope of Work shall consist of the qualitative nature, functionality or have a problem statement to be solved and/or service to be sourced. The scope of work shall clearly set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended End User. **[Revised March 12, 2021]**
2. Encumbrance (requisition), and
3. Justification memo for non-competitive procurement (if applicable) or other forms that are developed and approved by the Purchasing Director (or designee) to facilitate the procurement action in compliance with this Policy.

**SECTION 8 – EVALUATION COMMITTEE [Revised January 1, 2019]**

Evaluation Committee (EC) Purpose: These evaluation guidelines apply to evaluation committees of any procurement with a qualitative process. An evaluation committee shall be formed for the purpose of evaluating the qualifications of proposals received in response to a particular qualitative procurement.

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EC Formation: The End User and Purchasing Director shall identify candidates to serve as evaluation committee members for a particular project. Prior to issuance of the procurement document receipt of the proposals or submittals, the user department and Purchasing shall agree on the weight of criteria. It is ideal for the EC members to participate during the development of the solicitation. Their involvement will help them understand the goals of the project and not get lost in the mechanics of the process.

On non-routine and/or complex projects where the City desires to supplement its skill set or industry knowledge, the City may determine that non-City employees may be engaged to participate as either voting or non-voting members. The participation of non-City employees shall be approved in advance by the Purchasing Director upon confirming there are no conflicts of interests.

Non-City employees shall only be considered as voting members if it is determined that within all City employees said skill set or expertise does not exist or the expertise has been contracted out to a third party for said purposes of the evaluation.

EC Size: The ideal size of the committee may range from 3 to 5 people depending on the project. The larger the committee, the more critical it is to set the evaluation.

EC Size: The ideal size of the committee may range from 3 to 5 people depending on the project. The larger the committee, the more critical it is to set the evaluation schedule (rainbow report) in advance of the due date of proposals or submittals.

EC Notation: Each EC member shall be signed a valuation number and shall not be identified on the scoring documentation by name.

Role of EC members: A committee may include voting and observer members. Their role is similar in that they review and evaluate submittals or proposals, except that observer members are generally providing their technical or policy expertise where needed. Observer members need not be present for the deliberations of the voting members; but depending on the project, they may not be restricted from participating. All EC members must be available for all meetings and shall decline participation if he/she anticipates unavailability during the evaluation process.

Voting members: Voting members are required to read all proposals, evaluate, and contribute comments to the evaluation process based on information received from vendors in their submission, interviews or presentations (if applicable). Voting members must attend all evaluation meetings, interviews and/or presentations, if applicable. Therefore, a voting member must be committed to participate so as not to cause delays in the evaluation process of the project.

Confidentiality: All EC members, regardless of role, are required to sign a Cone of Silence and confidentiality statement committing to non-disclosure of any information associated with the content of proposals, conversations, or anything associated with the evaluation of the proposals or submittals to any other person who have not signed the confidentiality statement.

Evaluation of Documents: EC members are encouraged to read the material more than once and rate each proposal/submittal in accordance with the evaluation guidelines provided in the

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solicitation. The EC member shall provide comments noting strengths and weaknesses of each proposal or submittal based on the criteria in the solicitation.

These will help develop the evaluation summary, which will help support the selection and later debrief unsuccessful vendors, as appropriate.

Ranking: Upon preliminary evaluation of proposals/submittals, the EC may be required to rank the proposals/submittals so as to establish a shortlist/competitive range to move to the next step in the evaluation process.

The evaluation process may require that each evaluation team member rate the response or proposal and submit to the Purchasing Representative to average scores in order to determine the ranking.

Evaluation Summary: The evaluation summary provides an objective set of reasons why the selected vendor was successful. The summary should be based on the strengths and weaknesses that help support the selection, regardless of whether a point system was used for the evaluation. This summary helps reconcile the selection to the evaluation criteria and ultimately the original goals of the RFP or RFQ. It is important to avoid any subjective comments in this document. Include only relevant qualitative information that separates the selected vendor from the others.

**SECTION 9 – SELECTION OF PROCUREMENT METHOD**

All procurement transactions will undergo a procurement selection rationale process to determine which of the procurement methods identified is applicable, based upon the complexity of the scope of work and the estimated dollar amount of the procurement in accordance with this Policy. The Purchasing Director will provide a written determination (Procurement Rationale Form) of the procurement method that will be utilized.

**9.1 Procurement Methods**

In accordance with Chapter 252 of the State of Texas Local Government Code, all purchases exceeding \$50,000 are deemed as formal and require public notice. All purchases and/or qualification-based selection processes ~~equal to or~~ exceeding \$50,000 shall be competitively awarded. The Purchasing Director shall, as part of his duties, implement procedures for qualification-based selection processes and the procurement of goods and services in compliance with City, State, and Federal requirements. Such procedures shall promote fair and open competition. Procurement methods for formal procurements shall be in accordance with acceptable procurement practices and legal requirements established for each type of procurement.

All requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals shall be clearly delineated within each bid. [\[Revised May 9, 2023\]](#) ~~[\[Revised March 12, 2021\]](#)~~

The Amended and Restated Procurement and Sourcing Policy also includes applicable informal processes for purchases, sourcing and/or selections under \$50,000.

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**9.1.1 EP MarketPlace**

The City of El Paso's Purchasing & Strategic Sourcing Department has implemented "EP MarketPlace," a catalogue-type system to facilitate access to strategic and cooperative contracts. The use of EP MarketPlace is authorized by City Council in accordance with [annual Adopted Budget Resolution. \[Revised May 9, 2023\]](#) ~~FY 2018 Budget Resolution, Item 16.~~

In an effort to enhance efficiency and maximize City resources, Departments shall first search the EP MarketPlace for the availability of goods and/or services. If the goods or services are not available on the EP MarketPlace, the department will submit the Procurement Request Form to initiate the bidding or sourcing process.

The purchase of vehicles, trucks and/or fire apparatus/pumpers shall be expressly prohibited from being sourced through the e-catalog. In addition to the above, the sourcing or selection of services identified within the Professional Service Act shall be prohibited from being sourced through the EP MarketPlace.

**9.1.2 Procurements under 50K**

**9.1.2.1 Commercially available goods and services**

It shall be the policy of the City of El Paso that upon approval from the Purchasing Director End Users are allowed the purchase of commercially available items. Such items may be purchased with the P-Card provided that it is more efficient to purchase from a retail store to meet the needs of the City. Typically, this will be used for one-time purchases with an estimated value less than ~~\$3,000~~ ~~3,500~~. Whenever feasible, End User should plan to utilize any strategic contracts that may be available through EP MarketPlace or other approved means. [\[Revised May 9, 2023\]](#)

**9.1.2.2 Non-Competitive Procurements**

Whenever a need is identified by an End User for goods or services available from a single source or meeting the sole source definition, the End User may submit a request for such purchase. The End User shall conduct its due diligence to ascertain that such goods or services are not available from other sources before submitting such request.

**9.1.2.3 Purchases under ~~\$3,000~~ [\[Revised May 9, 2023\]](#) ~~3,500~~**

Competition is not required for one-time purchases under ~~\$3,000~~ ~~3,500~~ dollars. End User is responsible for determining the cost reasonableness of said purchase. Purchases may be executed using the P-Card payment method, direct payment, or purchase order. However, the End User shall not use the purchase order process when the total amount of such purchases is equal to or less than \$250. ~~Procurements under 50K.~~

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**9.1.2.4 Purchases between ~~\$3,0003,504.00~~ and \$49,999.99 [Revised May 9, 2023]**

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It shall be the policy of the City of El Paso to require three (3) quotes for non-commercially available purchases estimated between ~~\$3,0003,504.00~~ and \$49,999.99. In accordance with Section 252.0215 of the State of Texas Local Government Code, shall solicit quotes from a minimum of two (2) Historically Underutilized Businesses (HUBs).

If more than two (2) HUBs are available to provide goods and services for a specific category, the City can establish a rotation process and source directly based on the rotation process shall ensure an equitable distribution of opportunities to provide goods and/or services.

**9.1.2.5 Direct Purchase Order - Purchases between \$3,001.00 and \$5,000.00 [Revised May 9, 2023]**

User department must follow section 9.1.2.4. for purchases under this threshold.

**9.1.3 Competitive Sealed Bid**

**9.1.3.1 Low Bid**

In accordance with Section 252.043 (a) of the State of Texas Local Government Code, it shall be the policy of the City of El Paso to conduct a competitive sealed bid on purchases estimated at \$50,000 or more, unless the Purchasing Director determines that a different procurement method is most advantageous to the City.

**9.1.3.2 Best Value Bid**

In accordance with Section 252.043 (b) of the State of Texas Local Government Code, if a best value bid is conducted, the selection will be based on a combination of qualifications/quality and price. The procurement documents shall indicate that selection of the successful bidder will be based on the best value bid and shall identify the criteria that will be considered for the determination of the best value bid selection. The Purchasing & Strategic Sourcing Department, in conjunction with the User Department, shall select the factors applicable to best value bids. No single evaluation factor shall have a numerical value greater than price. In addition to the above, price alone shall not be weighted to result in de-facto low-bid. Price shall not have a numerical value exceeding 35 out of 100 points.

Best value considerations may include but not be limited to the following:

1. Purchase price;
2. Reputation of bidder;
3. Quality of bidder's services;

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4. Extent to which bidder's services fit City's needs;
5. Past relationship with the City;
6. Impact on owner to comply with laws & rules relating to Historically Underutilized Businesses (HUB's) and nonprofit organizations that employ persons with disabilities;
7. Long-term costs to owner (Cost of Ownership);
8. Employee Medical Benefits (Resolution 8/28/12); and
9. Any other relevant factor.

**9.1.4 Request for Proposals**

**9.1.4.1 Competitive Sealed Proposals**

Pursuant with Chapter 252 and 2269 of the State of Texas Local Government Code, the City of El Paso may conduct competitive sealed proposals for construction projects whenever it is determined to be in the best interest of the City.

The competitive sealed proposals require that the contract be awarded to the responsible proposer whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals. Purchasing & Strategic Sourcing Department shall select the Evaluation Factors in collaboration with Capital Improvement Department. No single evaluation factor shall have a numerical value greater than price.

In addition to the above, price shall be weighted in accordance with Texas Government Code Chapter 2269. *[Revised May 9, 2023]* price alone shall not be weighted to result in de facto low bid. Price shall not have a numerical value exceeding 35 out of 100 points.

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**9.1.4.2 Request for Proposals**

It is the policy of the City of El Paso to seek to obtain the best value offered by a responsive and responsible proposer. In accordance with Section 252.042 of the State of Texas Local Government Code, the City may use the Request for Proposal method on certain procurements. The Request for Proposal must indicate the relative importance of the price and other evaluation factors.

The City of El Paso may consider various factors, as determined by the Purchasing & Strategic Sourcing Department in collaboration with the User Department.

These include, but may not be limited to:

1. Purchase Price;
2. Reputation of the proposer and of the goods or services;
3. Quality of the proposer's goods and services;

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4. Extent to which the proposer's goods or services meet the City of El Paso's needs;
5. The proposer's past relationship with the City;
6. The proposer's impact on the ability of the City to comply with laws and rules regarding Historically Underutilized Businesses (HUB's) and nonprofit organizations that employ persons with disabilities;
7. Long term-cost to owner (Cost of Ownership); and
8. Any other relevant criteria specifically listed in the Request for Proposal.

**9.1.5 Request for Qualifications**

It shall be the policy of the City of El Paso not to give consideration to price in the selection of vendors to provide professional services as defined in Chapter 2254 of the State of Texas Local Government Code. Professional services include certified public accountants, architects, landscape architect, land surveyor, physicians, optometrists, professional engineer, and state certified real estate appraiser. The Purchasing Director may make a determination that this process is appropriate as the first step to other solicitations where the area of services requires certain specialized qualifications. Other professional services not delineated within Chapter 2254 shall be procured using the Request for Proposal process.

**9.1.6 Alternative Delivery Methods**

It shall be the policy of the City of El Paso to enter into contract with vendors for the construction, alteration, rehabilitation, or repair of facilities using an alternative delivery method. The appropriate procurement method will be applied for the procurement and selection of such vendor. Alternative delivery methods include those authorized by the Texas Legislation, including any methods approved in the future (i.e., online bidding).

Examples of the alternative delivery methods include:

**9.1.6.1 Design-Build**

Pursuant with Section 2269 of the State of Texas Government Code and this Policy, the City may elect to use design-build as an alternative delivery method for certain capital projects as determined by the City. This delivery method is a turnkey option to the traditional design-bid-build. The design-build is a project delivery method by which the City contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility. The evaluation factor for a design-build selection process shall incorporate the evaluation factors delineated within Chapter 2269 of the State of Texas Government Code.

**9.1.6.2 Construction Manager at Risk (CMAR)**

In accordance with the provisions of Section 2269 of the State of Texas Government Code and this Policy, the City may elect to procure construction services through the use of Construction Management at

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Risk, an alternative delivery method. The construction manager-at-risk method is a delivery method by which the City contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

**9.1.6.3 Public Private Partnerships (P3)**

Pursuant to Chapter 2267 of the State of Texas Government Code, the City may enter into Public Private Partnerships for the design, construction, operation, and/or financing of public facilities. The P3 selection process can only be utilized for qualifying projects as defined within Chapter 2267 of the State Government Code.

Prior to proceeding with this alternative delivery method, the City shall conduct the required analyses and processes, including but not limited to: cost-benefit analysis, assessment of opportunity cost, legal analysis, public hearings, and others as detailed in Chapter 2267. This method is generally used for development-type projects or governmental facility available for public use. This delivery method generally includes the design, construction management, construction, and may include financing and operation for a defined period of time.

Any Private Entity submitting an Unsolicited Proposal or a Competing Proposal shall pay a preliminary review fee to the City in the amount of Five Thousand and No/100 Dollars (\$5,000) at the time it submits the proposal to the City, by check, money order, credit card or electronic transfer.

**9.1.7 Cooperative Purchases [Revised 8/18/2020]**

- a Participation in or use of a cooperative program and the resultant contracts/schedules require City Council approval prior to the use of said cooperative program. In accordance with Chapter 791 of the Texas Government Code, Chapter 271 of the State of Texas Local Government Code, and subsequent annual City Council Budget Resolution ~~2018, Item 15~~, the Purchasing Director is authorized to source or purchase under an approved cooperative program. ***[Revised May 9, 2023]***
- b To mitigate conflicts with the advertisement requirement of this policy, a cooperative program and/or consortium (hereinafter “the cooperative”, is deemed to have fulfilled the advertisement requirement if said cooperative can demonstrate that public notifications (electronic bidding “event invitations/notifications”) or advertisements were in issued for the specific contract and/or scheduled being sourced. ***[Revised November 30, 2021]***
- c The City shall not use cooperative contracts which only establishes a

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pre-qualified listing and require the end user to facilitate advertising and conducting a second evaluation. An example is HGAC will issue a Request for Proposal to establish a pre-qualified listing and requiring end users to advertise and conduct a second evaluation. **[Revised November 30, 2021]**

- d The City shall not use a cooperative contract where notification (electronic bidding) or advertising has not been demonstrated. **[Revised November 30, 2021].**
- e The City shall only use cooperative contracts that comply with the competitive procurement standards set forth by a granting agency i.e., 2CFR200. The City shall maintain the procurement file of the awarding cooperative.
- f The currently approved cooperative programs include:
  - ☞1. State of Texas Department of Information Resources (DIR);
  - ☞2. Harris County Department of Education Cooperative;
  - ☞3. Houston-Galveston Area Council (HGAC);
  - ☞4. ESC Region 19 Cooperative Purchasing Program;
  - ☞5. Tarrant County Cooperative Purchasing Program;
  - ☞6. Texas Association of School Boards (TASB Buy Board);
  - ☞7. Texas Procurement and Support Services TPASS);
  - ☞8. The Cooperative Purchasing Network (TCPN/National IPA);
  - ☞9. Texas Multiple Award Schedule (TXMAS);
  - ☞10. Omnia Partners;
  - ☞11. U. S. General Services Administration (GSA); and
  - ☞12. Technology Bidding and Purchasing Program (PEPPM).
  - ☞13. ESC Region 8 (TIPS) Cooperative Purchasing Program
  - ☞14. Division of Purchases and Supply (DPS), a business unit of the Department of General Services for the Commonwealth of Virginia

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**9.1.7.1 Job Order Contracting**

The City may use a Job Order contract whenever it is determined to be the most advantageous to the City. Job Order Contracting is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite, according to Texas Local Government Code 2269.

**9.1.8 Non-Competitive Procurement Methods**

**9.1.8.1 Sole Source**

In accordance with Section 252.022 of the State of Texas Government Code, it shall be the policy of the City of El Paso to employ a non-competitive process on a limited basis on goods and services that may only be acquired from a single source or when a specific source may be

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the only one to meet the City's requirements.

Examples of such situation may include but not be limited to:

1. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
2. If a contract cannot be awarded after two competitive procurements/selection process. The requirement can be fulfilled by a non-competitive award. *[Revised August 19, 2019]*
3. A procurement necessary to preserve or protect the public health or safety of the municipality's residents;
4. Public exigency will not permit a delay resulting from a competitive solicitation;
5. A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
6. A procurement for personal, professional, or planning services;
7. A procurement for work that is performed and paid for by the day as the work progresses;
8. A purchase of land or a right-of-way;
9. Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
10. Films, manuscripts, or books;
11. Gas, water, and other utility services;
12. Captive replacement parts or components for equipment;
13. Books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials;
14. Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;
15. A purchase of rare books, papers, and other library materials for a public library;
16. Paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
17. A public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
18. A payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
19. Personal property sold: (A) at an auction by a state licensed auctioneer; (B) at a going out of business sale held in compliance

**CITY OF EL PASO**

**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

- with Subchapter F, Chapter 17, Business & Commerce Code; (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or (D) under an inter-local contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;
20. Services performed by blind or severely disabled persons (Texas Industries for the Blind and Handicapped);
  21. Goods purchased by a municipality for subsequent retail sale by the municipality;
  22. Electricity;
  23. Advertising, other than legal notices;
  24. The City had previously conducted a formal competitive procurement leading to the standardization of goods or services and is seeking to add or replace portions of the original purchase, and
  25. The purchase of a specific brand, make or model is necessary to prevent a warranty from becoming void.

**9.1.8.2 Emergency Purchase – Public Health and Safety**

Pursuant to Section 252.022 of the State of Texas Government Code, whenever there are circumstances that present a threat to the health or safety of the public and/or that may cause damage to public property, the City may authorize an emergency purchase, which will not require a competitive process. Whenever possible, however, the City may request quotes from more than one vendor including certified socioeconomic firms. The opportunity shall include, preferably three vendors. The Purchasing Director is authorized to approve emergency purchases under \$50,000.

Emergency purchases of \$50,000 or more must be approved by the City Manager. Emergency purchases of \$50,000 or more shall be submitted to City Council for ratification.

**9.1.8.3 Declared Disaster or Pandemic – Continuity of Operations**

Under Chapter 418 of the Texas Government Code, the Governor may by executive order or proclamation declare a state of disaster 286 if a disaster has occurred or that the occurrence or threat of disaster is imminent. The Governor may suspend the provisions of any regulatory statute 287 prescribing the procedures for conduct of City business or the orders or rules of an agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster. For example, the Governor may suspend enforcement of statutes and administrative rules regarding contracting or procurement that would impede the City's emergency response that is necessary to protect life or property threatened by a declared disaster.

A purchase made under a disaster must clearly relate to the disaster, conform to the directives of the disaster declaration, and occur within the

**CITY OF EL PASO**

**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

timeframe specified in the disaster declaration. The procurement file shall state at a minimum, a copy of the disaster declaration and/or emergency exemption being utilized, documentation to support the purchase (procurement rational package, independent cost estimate, debarment checks, cost or price analysis), receipt of goods or services, and approval of the payment.

**9.2 Commodity Types**

The type of commodities or services may generally dictate the procurement method. It should be noted that there are different categories that fall within each type of procurement. The general types of commodities include the following:

**9.2.1 Goods**

This type generally includes a variety of commodities that are commercially available such as materials and/or supplies.

**9.2.2 Equipment**

Equipment may generally include but is not limited to building equipment, office equipment, rolling stock, medical equipment, research equipment, and any other equipment necessary for the operation of the City.

**9.2.3 General Services or Work Services**

Some examples of categories within the general services may include custodial services, security services, and others. Janitorial/Security and Land management contracts require both a Payment and Performance Bond.

**9.2.4 Construction/Public Works**

Construction services shall be procured in accordance with of the Texas Government Code and Chapters 252, 2253, 2269 and 2267. Public works projects of 25,000 or more require both a Payment and Performance Bond in the amount of the contract.

**9.2.5 Other Professional Service Agreements**

Pursuant to the State of Texas Government Code, Chapter 2254, Subchapter B, consulting/other professional services shall be competitively procured provided they are not professional services as defined in Subchapter A. Consulting/other professional services may include but are not limited to management consulting services, training services, systems consulting services and others.

Professional Services not listed under Chapter 2254 shall be selected by a Request for Proposal. Disciplines that require a license and/or registered professional include legal, planning services, computer programmers, consultants, third party administrators, law enforcement consultants, property tax consultants and auditors.

**9.2.6 Professional Services**

**9.2.6.1 Categories**

Professional services include certified public accountants, architects, landscape architect, land surveyor, physicians, optometrists, professional engineer, and state certified real estate appraiser as provided in the Professional Service Act, Chapter 2254 of the State of Texas, Local Government Code. For purposes of this policy and resulting Purchasing & Strategic Sourcing Manual, a qualification-

**CITY OF EL PASO**  
**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**  
based section process is a Request for Qualifications.

**9.2.6.2 Architectural and Engineering (A&E) Services**

Architectural and Engineering services are procured through the Request for Qualification procurement method. While the State of Texas Government Code Chapter 2254 and Chapter 252 of the Local Government Code do not explicitly require the use of a Request for Qualifications, for purposes of this policy and resulting Purchasing & Strategic Sourcing Manual, a qualification-based section process is a Request for Qualifications. It is exempt from the competitive bid process as defined in Chapter 252; however, competition is required under the Professional Service Act. Price is not an evaluation factor.

**9.2.7 Technology**

Technology may include the purchase of goods, supplies, equipment, software, and consulting services; therefore, technology may be included in various categories depending on the type of purchase required.

**9.3 Strategic Sourcing**

The Purchasing Director may, upon appropriate analysis, elect to designate a category under a type of purchase as a candidate for strategic sourcing. The purpose of strategic sourcing is to leverage spend across the organization in order to realize operational efficiencies and optimize resources. The Purchasing & Strategic Sourcing Department will conduct an annual spend analysis. The spend analysis will collect, cleanse, classify and analyze expenditure data with the purpose of decreasing procurement costs, improving efficiency, and monitoring compliance.

Upon determination that a category is a candidate for strategic sourcing, the Purchasing Director will issue notice to departments seeking department participation, cooperation or input in the process. End User shall cooperate with the Purchasing Representative responsible for leading the procurement effort so as to allow for the implementation of the strategic contract in an expeditious manner. Whenever feasible, such contracts will be made available on the EP MarketPlace.

**9.4 Cost and Price Analysis**

As part of the evaluation of bids or proposals, the Purchasing Representative will conduct a price analysis to determine the reasonableness of the price proposed by the vendor. The extent and form of analysis will depend on the type of goods or services being sought and the structure of pricing that was required from vendors.

A cost analysis is required for every sole source, change order, amendment, or modification to existing contract(s).

A cost or price analysis is required on all competitive procurements and qualification-based selection processes.

**9.5 Responsiveness and Responsibility**

**9.5.1 Responsiveness**

The Purchasing Representative shall review all bids, proposals, quotes, or

**CITY OF EL PASO**

**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

offers for responsiveness to the requirements stated in the solicitation document. Responsiveness means that the bid, proposal or offer meets the specifications in all material respects.

**9.5.2 Responsibility**

The Purchasing Representative shall also assess the responsibility of the vendor submitting an offer and its ability to meet the performance and quality requirements stated in the solicitation document. The responsibility assessment may include, but not be limited to, qualifications of the vendor to deliver the goods or services, financial capacity, availability of personnel or goods to be provided, and any other aspect necessary for the successful performance of the contract.

**9.6 Contract Administration and the Contract Compliance Manager**

The Purchasing & Strategic Sourcing Department shares the contract administration responsibility with End Users. The Contract Compliance Manager, under the direction of the Purchasing Director, is responsible for the oversight and management of Contract Administrators throughout the City. Contract administration duties include but are not limited to contract management, vendor performance appraisal, vendor management, corrective action of any potential or real issues in the performance of the contract, and contract closeout. Contract Administrators will manage any and all daily matters associated with Vendor Performance Tracking System; however, Purchasing Representatives shall process any changes to the contracts that are initiated by the End User's Contract Administrator provided that said changes are approved.

**9.7 Contract Types**

The City may enter into different types of contracts in order to meet the operational needs of the City. Such types may include but not be limited to annual contracts, multi-year contracts; task order contracts; one-time or project-specific contracts; or a requirements contract. A maximum dollar value may be established over a specific period of time. The dollar limit on a project-specific contract may be equal to the estimated price proposed for the completion of a project.

**9.8 Contract Files**

The City shall maintain records sufficient to detail the history of the procurement, including but not limited to rationale for method of procurement, clearly defined specification, silent requirements, selections of contract type, demonstration of competition, basis of contractor selection, cost or price analysis. **[Revised 2/05/2021]**

**SECTION 10 – PROHIBITED PRACTICES**

**10.1 Separate or Sequential Purchases**

It is the policy of the City of El Paso to implement procedures to prohibit practices that circumvent the purchasing process. Failure to follow purchasing requirements may have detrimental consequences for the City and personnel in accordance with State of Texas Local Government Code, Chapter 252, Subchapter D. Chapter 252.1 of the State of Texas Local Government Code defines Separate Purchases and Sequential Purchases as follows:

**CITY OF EL PASO**

**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

- "Separate purchases," means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
- "Sequential purchases" means purchases of items made over a period of time that, in normal purchasing practices, would be purchased in one purchase.
- No City personnel shall authorize the purchase of separate or sequential purchases as defined above for the purposes of circumventing or avoiding the appropriate procurement and approval process.

**10.2 Approval prior to Delivery**

City employees shall not request or accept goods or services without having first received written authorization in the form of a purchase order, contract, or other acceptable form of approval by the Chief Procurement and Contracting Officer.

**10.3 Competition**

Contractors, consultants that develop or draft specifications, requirements, and statements of work or invitation for bids, request for proposals or RF (x) shall be excluded from competing for such procurements. **[Revised 2/05/2021]**

**SECTION 11 – SPECIAL APPROVALS**

It is the policy of the City of El Paso to maintain uniformity and implement best practices in the purchase of certain types or categories of spend, such as technology and rolling stock.

All purchases of rolling stock shall require prior approval by the Director of Streets & Maintenance Department or his/her duly authorized representative. **[Revised 2/05/2021]**

**SECTION 12 – SOCIOECONOMIC PROGRAMS**

**12.1 Hire El Paso First**

It is the policy of the City of El Paso to enhance opportunities for economic development for local businesses. In accordance with amendment to the Texas Local Government Code Sections 271.905 and 271.9051, the City may give consideration of location of a bidder's principal place of business when awarding certain contracts. Provisions of the Hire El Paso First policy is hereby incorporated by reference.

Pursuant to the provisions of the policy, the City's Purchasing & Strategic Sourcing Department will apply incentives of 5% for Tier 1 and 2.5% for Tier 2. These incentives are applicable to construction projects of \$100,000 or less, and to personal property or services of \$500,000 or less.

The incentives applicable to purchases in excess of \$500,000 are 3% for Tier 1 and 1.5% for Tier 2. In order to ensure that the best interests of the City are served, the City reserves the right to award a contract to the low bidder or to the local business, based on the local incentives applied. This policy is not applicable when the funding source prohibits consideration local preference criteria.

On August 26, 2014, The City of El Paso's City Council approved the use of Hire

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El Paso First Local Bid preference for alternative procurement methods. Said resolution allows the award of a construction contract to a Tier 1 bidder who is within 5 points of the highest ranked proposer, if the amount of the bid is within 5% of the highest ranked proposer; or Tier 2 proposer who is within 5 points of the highest ranked proposer, if the amount of the bid is within 2.5% of the highest ranked proposer.

**122 Equal Opportunity Contracting**

The City's contracting opportunities are open to all and it is City policy that no person or firm will be discriminated against because of race, color, national origin, sex, or disability in the award of City contracts. Further, contractors shall not discriminate on the basis of race, color, national origin, sex, or disability in the performance of City contracts.

**123 HUB/DBE Participation *[Revised May 9, 2023]***

It is the policy of the City to seek participation in its contracts by local small businesses and by small businesses owned by minorities, women and disadvantaged persons. The City has two strategies for achieving this policy objective. For locally or state-funded projects, the provisions of Section 252.0214 of the State of Texas Local Government Code Historically Underutilized Business (HUB) shall apply. The provisions of 49 CFR Part 26 Participation by Disadvantaged Business Enterprises (DBE) in Department of Transportation Financial Assisted Programs s 23 (FTA) and 26 (FAA), as amended, for Disadvantaged Business Enterprise (DBE) program shall apply whenever contracts are funded with federal funds. Whenever contracts are funded with federal funds, the City will comply with the regulations indicated in 2 CFR 200 under General Procurement Standards for this purpose.

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**124 Geographical Preferences**

Procurements must prohibit the use of state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal or State statutes expressly mandate or encourage or allows geographic preference. *[Revised 2/05/2021]*

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**125 Wage Theft**

Pursuant to the City of El Paso Code, Ordinance No. 018370, adopted by City Council on June 16, 2015, the City may not award a contract to a vendor with wage theft adjudication. Prior to the recommendation of a City contract, the Purchasing Director shall verify that the vendor does not have a wage theft violation in accordance with said Ordinance. The Wage Theft Ordinance is applicable to all City contracts. The provisions of said Ordinance are hereby incorporated by reference.

**SECTION 13 – DUE DILIGENCE**

**13.1 Vendor Indebtedness to the City**

For all formal bids, in accordance with Ordinance No. 016529, it is the policy of the City to refuse to do business with a contracting entity, or any owner of 5% or more of such entity, who is indebted to the City or a qualifying governmental entity except



**CITY OF EL PASO**

**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

in cases where the City deems it in its best interest to enter into such transactions. In the context the Indebtedness Ordinance, debt shall mean any delinquent sum of money in an amount greater than one hundred dollars (\$100.00) levied, imposed or assessed against any contracting entity, or owner thereof, by the City or any qualifying entity for ad valorem taxes on real or personal property located within the boundaries of the city.

This Ordinance is applicable to all purchases and contracts, formal bids, proposals or otherwise, that require City Council approval. Contracts that are awarded without the submission of a proposal, including but not limited to, contracts for engineering and architectural services, shall be subject to this Policy and shall not be approved by Council until a determination as to any indebtedness of the contracting entity or any owner to the City has been made as provided for in this Policy.

**13.2 Debarment Check *[Revised May 9, 2023]***

It shall be the policy of the City of El Paso to check if a vendor has been debarred prior to entering into a contract. The Purchasing Representative, in conducting his/her due diligence, shall verify that the vendor does not appear on the list at the System for Award Management website maintained by the federal government, maintained by the federal government. ~~The System for Award Management can be accessed at the following web link: <https://www.sam.gov/portal/SAM/##1>.~~

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**13.3 State Reciprocity**

It is the policy of the City of El Paso to equalize the opportunities of local vendors before awarding a contract to a non-resident bidder. When evaluating bidders from other States, that nonresident bidder's state reciprocity laws are applied to the bidder. For example, if a 10% preference would be applied to a nonresident bidder's home state on their contracts, then the City would penalize the nonresident bidder 10% when bidding in Texas.

**SECTION 14 – FEDERAL PROVISIONS**

The City of El Paso receives federal funds for a number of projects. Whenever a contract is funded in full or in part with federal funds, the City will procure those goods and services in compliance with federal guidelines (2 CFR 200: General Procurement Standards) and the appropriate federal provisions shall be included in the contract documents. When conducting the procurement process on federally funded projects, the procurement documents shall indicate the source of funding, as the vendor will be required to comply with all applicable federal requirements.

Federal funds generally include but are not limited to Federal Transit Administration, Federal Aviation Administration, Community Development Block Grant, and any other grant funds as may be applicable from time to time. All applicable federal provisions for the respective funding sources are hereby incorporated by reference. *[Revised May 9, 2023]*

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**SECTION 15 – CONFLICT RESOLUTION**

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**THE AMENDED AND RESTATED PROCUREMENT AND SOURCING POLICY**

**15.1 Protest/Dispute**

Only a vendor who has actually submitted a response to a solicitation may appeal an award decision. Failure to follow the requirements of the protest procedures established by the City of El Paso and included in all solicitations, shall constitute a waiver of all protest rights. Protest must be made after the Council agenda has been posted and by 5 p.m. the day before the Council meeting in which the award will be made.

**15.2 Debriefing**

Vendors that responded to a solicitation may request a debriefing to the Purchasing representative that procured said solicitation within five (5) days after the date of the award. Debriefing requests will be scheduled with the appropriate evaluation committee and Purchasing representative.



Legislation Text

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**File #: 23-598, Version: 1**

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing & Strategic Sourcing, K. Nicole Cote, (915) 212-1092  
Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to the Strategic Plan is subsection 7.3 - Enhance regional comprehensive transportation system.

Resolution that the City Manager be authorized to sign the Consent to Assignment of Contract No. 2018-1293 Printed Bus Passes by and between the City of El Paso, Electronic Data Magnetics, Inc. ("Assignor") and EDM Technology, Inc. ("Assignee").

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**AGENDA DATE:** May 9, 2023  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**  
Ellen Smyth, Chief Transit and Field Operations Officer, (915) 212-6060  
K. Nicole Cote, Managing Director (915) 212-1092

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 7 – Enhance and Sustain El Paso's Infrastructure Network

**SUBGOAL:** 7.3 – Enhance regional comprehensive transportation system

**SUBJECT:**  
Request that the City Manager be authorized to sign Consent to Assignment of Contract 2018-1293 from Electronic Data Magnetics, Inc. to EDM Technology, Inc.

**BACKGROUND / DISCUSSION:**  
This consent to assignment will be for the time remaining of the current contract term, which expires September 4, 2023.

**SELECTION SUMMARY:**  
N/A

**CONTRACT VARIANCE:**  
N/A

**PROTEST**  
N/A

**PRIOR COUNCIL ACTION:**  
On September 4, 2018, the Mass Transit Board approved the award of contract 2018-1293 to Electronic Data Magnetics, Inc. for a three (3) year term and two (2) year-option to extend the contract for at total amount of \$509,420.00.

**AMOUNT AND SOURCE OF FUNDING:**

Funding Source: Sun Metro Operation Fund  
Account: 560-3200-60010-522090-P6006

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO

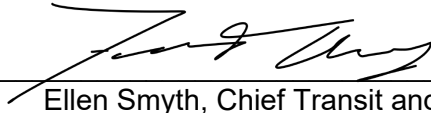
**PRIMARY DEPARTMENT:** Mass Transit (Sun Metro)

**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



Forrest Clancy For Ellen Smyth

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Ellen Smyth, Chief Transit and Field Operations Officer

**COUNCIL PROJECT FORM  
(Consent to Assignment)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **CONSENT AGENDA** for the Mass Transit Board Meeting of **May 9, 2023.**

**STRATEGIC GOAL: No. 7: Enhance and Sustain El Paso’s Infrastructure Network**

The linkage to the Strategic Plan is subsection 7.3 – Enhance regional comprehensive transportation system.

Request that the City Manager be authorized to sign Consent to Assignment of Contract 2018-1293 from Electronic Data Magnetics, Inc. to EDM Technology, Inc. This consent to assignment will be for the time remaining of the current contract term, which expires September 3, 2023.

**RESOLUTION**

**THAT** the City Manager be authorized to sign the Consent to Assignment of Contract No. 2018-1293 Printed Bus Passes by and between the City of El Paso, Electronic Data Magnetics, Inc. (“Assignor”) and EDM Technology, Inc. (“Assignee”).

**PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2023.**


CITY OF EL PASO

\_\_\_\_\_  
Oscar Lesser  
Chair

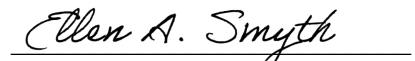
ATTEST:

\_\_\_\_\_  
Laura D. Prine  
Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Juan S. Gonzalez  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen Smyth, Chief Transit and  
Field Operations Officer

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

**CONSENT TO ASSIGNMENT OF  
CONTRACT NO. 2018-1293**

This Consent to Assignment is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of El Paso (the “City”), Electronic Data Magnetics, Inc. (“Assignor”) and EDM Technology, Inc. (“Assignee”).

**WHEREAS**, on September 4, 2018 the City of El Paso (City) entered into Contract No. 2018-1293 with Assignor to provide Electronic Bus Passes for an initial term of three (3) years which is fully incorporated herein by reference to provide such parts to the City;

**WHEREAS**, after entering into said Contract on September 4, 2018 the Assignor merged with the Assignee;

**WHEREAS**, Assignor has requested that the City approve an assignment of the Contract to Assignee;

**WHEREAS**, the Contract provides that it is not assignable without the consent of the City;

**WHEREAS**, Assignee has agreed to be responsible for all duties and obligations under the Contract; and

**WHEREAS**, the City agrees to the assignment of all rights, duties and obligations encompassed in the Contract to Assignee;

**NOW, THEREFORE, IT IS HEREBY AGREED as follows:**

1. The City consents to the assignment of the rights, duties and obligations under the contract to Assignee.
2. Assignee agrees to assume and perform all duties, obligations and responsibilities under the contract.
3. All terms and conditions of the contract shall remain in full force and effect.

*(Signature Page to follow)*



STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**CONSENT TO ASSIGNMENT  
CONTRACT NO. 2018-1293**


*(Signature Page)*

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2023

**THE CITY OF EL PASO:**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

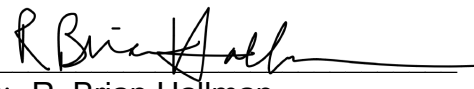
  
\_\_\_\_\_  
Juan S. Gonzalez  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Ellen Smyth,  
Chief Transit & Field Operations Officer

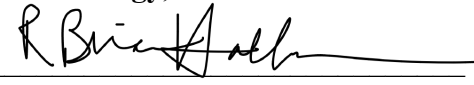
**ASSIGNOR:**

**Electronic Data Magnetics, Inc.**

By:   
Name: R. Brian Hallman  
Title: CEO

**ASSIGNEE:**

**EDM Technology, Inc.**

By:   
Name: R. Brian Hallman  
Title: General Manager

MASS TRANSIT DEPARTMENT BOARD MINUTES  
CITY COUNCIL CHAMBERS  
September 4, 2018

A meeting of the Mass Transit Department Board was called to order at approximately 10:58 a.m. with Dee Margo, Chairman, presiding. The other members present were: Peter Svarzbein, Alexandra Anello, Cassandra Hernandez, Sam Morgan, Michiel Noe, Claudia Ordaz Perez, Henry Rivera and Cissy Lizarraga. Absent: None.

.....  
**CALL TO THE PUBLIC – PUBLIC COMMENT**

**This time is reserved for members of the public who would like to address the City Council on items that are not on the City Council Agenda.**

The following members of the public commented:

1. Mr. Steven Strumer

.....  
**CONSENT AGENDA**

Motion made by Board Member Noe, seconded by Board Member Ordaz Perez, and unanimously carried to **APPROVE, AS REVISED**, all matters listed under the Consent Agenda unless otherwise noted. (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {\*}).

AYES: Board Chair Margo and Board Members Svarzbein, Anello, Hernandez, Morgan, Noe, Ordaz Perez, Rivera and Lizarraga  
NAYS: None

.....  
**1. APPROVAL OF MINUTES**

\*Motion made, seconded, and unanimously carried to Approve the Minutes for Mass Transit Board Meeting held on August 7, 2018 and Special Mass Transit Board meetings held on August 14, and 21, 2018.

.....  
**2. REQUEST TO EXCUSE ABSENT MASS TRANSIT DEPARTMENT BOARD MEMBERS**

**NO ACTION** was taken on the item.

.....  
**3.**

**\*RESOLUTION**

A resolution that the chairman of the Mass Transit Department Board be authorized to execute a Memorandum of Understanding between the El Paso Metropolitan Planning Organization, the Texas Department of Transportation, and the Mass Transit Department of the City of El Paso for cooperation in carrying out the metropolitan transportation planning process in the El Paso Metropolitan Planning Area.

.....  
**4. PURCHASING**

Motion made by Board Member Noe, seconded by Board Member Ordaz Perez, and unanimously carried to **AWARD** Solicitation No. 2018-1293 Printed Bus Passes to Electronic Data Magnetics, Inc. for an initial three

(3) year term estimated award of \$305,652.00. The award is to include a two (2) year optional amount of \$203,768.00 for a total five (5) year award of \$509,420.00. Sun Metro will be using this contract to provide passes to passengers as fare for transportation needs.

Department: Mass Transit (Sun Metro)  
Award to: Electronic Data Magnetics, Inc.  
Location: High Point, NC  
Item(s): All  
Initial Term: 3 years  
Option to Extend: 2 years  
Annual Estimated Award: \$101,884.00  
Initial Term Estimated Award: \$305,652.00 (3 years)  
Total Estimated Award: \$509,420.00 (5 years)  
Account No.: 560-3200-60010-P6006-522090  
Funding Source: Sun Metro Operating  
This is a low bid, unit price contract.

The Purchasing & Strategic Sourcing Department and Mass Transit (Sun Metro) recommend award as indicated to Electronic Data Magnetics, Inc., the lowest responsive, responsible bidder. In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

**All Districts**

*Jay Banasiak, Mass Transit Director 212-3301*  
*Bruce Collins, Purchasing and Strategic Sourcing Director 212-1181*

**5. PURCHASING**

Motion made by Board Member Noe, seconded by Board Member Ordaz Perez, and unanimously carried to **AWARD** solicitation No. 2018-1291 Air and Fluid Filter Elements for an initial three (3) year term to: Transit Holding, Inc. dba The Aftermarket Parts Company for Group I for an estimated award of \$24,687.90; Muncie Reclamation and Supply dba Muncie Transit Supply for Group VI & VII for estimated award of \$35,739.15; RJ Border International, L.P for Group II for an estimated award of \$242,166.00 and Vehicle Maintenance Program, Inc. for Groups III, IV, V & VIII for an estimated award of \$217,122.27. The award is to include a two (2) year optional award of \$306,192.18 for Groups II, III, IV, V & VIII for a total five (5) year award of \$825,907.50. Mass Transit (Sun Metro) will be using this contract for fluid and filter elements required for maintenance of the transit fleet.

Contract Variance:

The difference in cost, based on the comparison to the previous contract, is as follows: An increase of \$46,216.89 over the three (3) year initial term, 9.76% increase compared to previous contract due to quantity and price increase.

Department: Mass Transit (Sun Metro)  
Vendor 1: Transit Holding, Inc. dba The Aftermarket Parts Company, LLC.  
Location: Delaware, OH  
Item(s): Group I  
Initial Term: 3 years  
Option to Extend: None  
Annual Estimated Award: \$8,229.30  
Initial Term Estimated Award: \$24,687.90

Mass Transit Department Board  
September 4, 2018  
Page 2

Total Estimated Award: \$24,687.90  
Account No.: 531180-560-3215-60060-P6019-P60FTA117-G60165307  
Funding Source: Sun Metro Operating

Department: Mass Transit (Sun Metro)  
Vendor 2: Muncie Reclamation and Supply dba Muncie Transit Supply  
Location: Muncie, IN  
Item(s): Group VI & VII  
Initial Term: 3 years  
Option to Extend: None  
Annual Estimated Award: \$11,913.05  
Initial Term Estimated Award: \$35,739.15  
Total Estimated Award: \$35,739.15  
Account No.: 531180-560-3215-60060-P6019-P60FTA117-G60165307  
Funding Source: Sun Metro Operating

Department: Mass Transit (Sun Metro)  
Vendor 3: RJ Border International, LP.  
Location: El Paso, TX.  
Item(s): Group II  
Initial Term: 3 years  
Option to Extend: 2 years  
Annual Estimated Award: \$80,722.00  
Initial Term Estimated Award: \$242,166.00 (3 years)  
Total Estimated award: \$403,610.00 (5 years)  
Account No.: 531180-560-3215-60060-P6019-P60FTA117-G60165307  
Funding Source: Sun Metro Operating

Department: Mass Transit (Sun Metro)  
Vendor 4: Vehicle Maintenance Program, Inc.  
Location: Boca Raton, FL.  
Item(s): Group(s) III, IV, V, VIII  
Option to Extend: 2 years  
Initial Term: 3 years  
Annual Estimated Award: \$72,374.09  
Initial Term Estimated Award: \$217,122.27 (3 years)  
Total Estimated award: \$361,870.45 (5 years)  
Account No.: 531180-560-3215-60060-P6019-P60FTA117-G60165307  
Funding Source: Sun Metro Operating  
This is a Low Bid, unit price contract.

The Purchasing & Strategic Sourcing Department and Mass Transit – (Sun Metro) recommends award as indicated to Transit Holding, Inc. dba The Aftermarket Parts Company, Muncie Reclamation and Supply dba Muncie Transit Supply, RJ Border International, L.P and Vehicle Maintenance Program, Inc., the lowest responsive responsible bidders for the groups indicated above. In addition, that Transit Holding, Inc. dba The Aftermarket Parts Company be deem non-responsive for group VI for failure to provide the correct information to compare prices. In accordance with this award the City Manager or designee is authorized to exercise future options if needed.

**All Districts**

*Jay Banasiak, Mass Transit Director 212-330\_*

*Bruce Collins, Purchasing and Strategic Sourcing Director 212-1181*

Board Member Hernandez commented.

The following City staff members commented:

- 1. Mr. Jay Banasiak, Mass Transit Director
- 2. Mr. Christopher Pellicano, Sr. Procurement Analyst

.....  
**6. PURCHASING**

Motion made by Board Member Noe, seconded by Board Member Ordaz Perez, and unanimously carried **AWARD** Solicitation number 2018-1284 Bus Windshield and Glass Replacement Parts to Transit Holding, Inc. dba The Aftermarket Parts Company, LLC. for an estimated amount of \$1,699,344.60. Mass Transit (Sun Metro) will use this contract to provide Bus Windshields and Glass Replacement Parts as part of the maintenance and operations services to their fleet.

Department:	Mass Transit (Sun Metro)
Award to Vendor:	Transit Holding, Inc. dba The Aftermarket Parts Company, LLC.
Location:	Delaware, OH
Item(s):	Groups I and III
Initial Term:	3 years
Annual Estimated Award:	\$566,448.00
Initial Term Estimated Award:	\$1,699,344.60 (3 years)
Account No.:	531180-560-3215-60060-P6019-P60FTA117-G60165307
Funding Source:	Sun Metro 5307 Formula Funding Grant

This is a Low Bid, unit price contract.

The Purchasing & Strategic Sourcing and Mass Transit – Sun Metro recommends that the contract be awarded to Transit Holdings dba The Aftermarket Parts Company, LLC., the vendor offering the lowest responsive, responsible bid.

**All Districts**

*Jay Banasiak, Mass Transit Director 212-330\_*

*Bruce Collins, Purchasing and Strategic Sourcing Director 212-1181*

.....  
**7. PURCHASING**

Motion made by Board Member Noe, seconded by Board Member Ordaz Perez, and unanimously carried to request that the Director of the Purchasing & Strategic Sourcing Department be **AUTHORIZED** to issue a Purchase Order to SPX Corporation dba Genfare, the sole source provider of proprietary components for the Genfare ticket vending machines in Sun Metro’s fleet.

Additionally, it is requested that the City Attorney’s Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

Department:	Mass Transit (Sun Metro)
	Mass Transit Department Board
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	Page 4

Award to: SPX Corporation dba Genfare  
Location: Elk Grove Village, IL  
Total Estimated Award: \$135,900.00  
Account No.: 580100-560-3210-60080-P60FTA114-G60175339  
Funding Source: FTA 5339 Formula Funding Bus & Facilities  
Sole Source No: 2018-1701  
This is a Sole Source, supplies Contract.

**All Districts**

*Jay Banasiak, Mass Transit Director 212-330\_*  
*Bruce Collins, Purchasing and Strategic Sourcing Director 212-1181*

Board Member Annello commented.

The following City staff members commented:

1. Mr. Jay Banasiak, Mass Transit Director

.....  
Motion made by Board Member Noe, seconded by Board Member Svarzbein, and unanimously carried to adjourn this meeting at 11:05 a.m.

Approved as to content:

\_\_\_\_\_  
Jay Banasiak, Director

Dear Valued Customer,

We are delighted to inform you that Paragon ID has acquired the business and assets of Electronic Data Magnetics. We are extremely honored to now be a member of this esteemed organization and to let you know we are back to being a strong, viable supplier to the Mass Transit market in the North America.

As you are aware, COVID-19 had a huge impact on our industry and consequently, our company. Now, supported by Paragon ID, we are entering a new phase of development and healthy growth, being definitively ready for the expected bounce back of the market. We have included the market announcement of this acquisition. Effective October 1<sup>st</sup>, 2021 our legal name will be EDM Technology Inc. Our assigned EIN is 87-2689713. We will continue to have the same personnel in place, that you have been familiar with for many years, to service your business.

We want to thank you for your patience during this difficult time and want you to know how much we appreciate your business. Our team is hard at work and will be reaching out to you.

Please let us know if you have questions or concerns. We are here for you.

Sincerely,

EDM Technology Inc Management Team

Brian Hallman  
David Hallman  
Randy Bunnell

Press release - Septembre 25 2021

## **Paragon ID acquires business and assets of Electronic Data Magnetics, Inc., in North Carolina USA**

### **Strengthening Paragon ID's position as the leading provider of transport tickets for major US cities**

**Paragon ID (Euronext Paris - FR0013318813 - PID)**, leading provider of identification solutions for Transport & Smart Cities, e-ID, Traceability, Brand Protection and Payment, announces its acquisition of the business and assets of Electronic Data Magnetics, Inc., (EDM) in US.

#### **EDM, provider of public transport tickets to major US cities**

Founded in 1983 by the Hallman family, EDM grew to become America's biggest manufacturer of tickets for the Mass Transit market.

From its manufacturing facility in High Point, North Carolina, EDM manufactures and markets cards and tickets, both magnetic and RFID, as well as ticket pre-encoding and personalization services. EDM supplies the major public transport operators in the United States, as well as airlines, parking operators, etc.

EDM's customers include nearly two-thirds of the U.S. transit operators and authorities, including the cities of New York, Miami, Portland, Atlanta, Philadelphia, etc.

Prior to the impact of the pandemic, EDM posted annual revenues in excess of \$15m with an EBITDA margin of around 10%.

The lockdowns and decline in ridership of public transport systems over the course of the last eighteen months had a radical impact on EDM's revenues, leading the company to file for Chapter 11 bankruptcy procedures in June 2021.

Paragon ID anticipates a gradual rebound in the company's revenue over the next two years, with a contribution to Group revenue in excess of \$10 million and a double-digit EBITDA margin.

#### **Strengthening Paragon ID's position as the leading provider of public transport tickets in the US**

With this acquisition, Paragon ID strengthens its position as the leading supplier of transport tickets for major American cities.

Under the terms of the court-approved purchase, Paragon ID will also acquire the industrial site and buildings used by EDM, providing the company with its first manufacturing facility in the US capable of producing cards and tickets – a source of industrial synergies (reduced shipping costs, customs duties, etc.).

The size of the site lends itself to further development of industrial activity for other RFID markets in the US, such as RFID tags for the retail sector and RFID baggage tags for the airline industry.

From a commercial perspective, EDM's established positions with the main American public transport equipment manufacturers and operators will provide an opportunity to promote dematerialized contactless ticketing solutions in North America.



**Terms of the transaction**

Under the terms of the North Carolina court-approved purchase, Paragon ID acquires the business and business-related assets of EDM, including its manufacturing facility for production and adjacent buildings for material storage.

The Hallman family will continue to run these operations, along with Paragon ID's senior U.S. management, through a newly created subsidiary (EDM Technology Inc.), which will be consolidated into Paragon ID's accounts as of October 1, 2021.

The acquisition was financed entirely in cash, from equity and from specific credit lines granted by Paragon ID's shareholder Paragon Group.

**Clem Garvey, CEO, Paragon ID comments:**

*"We are all very pleased to welcome the Hallman family and all the EDM teams to Paragon ID. EDM has been a respected competitor for many years and enjoys strong, long-term relationships with its customers and key stakeholders in the Mass Transit market. It is for this reason that we decided to create EDM Technology Inc. to preserve these relationships and to ensure that the company benefits fully from the post-pandemic revival in mass transit usage. We look forward to working with the Hallman family to make the combination of EDM and Paragon ID the undisputed industry leader."*

**Brian Hallamn , General Manager of EDM, adds:**

*"The Hallman family has always enjoyed a good relationship with Paragon ID. We share the same values of providing our customers with high quality products and services, building strong partnerships with our suppliers, and enabling the growth of our employees. The past eighteen months have been very challenging for all of these stakeholders and for our family and we are pleased that the Chapter 11 process is resulting in the integration of EDM into Paragon ID. We look forward to working with the Group and its US teams."*

**About Paragon ID**

Paragon ID is a leader in identification solutions, in particular in the e-ID, Transport & Smart Cities, Traceability & Brand Protection and Payment sectors.

Paragon ID employs more than 500 staff, with manufacturing sites in US and Europe, close to its customers.

Paragon ID is listed on Euronext Paris with a majority of its shares being held by Paragon Group, a leading provider of Customer Communications. Identification solutions and Graphic services. Paragon Group is present in more than 20 countries with more than 9,000 employees around the world and achieved consolidated sales of € 1.1 billion at the end of the 2019/20 financial year (closed June 30, 2020), recording a growth of 29%. For further information about Paragon Group, visit [Paragon-europe.com](http://Paragon-europe.com).

Euronext Paris - Share identification: Paragon ID - ISIN Code: FR0013318813 - Mnemonic code: PID.

For further information about Paragon ID, visit [Paragon-id.com](http://Paragon-id.com).

**Contacts**

<p><b>Paragon ID</b> Clem Garvey CEO Tel. : +33 (0)2 48 81 61 00 <a href="mailto:clem.garvey@paragon-id.com">clem.garvey@paragon-id.com</a></p>	<p><b>ACTUS finance &amp; communication Investors relation</b> Mathieu Omnes Tel. : +33 (0)1 53 67 36 92 <a href="mailto:momnes@actus.fr">momnes@actus.fr</a></p>	<p><b>ACTUS finance &amp; communication Press relation</b> Vivien Ferran Tel. : +33 (0)1 53 67 36 34 <a href="mailto:vferran@actus.fr">vferran@actus.fr</a></p>
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Legislation Text

File #: 23-597, Version: 1

**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing & Strategic Sourcing, K. Nicole Cote, (915) 212-1092  
Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to the Strategic Plan is subsection 7.3 - Enhance regional comprehensive transportation system.

Request that the Managing Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Avail Technologies, Inc. the sole and authorized distributor for 2023-0420 Enterprise Resource Management (ERP) Software and Support for a term of three (3) years for an estimated amount of \$254,284.00, with the stipulation that the vendor provides an updated sole source letter and affidavit each year. This contract will allow for the purchase of myAvail Enterprises Transit Management Solution (ETMS) software cloud base conversion, warranty, maintenance, and support directly from Avail necessary to support the converted software cloud base system and maintain the functionality of the Enterprise Resource Management (ERP) software.

Department:	Mass Transit (Sun Metro)
Award to:	Avail Technologies, Inc. State College, PA
Year 1 Total:	\$105,450.00
Year 2 Total:	\$72,602.00
Year 3 Total:	\$76,232.00
Total Estimated Amount:	\$254,284.00 (3 years)
Account No.:	560-3200-60030-522020-P6005
Funding Source:	Sun Metro Operating Fund
District(s):	All
Sole Source No.:	2023-0420

This is a Sole Source contract.

The Purchasing & Strategic Sourcing and Mass Transit (Sun Metro) Departments recommend that the contract be awarded as indicated to Avail Technologies, Inc. the sole source and authorized distributor for myAvail

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**File #: 23-597, Version: 1**

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Enterprises Transit Management Solution (ETMS) software cloud base conversion, warranty, maintenance, and support.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**AGENDA DATE:** May 9, 2023  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Ellen Smyth, Chief Transit and Field Operations Officer, (915) 212-6060  
K. Nicole Cote, Managing Director (915) 212-1092

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 7 – Enhance and Sustain El Paso's Infrastructure Network

**SUBGOAL:** 7.3 – Enhance regional comprehensive transportation system

**SUBJECT:**

Request that the Managing Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Avail Technologies, Inc. the sole and authorized distributor for 2023-0420 Enterprise Resource Management (ERP) Software and Support for a term of three (3) years for an estimated amount of \$254,284.00.

**BACKGROUND / DISCUSSION:**

This contract will allow for the purchase of myAvail Enterprises Transit Management Solution (ETMS) software cloud base conversion, warranty, maintenance, and support directly from Avail necessary to support the converted software cloud base system and maintain the functionality of the Enterprise Resource Management (ERP) software.

**SELECTION SUMMARY:**

General Exemption under Texas Local Government Code Section 252.022 Part 7 (A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies. Avail Technologies, Inc., the sole and authorized distributor of Avail Enterprise Resource Management (ERP) software, myAvail Enterprises Transit Management Solution (ETMS) software, warranty, maintenance, and support.

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: An increase of \$174,538.00 for the initial term, which represents a 218.87% increase due to software conversion and an increase in user licenses being purchased.

**PROTEST**

N/A

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$254,284.00  
Funding Source: Sun Metro Operating Fund  
Account: 560-3200-60030-522020-P6005

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES \_\_\_ NO

PRIMARY DEPARTMENT: Mass Transit (Sun Metro)

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Astrid Bunner*

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Astrid Bunner for Ellen Smyth, Chief Transit and Field Operations Officer

**COUNCIL PROJECT FORM  
(Sole Source)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **CONSENT AGENDA** for the Mass Transit Board Meeting of **May 9, 2023**.

**STRATEGIC GOAL: No. 7: Enhance and Sustain El Paso’s Infrastructure Network**

The linkage to the Strategic Plan is subsection 7.3 – Enhance regional comprehensive transportation system.

Request that the Managing Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Avail Technologies, Inc. the sole and authorized distributor for 2023-0420 Enterprise Resource Management (ERP) Software and Support for a term of three (3) years for an estimated amount of \$254,284.00, with the stipulation that the vendor provides an updated sole source letter and affidavit each year. This contract will allow for the purchase of myAvail Enterprises Transit Management Solution (ETMS) software cloud base conversion, warranty, maintenance, and support directly from Avail necessary to support the converted software cloud base system and maintain the functionality of the Enterprise Resource Management (ERP) software.

Department:	Mass Transit (Sun Metro)
Award to:	Avail Technologies, Inc. State College, PA
Year 1 Total:	\$105,450.00
Year 2 Total:	\$72,602.00
Year 3 Total:	\$76,232.00
Total Estimated Amount:	\$254,284.00 (3 years)
Account No.:	560-3200-60030-522020-P6005
Funding Source:	Sun Metro Operating Fund
District(s)	All
Sole Source No.:	2023-0420

This is a Sole Source contract.

The Purchasing & Strategic Sourcing and Mass Transit (Sun Metro) Departments recommend that the contract be awarded as indicated to Avail Technologies, Inc. the sole source and authorized distributor for myAvail Enterprises Transit Management Solution (ETMS).



# PURCHASING & STRATEGIC SOURCING DEPARTMENT

## SOLE SOURCE AFFIDAVIT

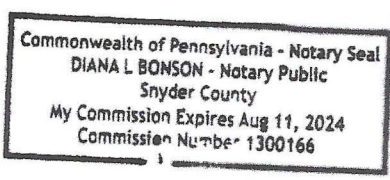
THIS IS AN OFFICIAL PURCHASING DOCUMENT-RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is DORSEY HOUTZ. I am over the age of 18, have never been of a convicted crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: AVAIL TECHNOLOGIES
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):  
ENTERPRISE RESOURCE MANAGEMENT SOFTWARE
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. **Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.**

[Signature]  
Signature

SUBSCRIBED AND SWORN to before me on this 20<sup>th</sup> day of October 2022



Diana L. Bonson  
NOTARY PUBLIC  
Diana L. Bonson  
PRINTED NAME  
Aug 11<sup>th</sup> 2024  
MY COMMISSION EXPIRES

COMPANY NAME: Avail Technologies, Inc.  
ADDRESS, CITY, STATE & ZIP CODE: 1960 Old Gatesburg Road Suite 200 State College PA 16803  
PHONE: 814-234-3394 FAX NUMBER: \_\_\_\_\_  
CONTACT NAME AND TITLE: \_\_\_\_\_  
WEB ADDRESS: \_\_\_\_\_ EMAIL: Contracts@availtec.com  
FEDERAL TAX ID NUMBER: 251831158 TEXAS SALES TAX NUMBER: \_\_\_\_\_



September 29, 2022

Victor A. Caraveo  
Contract Compliance Manager  
Sun Metro  
10151 Montana Ave.  
El Paso, TX 79925



***Re: Justification to utilize Avail Technologies, Inc., as a Sole Source Supplier for Long-term Warranty & Support***

Dear Mr. Caraveo,

Per your request, this letter includes information concerning the commitment to a long-term agreement to support the software modules provided by Avail to Sun Metro for Enterprise Resource Management (ERP) sourced by Avail Technologies Inc.

Avail provides Enterprise Transit Management System solutions that are engineered to meet each customer's specific needs and requirements exclusively to Public Transit Properties. The solution provided by Avail to Sun Metro was engineered to conform to Sun Metro's specific requirements as outlined in their existing technology contract. The delivered Avail's System is comprised of components engineered to our exact specifications and is integrated and tested by Avail to assure optimum performance and the highest level of reliability.

Due to the nature of our system, deployed at Sun Metro, Avail is considered the sole source supplier of support and warranty services. Under the FTA guidelines, this effort would support the Unique and Innovative Concept definition, since Avail demonstrates a unique or innovative solution not available from another source.

The reliable operation and maintainability of the entire system are dependent on the interoperability of each component of the system and therefore it is important that only Avail can provide adequate support to ensure that the system continues to perform at the required level of reliability and accuracy and under the current support contract.

Thank you for your continued interest in Avail Technologies as your ITS equipment and services provider. Sun Metro is a valued customer / partner, and we appreciate the opportunity to partner with you to enhance your operational ITS environment.

A handwritten signature in black ink, appearing to read "Kevin M. McKey". The signature is written in a cursive style and is enclosed within a dashed rectangular box.



9/29/2022

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Kevin McKay  
Chief Operations Officer  
Avail Technologies, Inc.

Date





Legislation Text

File #: 23-599, Version: 1

**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing & Strategic Sourcing, K. Nicole Cote, (915) 212-1092  
Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to the Strategic Plan is subsection 7.3 - Enhance regional comprehensive transportation system.

**Award Summary:**

Request that the Managing Director of Purchasing & Strategic Sourcing be authorized to issue a Purchase Order to Ace Government Services, LLC referencing Contract 2017-1280 Janitorial Services - Mass Transit (Sun Metro). This will be a change order to increase the award by \$228,187.74 for a total amount not to exceed \$2,139,911.99. This change order will add capacity to the current contract for an additional six (6) months of janitorial services for bus shelters.

Department	Mass Transit (Sun Metro)
Award to:	Ace Government Services, LLC El Paso, TX
Total Estimated Amount:	\$228,187.74
Account No:	560-3215-522060-60050-P6018-P60FTA117 -G60195307
Funding Source:	FTA Formula 5307 Grant
District(s):	All

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**AGENDA DATE:** May 9, 2023  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**  
Ellen Smyth, Chief Transit and Field Operations Officer, (915) 212-6060  
K. Nicole Cote, Managing Director, (915) 212-1092

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 7 – Enhance and Sustain El Paso's Infrastructure Network

**SUBGOAL:** 7.3 – Enhance regional comprehensive transportation system

**SUBJECT:**

Request that the Managing Director of Purchasing & Strategic Sourcing be authorized to issue a Purchase Order to Ace Government Services, LLC, referencing Contract 2017-1280 Janitorial Services – Mass Transit (Sun Metro). This will be a change order to increase the award by \$228,187.74 for a total amount not to exceed \$2,139,911.99.

**BACKGROUND / DISCUSSION:**

This change order will add capacity to the current contract for an additional six (6) months of janitorial services for bus shelters.

**SELECTION SUMMARY:**

N/A

**CONTRACT VARIANCE:**

N/A

**PROTEST**

N/A

**PRIOR COUNCIL ACTION:**

On March 6, 2018 the Mass Transit Board approved the award of contract 2017-1280 to Ace Government Services, LLC for a three (3) year term for at total amount of \$1,053,174.64. The award also included a two (2) year option for an estimated amount of \$702,116.60. The total value of the contract is, including the initial term plus the option for a total of five (5) years, for an estimated amount of \$1,755,291.66

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$228,187.74

Funding Source: FTA Formula 5307 Grant

Account: 560 – 3215 – 522060 – 60050 – P6018 – P60FTA117 – G60195307

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO

PRIMARY DEPARTMENT: Mass Transit (Sun Metro)

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Anthony R. Dekeyser*

4-25-23

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Ellen Smyth, Chief Transit and Field Operations Officer

**PROJECT FORM  
(Change Order)**

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Please place the following item on the **CONSENT** agenda for the Mass Transit Board Meeting of **May 9, 2023**.

**STRATEGIC GOAL: No. 7: Enhance and Sustain El Paso’s Infrastructure Network**

The linkage to the Strategic Plan is subsection 7.3 – Enhance regional comprehensive transportation system

**Award Summary:**

Request that the Managing Director of Purchasing & Strategic Sourcing be authorized to issue a Purchase Order to Ace Government Services, LLC referencing Contract 2017-1280 Janitorial Services – Mass Transit (Sun Metro). This will be a change order to increase the award by \$228,187.74 for a total amount not to exceed \$2,139,911.99. This change order will add capacity to the current contract for an additional six (6) months of janitorial services for bus shelters.

Department:	Mass Transit (Sun Metro)
Award to:	Ace Government Services, LLC El Paso, TX
Total Estimated Amount:	\$228,187.74
Account No.:	560 – 3215 – 522060 – 60050 – P6018 – P60FTA117 – G60195307
Funding Source:	FTA Formula 5307 Grant
District(s):	All



Legislation Text

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**File #: 23-612, Version: 1**

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, K. Nicole Cote, (915) 212-1092  
Sun Metro Mass Transit, Ellen A. Smyth, (915) 212-6000

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action to authorize the City Manager or his/her designee to amend the FY 2023 Mass Transit Budget to allow the transfer of \$2.5 million from the Sun Metro Operating fund to the Sun Metro Capital fund to complete the purchase of buses and equipment as approved by City Council in Schedule A of the FY2023 Mass Transit Board Budget Resolution.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**AGENDA DATE:** May 9 , 2023  
**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**  
K. Nicole Cote, Managing Director, (915) 212-1092  
Ellen A. Smyth, Chief Transit and Field Operations Officer, (915) 212-6060

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL: 6 – Set the Standard for Sound Governance and Fiscal Management**

**SUBJECT:**

To authorize the City Manager or his/her designee to amend the FY2023 Mass Transit Budget to allow the transfer of \$2.5 million from the Sun Metro Operating fund to the Sun Metro Capital fund to complete the purchase of buses and equipment as approved by City Council in Schedule A of the FY2023 Mass Transit Board Budget Resolution.

**BACKGROUND / DISCUSSION:**

Changes to the capital appropriated amounts shall be requested as a budget amendment, shall be reported to the board as a simple motion or resolution.

**PRIOR COUNCIL ACTION:**

On August 22, 2023, the Mass Transit Board approved the Mass Transit Budget Resolution and Schedule A for the Fixed Route Replacement of \$6 million from grant funding.

**AMOUNT AND SOURCE OF FUNDING:**

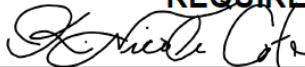
**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Sun Metro  
**SECONDARY DEPARTMENT:** Office of Management and Budget

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

**RESOLUTION**

**BE IT RESOLVED BY THE CITY OF EL PASO MASS TRANSIT DEPARTMENT:**

To authorize the City Manager or his/her designee to amend the FY2023 Mass Transit Budget to allow the transfer of \$2.5 million from the Sun Metro Operating fund to the Sun Metro Capital fund to complete the purchase of buses and equipment as approved by City Council in Schedule A of the FY2023 Mass Transit Board Budget Resolution.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2023.


**CITY OF EL PASO  
MASS TRANSIT DEPARTMENT BOARD:**

\_\_\_\_\_  
Oscar Leeser  
Chair

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
Secretary


**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Juan S. Gonzalez  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Ellen A. Smyth,  
Chief Transit and Field Operations Officer

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
K. Nicole Cote, Director  
Office of Management and Budget



## **CITY OF EL PASO, MASS TRANSIT DEPARTMENT FISCAL YEAR 2023 BUDGET RESOLUTION**

**WHEREAS**, on July 14, 2022 the City Manager of the City of El Paso filed the Fiscal Year 2023 Proposed Budget of the Mass Transit Department of the City of El Paso with the Secretary of the Mass Transit Department Board; and

**WHEREAS**, the Proposed Budget was made available for the inspection by any person and posted on the City's website in accordance with Section 102.005 of the Texas Local Government Code; and

**WHEREAS**, on August 5, 2022 the Secretary of the Mass Transit Department Board published notice in the El Paso Times, a newspaper of general circulation in the county in which the City of El Paso is located, of a public hearing regarding the Mass Transit Department of the City of El Paso Fiscal Year 2023 Budget Resolution, in accordance with the Charter of the City of El Paso and Section 102.0065(a) of the Texas Local Government Code; and

**WHEREAS**, said public hearing was held on August 16, 2022 by the Mass Transit Board of the City of El Paso on the Proposed Budget at which all interested persons were given the right to be present and participate.

### **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE MASS TRANSIT DEPARTMENT OF THE CITY OF EL PASO:**

1. That the Proposed Budget, as amended, for the Mass Transit Department of the City of El Paso, filed by the City Manager with the City Clerk on July 14, 2022 is hereby approved and adopted by the Board as the Annual Budget for the Fiscal Year 2023, which begins on September 1, 2022 and ends on August 31, 2023.
2. That any budget transfer submitted to the Board shall be accompanied by an explanation from the department and a recommendation from the City Manager or his/her designee. The explanation provided must be sufficiently clear and provide adequate detail for the members of the Board to determine the need for the transfer.
3. That the City Manager or his/her designee is hereby authorized to establish or amend budgets for grants and awards when the applications for such grants and awards have been previously approved by the Board or the City Manager.
4. That all grant applications requiring Board approval shall be prepared in accordance with established procedures. The agenda item shall state clearly the type and amount of any required City match and the funding source of the grant match.
5. That the City Manager or his/her designee is hereby authorized to make such budget transfers and staffing table changes as are needed to close completed grants and capital project accounts.

6. That the City Manager or his/her designee is hereby authorized to increase or decrease the budget for any capital projects within a Capital Improvement Program (CIP) approved by the City Council, provided that the change of a project's budget of more than \$1,000,000 requires additional Council approval. No project budget may be reduced to zero or deleted unless the project has been completed. Expenditures must be in compliance with applicable laws and policies and a quarterly report must be provided to Council on the budgets for capital projects that the City Manager or his/her designee has established, amended or deleted.
7. That City Manager or his/her designee is hereby authorized to add to an existing Capital Improvement Program (CIP). Addition of a project to an approved CIP must meet the purpose of the proceeds from which the original CIP was funded and the addition of such project(s) cannot exceed more than \$500,000 without City Council authorization. Expenditures must be in compliance with applicable laws and policies and a quarterly report must be provided to Council on the budgets for capital projects that the City Manager or his/her designee has established or added.
8. That the City Manager or his/her designee is hereby authorized to receive funds associated with Texas Department of Transportation (TXDOT) reimbursements to the City and appropriate the funds to TXDOT project matches awarded through the Metropolitan Planning Organization provided the projects are included in an existing Capital Improvement Program.
9. That the City Manager or his/her designee is authorized to issue, without further City Council action, purchase orders against any contract offered through the Cooperative Purchasing Network, the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program, the Texas Association of School Boards, Inc. (TASB, Inc.) Cooperative Purchasing Buy Board, the ESC-Region 19 Cooperative Purchasing Program, the Harris County Department of Education Cooperative Purchasing Program, Tarrant County Cooperative Purchasing Program, Texas Procurement and Supportive Services (TPASS), Texas Multiple Award Schedule (TMAS and TXSmartBuy), State of Texas Department of Information Resources (DIR), Technology Bidding and Purchasing Program (PEPPM), U.S. General Services Administration (GSA), National Intergovernmental Purchasing Alliance Company dba OMNIA Partners, Public Sector and/or Communities Program Management, LLC d/b/a U.S. Communities (collectively, the "OMNIA Partners Parties"), Region 8 Education Service Center, International Purchasing System Program ("TIPS"), Division of Purchases and Supply (DPS), a business unit of the Department of General Services for the Commonwealth of Virginia and any other cooperative purchasing agreement authorized by the City Council. The City Manager or his/her designee has the authority to sign any and all agreements related to purchases pursuant to this paragraph to effectuate the purchase.
10. That the City Manager or his/her designee is authorized to issue, without further City Council action, purchase orders against any cooperative contract through the electronic catalog maintained through the U.S. Communities purchasing cooperative program/Equal Level. The purchase of vehicles, trucks and/or fire apparatus/pumpers shall be expressly

prohibited from being sourced through the e-catalog.

11. That the sum \$300,000 shall be appropriated for Damages and Settlements.
12. That the appropriation for equipment and capital improvement projects in the Capital Program shall be for those items listed on **Schedule A** (Sun Metro Capital Match Fiscal Year 2023) which is attached hereto and is incorporated herein by reference. Changes to the projects, or changes to the capital appropriated amounts which shall be requested as a budget amendment, shall be submitted to the Board for approval by simple motion or resolution. **Schedule B** sets forth the fares and fees for the goods and services it provides. Any revisions or additions to the fares or fees in **Schedule B** shall be in conformity with state law and be approved by simple resolution of the Board.
13. That the City Manager and his/her designee is authorized to determine when it is practicable for the Mass Transit Department to accept payments by credit card of a fee or other charge in accordance with City Ordinance No. 15051. Service charges added to the payment shall be in conformity with state statutory requirements and will be in such amount(s) as listed in Schedule C of the City of El Paso Fiscal Year 2023 Budget Resolution, provided that in the event that bank charges imposed on the City, including its Mass Transit Department, relating to credit card acceptance increase during the fiscal year, the City Manager is authorized to increase the service charge amount(s), so as to cover the Mass Transit Department's increased costs.
14. That all business travel expenses: (i) must be approved in advance by the Director or his/her designee or other designee of the City Manager; (ii) shall follow the administrative guidelines for business travel; and, (iii) may be audited for adherence to the administrative guidelines.
15. That no obligation shall be incurred for capital, supplies, wages, or otherwise, unless an adequate appropriation has been made in the budget to meet the obligation and said obligation has been incurred in accordance with the accounting, legal, budgetary, purchasing, and Human Resources policies and procedures of the City of El Paso.
16. That Full-Time Equivalent (FTE) positions funded by the Fiscal Year 2023 Budget, and those listed in the Authorized Staffing Table (as filed along with the City's Fiscal Year 2023 proposed budget, as amended), shall constitute the authorized FTE positions for the Department. Requests for changes and additions shall be approved by the City Manager or his/her designee and shall show the impact on the Fiscal Year 2023 Budget and the estimated impact on expenditures for Fiscal Year 2024.
17. That the City Manager or his designee authorizes and approves a compensation increase for non-uniformed full-time, part-time and temporary employees as follows:
  - a. This hereby establishes the City's minimum wage at \$11.61 per hour effective September 11, 2022 the first full pay period of September 2022. All pay ranges and job classifications will be increased accordingly on September 11, 2022.
  - b. An increase of \$0.50 per hour, or a minimum of 1.25%, whichever is greater, for all

non-uniform employees shall be paid starting on the September 11, 2022 pay period, and in accordance with the processes established by the City's Human Resources Department.

- c. This increase in compensation will be based on the hourly rate as of September 11, 2022 of the positions identified herein. Employees must be of active status as of September 11, 2022 to receive this pay increase;
  - d. This hereby establishes another adjustment to the City's minimum wage at \$12.11 per hour effective March 12, 2023, the first full pay period of March 2023. All pay ranges and job classifications will be increased accordingly on March 12, 2023.
  - e. An increase of \$0.50 per hour, or a minimum of 1.25%, whichever is greater, for all non-uniform employees shall be paid starting on the March 12, 2023 pay period, and in accordance with the processes established by the City's Human Resources Department.
  - f. This increase in compensation will be based on the hourly rate as of March 12, 2023 of the positions identified herein. Employees must be of active status as of March 12, 2023 to receive this pay increase; provided however, that the City Manager may approve this increase in compensation based on the availability of funds and other management factors as determined by the City Manager.
18. That any employee pay increases for employees shall be given on the date or dates established by the City Manager based on the availability of funding for such purposes in Fiscal Year 2023. No employee pay increases shall be paid retroactively to an anniversary date or date of a performance evaluation.
19. The City Manager or his designee is authorized to approve a one-time payment to non-uniform, including police and fire cadets, new hires as part of the recruitment incentive pilot, as follows:
- a. A \$1,000 sign-on incentive for all non-uniform, full-time, part-time, and temporary employees who are hired on or between September 1, 2022 and August 31, 2023, to be distributed as follows:
    - i. a one-time payment of \$500 at the start of employment; and
    - ii. an additional one-time payment of \$500 to be disbursed at the end of the employee's successful completion of their 6-month or extended probationary period with no documented attendance or corrective/disciplinary issues for the remainder of their probationary period;
  - b. This policy does not apply to the following:
    - i. Subcontractors and/or independent consultants; and
    - ii. Elected Officials; and
    - iii. Current City of El Paso employees; and
    - iv. Previous City of El Paso employees who terminated within three months of the current hire date; and
  - c. The sign-on incentive recruitment payment shall be paid in a pay period following the employee's having met the criteria designated in this Resolution and in

accordance with the process established by the City's Human Resources Department. Employee must be an active employee on the date of payment. Individuals hired will receive \$500 after their first 30 days of employment provided there are no documented attendance or disciplinary issues. This sign-on incentive recruitment payment will not be considered earned wages or compensation for purposes of pensionability. This sign-on incentive recruitment payment shall be subject to the availability of funds and other management factors as determined by the City Manager.

20. That for purposes of recognizing the service time of an employee (classified, unclassified and/or contract), other than employees covered under collective bargaining agreements an amount that most closely approximates a two percent (2.0%) increase will be added to the base pay of each employee on the anniversary date of five (5) years of service, two and a half percent (2.5%) on the anniversary date of ten (10) years of service, three percent (3%) on the anniversary date of fifteen (15) years of service, and three and one half percent (3.5%) on the anniversary date of twenty (20) years of service and four percent (4%) on the anniversary date of twenty five (25) years of service and four and one half percent (4.5%) on the anniversary date of thirty (30) years of service and five percent (5%) for any other five year incremental period on or beyond twenty-five (25) years of service accrued by an employee.
21. That all performance-based and goal-based increases and/or one-time payments shall be subject to the availability of funds and expended as determined or authorized by the City Manager or designee, except for such increases and/or payments that are otherwise governed by an employment contract.
22. That the City Manager be authorized to establish employee incentive program(s), subject to the availability of funds, and approve such administrative policies and procedures necessary for the inception and implementation of such programs:
  - a. the wellness program in the City's health benefit plan for the amount established in each fiscal year's budget in an amount not to exceed \$150 per employee each month during the fiscal year, in accordance with the City Manager's administrative policy and shall include a component that allows City employees to earn one wellness day off annually (as designated in the administrative policy); and
  - b. employees whose job specifications require a commercial driver's license or whose work includes the tracking of specific safety criteria to be eligible for a payment not to exceed \$350 per employee each year based on the employee's accident-free driving record or established safety criteria for a period (i.e. quarterly, semi-annually, etc.) to be established in administrative policy and payable in increments based on such periods; and
  - c. employees whose job specifications requires or may require a commercial driver's licenses may be eligible for additional pay of \$90 per pay period, provided that the employee must be in active status and their CDL in good standing, and otherwise in conformity with approved administrative CDL retention policies; and

- d. non-executive level employees will receive incentive pay of 10% of base salary while employed with the Office of the Comptroller (OTC). This incentive is only effective during their employment at OTC and otherwise in conformity with approved administrative OTC incentive pay policies; and
  - e. one-time payments in an amount not to exceed \$100 (and any taxes due) for each employee who is assigned additional duties serving in a Lean Six Sigma team; and
  - f. monthly payments in an amount not to exceed \$300 per month for each employee during the period in which each is assigned additional duties as strategic plan mentor leaders; and
  - g. for perfect attendance in 6 month period established by administrative policy, cash payment of \$50 and the option to convert 8 hours of sick leave for business leave as set forth in the administrative policy; and
  - h. monthly payment prorated in an amount not to exceed 3% of current annual salary for each employee who is assigned additional duties responsibilities for completion of major project whose scope has broad citywide application.
  - i. qualifying non-uniform employees will receive a lump sum not to exceed \$250 as part of the annual performance review as defined under the administrative policy.
  - j. payments in an amount of \$90 per pay period for each employee whose job requires immunization to ensure the health and safety of the employees and animals during their employment at Animal Services and the Zoo and otherwise in conformity with approved administrative ASD and Zoo infectious disease and/or incentive pay policies.
23. That based on the availability of funds, the City Manager is authorized to expend no more than \$200,000 from the budget to establish and implement an on-the-spot rewards program to provide small monetary awards (face value up to \$250) to recognize immediately extraordinary acts, accomplishments or contributions that are above and beyond the typical duties of the rewarded employee. On-the-spot rewards are not in lieu of merit increases or other salary increases based on sustained high quality employee performance.
  24. That the City Manager may appropriate up to \$300,000 from the Mass Transit reserves for the purchase of inventory items in order to maintain the operations of the department.
  25. That the Director of the Mass Transit Department or other designee of the City Manager shall submit: (i) periodic financial reports to the Board; (ii) periodic reports to the Board showing trends in revenues and expenditures; and, (iii) recommendations as deemed necessary to comply with the financial policies of the City of El Paso.
  26. That appropriation control of expenditures shall be at the Object Level.

27. That expenditures shall be in accordance with the City of El Paso – Strategic Plan.
28. That the Director of the Mass Transit Department, or other designee of the City Manager, is hereby authorized to establish a program, as approved by the City Manager, whereby the Director and his designees may provide free transit service passes as are appropriate for the promotion of the use of the transit system. The total value of all free transit service passes provided under this program during FY 2023 shall not exceed \$5,000. In addition, that the City Manager or designee be authorized to waive or reduce fares in Schedule B for conferences and events that directly benefit the Mass Transit Department. The City Manager, or designee, is authorized to establish criteria and requirements for the waiver or reduction of fares in Schedule B for conferences that benefit the Mass Transit Department.
29. In addition, that the City Manager or designee is authorized to waive or reduce fares in Schedule B for conferences and events that directly benefit the Mass Transit Department pursuant to the criteria and requirements for the waiver or reduction of fares established by the City Manager.
30. That the Director of the Mass Transit Department, or other designee of the City Manager, is hereby authorized to provide free route transit service passes for use within the City limits to the current members of the Citizens Advisory Committee, at such times during the fiscal year when the Director or his designee determines that providing such passes serves to advance the duties and responsibilities of the members of the Committee.
31. To allow the City Manager or designee, to waive fares for bus service for a maximum of ten (10) days per fiscal year, for city designated holidays and events.
32. To allow the City Manager or designee, to waive parking fees at Sun Metros Glory Road parking garage to encourage alternative transportation for City designated events. The maximum number of free parking days at Glory Road will be set at twenty four per fiscal year.
33. That, except as otherwise provided herein, all other applicable provisions of the City of El Paso Fiscal Year 2023 Budget Resolution, as amended and adopted, to include but not be limited to the provisions regarding the making of budget transfers, shall be applicable to the Mass Transit Department.
34. That the City Manager or his/her designee shall immediately file, or cause to be filed, a true copy of the FY 2023 Budget and a copy of this Resolution in the offices of the City Clerk and the County Clerk of El Paso, and post the same on the City's website.
35. That the City Manager or his/her designee is hereby authorized to allocate investment earnings on unspent bond proceeds to projects and purposes within the relevant bond authorization, provided however that such allocation is in compliance with all bond covenants and an allocation of more than \$500,000 to an individual project or purpose requires Council approval.

*[SIGNATURES BEGIN ON THE FOLLOWING PAGE]*



PASSED AND APPROVED this 23<sup>rd</sup> day of August 2022.



**CITY OF EL PASO  
MASS TRANSIT DEPARTMENT BOARD:**

A handwritten signature in black ink, appearing to read "Oscar Leeser", written over a horizontal line.

Oscar Leeser  
Chair

**ATTEST:**

A handwritten signature in blue ink, appearing to read "Laura D. Prine", written over a horizontal line.

Laura Prine  
Secretary

**APPROVED AS TO FORM:**

A handwritten signature in black ink, appearing to read "Donald C. Davie", written over a horizontal line.

Donald C. Davie  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

A handwritten signature in black ink, appearing to read "K. Nicole Cote", written over a horizontal line.

K. Nicole Cote, Interim Managing Director  
Office of Management and Budget

**Mass Transit Board  
FY2023 Schedule A - Capital Program**

Project Name	Fund / Funding Source	FY 23 Budget
<b>Infrastructure</b>		
Rail museum Design and install New HVAC System	Grant Funding	\$160,000
ETC Addition Design	Sun Metro Capital Funds	\$200,000
MVTC Kitchen Rehab	Grant Funding	\$75,000
Sidewalk Construction	Sun Metro Capital Funds	\$200,000
Facility Equipment Upgrades(Parking Systems)	Sun Metro Capital Funds	\$300,000
Possible Match For LONO GRANT(LIFT)	Sun Metro Capital Funds	
Zaragoza Bridge Area Property acquisition	Sun Metro Capital Funds	
Zaragoza Super Stop P/D/C	Sun Metro Capital Funds	
TOC Kitchen Upgrades	Sun Metro Capital Funds	\$55,000
TOC Concrete Repairs	Grant Funding	\$421,000
NGTC/WTC/FPTC Concrete Repairs	Grant Funding	\$332,000
Mesa Brio Pylon Removal and Replacement	Grant Funding	\$250,000
TOC Industrial Racks Purchase and Installation (Major Equipment)	Sun Metro Capital Funds	\$150,000
Diagnostic tools	Grant Funding	\$13,500
Brake Simulator	Grant Funding	\$45,000
electrical simulator	Grant Funding	\$75,000
Door Simulator	Grant Funding	\$60,000
Shade Canopy West Lot TOC P/D/C	Sun Metro Capital Funds	\$300,000
Union Depot Renovation P/D/C	Sun Metro Capital Funds	
Zaragoza Brio Service P/D/C	Sun Metro Capital Funds	
<b>Rolling Stock</b>		
Para Transit Replacements	Sun Metro Capital Funds	\$1,000,000
Fixed Route Replacements	Grant Funding	\$6,000,000
Fixed Route Replacements	Grant Funding	
Fixed Route Replacements	Grant Funding	
Fixed Route Replacements	Grant Funding	
Fixed Route Replacements	Grant Funding	
Zaragoza BrioService Busses	Sun Metro Capital Funds	
Non Revenue Motor Pool (Support Vehicles)	Sun Metro Capital Funds	\$60,000
<b>Sun Metro Capital Subtotal</b>		<b>\$2,265,000</b>
<b>Sun Metro Grants Subtotal</b>		<b>\$7,431,500</b>
<b>Total SM Capital Costs</b>		<b>\$9,696,500</b>

**FY2023 SCHEDULE B MASS TRANSIT DEPT.  
FARE AND FEE SCHEDULE**

Department	Account	Fee Description	Detail	FY 2022 Adopted	FY 2023 Proposed
			<b>Single trip fare for Fixed Route and BRIO RTS services</b>		
Mass Transit - Sun Metro	430500	Fare Box Revenue	Regular Fare	\$1.50	\$1.50
Mass Transit - Sun Metro	430500	Fare Box Revenue	Discount Fare- Military Active & Retired including Dependents, Students, and other Discounts Approved by MTB	\$1.00	\$1.00
Mass Transit - Sun Metro	430500	Fare Box Revenue	Children 5 and under with an adult	Free	Free
Mass Transit - Sun Metro	430500	Fare Box Revenue	Senior Fare	\$0.30	\$0.50
Mass Transit - Sun Metro	430500	Fare Box Revenue	Disabled Fare		\$0.50
Mass Transit - Sun Metro	430500	Fare Box Revenue	Lift Certified with Lift ID Card - Fixed Route	Free	Free
Mass Transit - Sun Metro	430500	Fare Box Revenue	Transfers	Free	Free
Mass Transit - Sun Metro	430500	Fare Box Revenue	Sun Metro Employees Active and Retired including Spouses	Free	Free
Mass Transit - Sun Metro	430500	Fare Box Revenue	City Employees*	Free*	Free*
			<b>Multiple Ride Passes for Entire System excluding LIFT</b>		
Mass Transit - Sun Metro	430510	Pass Sales	Day Pass	\$3.50	\$3.50
Mass Transit - Sun Metro	430510	Pass Sales	Standard Weekly Pass	\$12.00	\$12.00
Mass Transit - Sun Metro	430510	Pass Sales	Discounted Weekly Pass- Military Active & Retired including Dependents, Students, and Other Discounts Approved by MTB	\$7.00	\$7.00
Mass Transit - Sun Metro	430510	Pass Sales	Senior Weekly Pass	\$2.50	\$3.50
Mass Transit - Sun Metro	430510	Pass Sales	Disabled Weekly Pass		\$3.50
Mass Transit - Sun Metro	430510	Pass Sales	Standard Monthly	\$48.00	\$48.00
Mass Transit - Sun Metro	430510	Pass Sales	Discounted Monthly Passes- Military Active & Retired including Their Dependents, Approved Veterans Agencies, Students and Other Discounts Approved By MTB	\$30.00	\$30.00
Mass Transit - Sun Metro	430540	Pass Sales	Senior Monthly Pass	\$10.00	\$15.00
Mass Transit - Sun Metro	430540	Pass Sales	Disabled Monthly Pass		\$15.00
Mass Transit - Sun Metro	430510	Pass Sales	Sponsored Veterans 60 - 90 Day Pass	Free	Free
Mass Transit - Sun Metro	430510	Pass Sales	Sponsored Summer Youth Passes	Free	Free
			<b>Sun Metro Tokens used instead of cash</b>		
Mass Transit - Sun Metro	430520	Token Sales	Full Fare Token (10/pkg)	\$15.00	\$15.00
Mass Transit - Sun Metro	430520	Token Sales	Full Fare Token (100/pkg)	\$150.00	\$150.00
Mass Transit - Sun Metro	430520	Token Sales	Student Fee (10/pkg)	\$10.00	\$10.00
Mass Transit - Sun Metro	430520	Token Sales	Student Fee (100/pkg)	\$100.00	\$100.00
			<b>LIFT service Fares and Passes</b>		
Mass Transit - Sun Metro	430530	LIFT Bus Revenue-Tickets	Lift Passes (5)	\$12.50	\$12.50
Mass Transit - Sun Metro	430570	LIFT Bus Revenue-Fare Box	Revenue collected at time of boarding bus for the demand response program	\$2.50	\$2.50
			<b>Sale of ID's, Schedule Books, &amp; Pouches</b>		
Mass Transit - Sun Metro	430590	Non-Transportation Revenue	ID Card Pouches	\$0.55	\$0.55
Mass Transit - Sun Metro	430590	Non-Transportation Revenue	ID Replacement	\$5.00	\$5.00
Mass Transit - Sun Metro	430590	Non-Transportation Revenue	Bus Schedule - Newspaper format	\$0.00	\$0.00
Mass Transit - Sun Metro	430590	Non-Transportation Revenue	Face Masks for riders	\$0.00	\$0.00
			<b>Union Depot Rental</b>		
Mass Transit - Sun Metro	450200	Facility Rental Revenue	Rental Rate per 4 HR Block - No alcohol - Minimum 4 HR Required	\$1,010.00	\$1,010.00
Mass Transit - Sun Metro	450200	Facility Rental Revenue	Rental Rate per 4 HR Block - Alcohol Served - Minimum 4 HR Required	\$1,370.00	\$1,370.00
			<b>Sun Metro Parking Rates-All Facilities</b>		
Mass Transit - Sun Metro	440050	Parking Fees	0 Min- 1 Hour		\$1.00
Mass Transit - Sun Metro	440050	Parking Fees	Each Additional Hour ( For A Maximum Charge of \$15.00 per Day)		\$1.00
Mass Transit - Sun Metro	440050	Parking Fees	Daily Rate		\$15.00
Mass Transit - Sun Metro	440050	Parking Fees	Monthly Rate		\$50.00
Mass Transit - Sun Metro	440050	Parking Fees	Annual Rate		\$300.00
Mass Transit - Sun Metro	440050	Parking Fees	Special Events Rate- A		\$5.00
Mass Transit - Sun Metro	440050	Parking Fees	Special Events Rate- B		\$10.00
Mass Transit - Sun Metro	440050	Parking Fees	Special Events Rate- C		\$15.00
Mass Transit - Sun Metro	440050	Parking Fees	Special Events Rate- D		\$20.00
			<b>Sun Metro Advertising Shelter Rates</b>		
Mass Transit - Sun Metro	430610	Advertising Fees	Application Fee		\$25.00
Mass Transit - Sun Metro	430610	Advertising Fees	Printing Fees -Per Panel		\$50.00
Mass Transit - Sun Metro	430610	Advertising Fees	One Month- Single Panel		\$100.00
Mass Transit - Sun Metro	430610	Advertising Fees	Three Month-Single Panel		\$250.00
Mass Transit - Sun Metro	430610	Advertising Fees	Six Month - Single Panel		\$475.00

\*City reimburses the Mass Transit Department at the approved Regular fare rate

## **NOTICE OF PUBLIC HEARING**

A PUBLIC HEARING WILL BE HELD BY THE MASS TRANSIT DEPARTMENT BOARD OF THE CITY OF EL PASO ON THE ADOPTION OF THE FISCAL YEAR 2023 BUDGET. THIS PUBLIC HEARING WILL BE HELD AT 300 N. CAMPBELL, EL PASO, TEXAS 79901, COUNCIL CHAMBERS IN PERSON AND IS AVAILABLE VIA TELEPHONIC & VIDEOCONFERENCE MEETING AS PART OF A SPECIAL MEETING OF THE MASS TRANSIT DEPARTMENT BOARD MEETING ON TUESDAY, AUGUST 16, 2022, WHICH BEGINS AT APPROXIMATELY 9:00 A.M. THE PUBLIC MAY COMMUNICATE WITH THE MASS TRANSIT DEPARTMENT BOARD DURING PUBLIC HEARING IN PERSON AND BY CALLING THE FOLLOWING NUMBER: 1-915-213-4096 OR TOLL FREE NUMBER: 1-833-664-9267; AT THE PROMPT PLEASE ENTER THE FOLLOWING CONFERENCE ID: 289 774 046# ALL INTERESTED PERSONS ARE INVITED TO ATTEND AND PARTICIPATE IN THIS HEARING AND PROVIDE WRITTEN AND/OR ORAL COMMENTS AND ASK QUESTIONS CONCERNING THE ENTIRE MASS TRANSIT BUDGET. THE PROPOSED MASS TRANSIT BUDGET IS AVAILABLE FOR REVIEW IN THE CITY CLERK, 300 N. CAMPBELL, MONDAY THROUGH FRIDAY FROM 8:00 A.M. TO 5:00 P.M. AND AT THE CITY WEBSITE [WWW.ELPASOTEXAS.GOV](http://WWW.ELPASOTEXAS.GOV).

K. NICOLE COTE, DIRECTOR OF MANAGEMENT  
AND BUDGET 8/5/2022

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