

RESOLUTION

WHEREAS, the City of El Paso (“City”) through its Mass Transit Department Board (“Board”) operates transit services as “Sun Metro” and has various bus stops throughout the City of El Paso; and

WHEREAS, the County of El Paso (“County”) offers public transit services within the City of El Paso geographic boundaries and would like to use existing Sun Metro Bus Stops in furtherance of the provision of its public transit services; and

WHEREAS, the Board is amenable to allowing County the use of existing Sun Metro bus stops in providing County public transit services as this benefits the citizens of El Paso by providing additional options and access to public transportation; as well as encouraging and increasing Sun Metro ridership; and

WHEREAS, County and the Board wish to enter into a License Agreement (“Agreement”) to allow County transit services to use specific Sun Metro bus stops as may be mutually agreed-upon by Sun Metro and County Transit staff.

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

That the City Manager, or designee, be authorized to sign a License Agreement by and between El Paso County and the Mass Transit Department Board for the City of El Paso for the use of Sun Metro bus stops as identified in attachments to the License Agreement, attached to this Resolution as Exhibit A, for use by the County of El Paso’s public transit service.

That the City Manager, or designee, be authorized to sign, administer, and, if necessary, terminate similar License Agreements, in a form similar to the Agreement attached as Exhibit A, by and between the City of El Paso and other transit entities that wish to provide public transit services

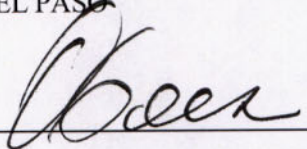
within the City of El Paso, where such Agreements will have a similar effect of potentially increasing Sun Metro ridership and expanding available options to the citizens of El Paso for public transportation services, and in keeping with the intent and guidance of this Resolution.

That the City Manager, or designee, be authorized to administratively amend, append, or remove specified Sun Metro bus stops from the License Agreements resulting from the Mass Transit Department Board's approval of this Resolution; upon vetting and approval by Sun Metro staff.

That the City Manager or designee be authorized to effectuate any budget transfers, any related agreements, amendments to such agreements and documents necessary to carry out the intent of this resolution.



Dated this 10 day of OCTOBER 2023.

CITY OF EL PASO



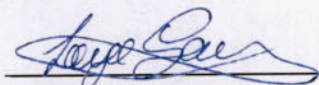
Oscar Leeser
Chairman

ATTEST:

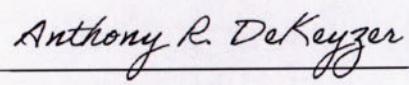
Laura D. Prine
Secretary

APPROVED AS TO FORM



Joyce Garcia
Assistant City Attorney

APPROVED AS TO CONTENT



Anthony R. Dekeyzer, Director
Sun Metro/Mass Transit Department

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

LICENSE AGREEMENT
Non-Sun Metro Bus Stops

This License Agreement is made this 10 day of OCTOBER by and between the City of El Paso, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as "City" and El Paso County, Texas hereinafter referred to as "Licensee."

WITNESSETH

WHEREAS, Licensee is currently or endeavors to offer public transit service within the City of El Paso; and

WHEREAS, Licensee would like to avail itself of the use of existing City bus stops in an effort to provide said public transit services; and

WHEREAS, the City is amenable to allowing Licensee to use existing City bus stops to provide said public transit services; and

WHEREAS, the parties desire to enter into an agreement whereby Licensee may use existing, specifically identified bus stops located on City Property in the City of El Paso.

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto do mutually agree as follows:

1. DESCRIPTION: The City hereby grants a non-exclusive license for use of its property at the following locations, as bus stops for passengers of transit service operated by Licensee or its authorized agent, "Stop(s):"
 - a. Nestor A. Valencia Mission Valley Transit Center, 9065 Alameda Ave., El Paso, Texas 79907;
 - b. Al Jefferson Westside Transit Center. 7535 Remcon Cir., El Paso, Texas 79912;
 - c. Upper East Side Transit Center, 12781 R.C. Poe Rd., El Paso, Texas 79938;
 - d. Any Sun Metro bus stop located on a right of way in the City of El Paso.

Licensee may use Stops for purposes of this agreement during the period this agreement is in effect. For purposes of this agreement, use shall be limited to allowing passengers to board and de-board from a vehicle operated by Licensee subject to this agreement, except as specified in Section 5. Passengers shall also be allowed to use transit center parking areas in accordance with Section 8.

2. TERM: This License Agreement shall remain in effect unless terminated by either party.
3. CONDITION OF THE STOP: The City makes no warranty or representation of the suitability of the Stop for the intended use. All claims for injuries or damages associated with the Licensee's use of the Stop shall be the responsibility of Licensee. Each stop utilized by Licensee must include a bus stop sign to be placed at the location, in accordance with Section 5.
4. DAMAGES TO CITY PROPERTY. Licensee is responsible for all damages to the Property, including any liens, caused by the Licensee and/or the Licensee's contractors, agents, subcontractors, and/or employees. If any damage is caused by the Licensee or the Licensee's contractors, agents, subcontractors, and/or employees, then the City will send an invoice to Licensee in the amount necessary to perform the repairs. Licensee will pay all invoices by the City within 30 calendar days of receipt. The City may remove any improvements on the Property that the Licensee performs without authorization of the City. The City will send an invoice to the Licensee for the costs of removing any unauthorized improvements. The Licensee will pay such invoice within 30 calendar days of receipt.
5. IMPROVEMENTS: Any improvement Licensee wishes to place at a stop shall require prior written approval from the Director of the City of El Paso's Mass Transit Department ("Sun Metro") "Director." An improvement shall be limited to the following:
 - a. Bus bench (or other seat type);
 - b. Bus shelter;
 - c. Ticket vending machine (TVM) associated with Licensee's transit system; and
 - d. Signage associated with Licensee's bus stop or boarding area.

Design and limits on an improvement shall be subject to the discretion of the Director, in order to ensure visual and design compatibility with the City's improvements at a stop. Installation of an improvement shall be in accordance with the El Paso City Code, be at the sole cost and expense of Licensee, and shall include appropriate City staff as stakeholders in the improvement project.

Upon termination of this agreement, end of useful life of an improvement, or due to other need of the City for use of its stop, Licensee shall be required to remove the improvement and return the area where it had been installed to its prior condition. Should Licensee fail to remove an improvement within 45 days, when required by the City, the improvement shall become the property of the City, unless it chooses to remove the improvement and recover cost incurred at Licensee's expense.

6. **MAINTENANCE AND SECURITY:** The City shall be responsible for maintenance and security of Stops located at transit centers, except that it shall be the sole responsibility of Licensee to keep, maintain and repair any improvements approved by the Director placed at a Stop by Licensee or its authorized agent, at Licensee's sole cost and expense.
For instances of inadequate maintenance that is the responsibility of Licensee, the City shall provide written notification via first-class mail or electronic mail, and Licensee shall have three business days to correct the deficiency(-ies), or by a deadline otherwise approved by the Director. If an instance of inadequate maintenance poses an imminent safety hazard, Licensee must correct the deficiency(-ies) within 24 hours; otherwise, the City may abate the safety hazard and be authorized to recover cost incurred from Licensee.
7. **SALE OF BUS PASSES:** Licensee shall be allowed to provide for the sale of passes for its transit service by installation of a TVM at a stop located at a transit terminal, in accordance with Section 5. The City shall not be an agent for the sale of bus passes for Licensee.
Upon request of Licensee, a sign advertising Licensee's transit services may be placed by the City at a designated location in the vicinity of an approved TVM, and Licensee shall be subject to the same application, printing, and advertising fees approved by the City of El Paso for its bus shelter advertising panels.
8. **PARKING AREAS:** Passengers of Licensee's transit service shall be allowed to park personally-owned vehicles at a Stop subject to the following conditions:
 - a. At park-and-ride spaces at transit terminals only;
 - b. Distinctive decal, rear-view mirror placard, or dashboard placard provided by Licensee shall be displayed inside vehicle, and shall be visible from outside the vehicle; and
 - c. Abandoned vehicles shall be regulated and abated in accordance with applicable statutes of the State of Texas and ordinances of the City of El Paso.
9. **LICENSE FEE:** A flat \$20,000 License Fee shall be assessed on an annual basis and will provide the Licensee with all rights and privileges associated with this License.
10. **LICENSE FEE PAYMENTS:** License shall be required to remit an annual license fee payment to the City on a quarterly basis, according to the following schedule:
 - a. First quarter, January - March, due April 30;
 - b. Second quarter, April - June, due July 30;
 - c. Third quarter, July - September, due October 30; and

- d. Fourth quarter, October - December, due January 30.

The City shall issue an invoice to Licensee 30 days prior to each payment due date. In lieu of quarterly payments, Licensee may request that the City issue an invoice for the entire annual license fee 30 days prior to the first quarter payment being due. Any license payment paid by Licensee to the City shall be considered non-refundable.

11. **CONDITION OF STOP UPON SURRENDER:** At the termination of this License Agreement, the Department shall surrender the Stop in the condition in which it was at the inception of this License Agreement, excepting:
 - a. deterioration caused through reasonable use and ordinary wear and tear;
 - b. alterations, improvements or conditions made with the City's written approval; and
 - c. any change, damage or destruction not resulting from Licensee's willful act.
12. **TORT CLAIMS ACTS:** Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this License Agreement. Any liability incurred in connection with this License Agreement within the State of Texas is subject to the immunities and limitations of the Texas Tort Claims Act. This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the Texas Tort Claims Acts. Licensee and its "public employees" as defined in the Texas Tort Claims Act, and the City and its "public employees" as defined in the Texas Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this License Agreement modifies and/or waives any provision of the Texas Tort Claims Act.

This License Agreement is not intended by any of the provisions of any part of the License Agreement to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the License Agreement to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this License Agreement.

13. **RELEASE.** The Licensee releases the City from any property damage and/or property loss sustained by the Licensee while using the Property, regardless of whether such property damage or loss is caused by the City's negligence.
14. **TERMINATION:** Each party has the option of canceling this License Agreement by giving 60 days written notice to the other party, except in cases of non-payment of License Fee by Licensee, by giving 14 days written notice from the City. By such termination neither party may nullify obligations already incurred for performance of the License Agreement prior to the date of termination of this License Agreement.

Licensee: County of El Paso
Attn: Office of the County Judge
500 E. San Antonio Avenue, Suite 301
El Paso, Texas 79901

Copy to: El Paso Area Transportation Services,
Local Government Corporation (EPATS, LGC)
8037 Lockheed Dr. Suite 100
El Paso, Texas 79925

And: El Paso County Transit
800 E. Overland Ave. Rm. 200
El Paso, Texas 79901

23. ASSIGNABILITY, SUCCESSORS, AND ASSIGNS. This Agreement may not be assigned by either party without prior written approval of the other. The terms, provisions, and licenses provided in this Agreement inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the Parties.
24. GOVERNMENTAL FUNCTIONS. The City is entering this Agreement in the exercise of its governmental functions under the Texas Tort Claims Act. The parties also agree that the City is entering into this Agreement as a governmental entity performing a governmental function.
25. SEVERABILITY. Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity does not affect the remaining provisions of this Agreement.
26. EFFECTIVE DATE: The effective date of this License Agreement is the date signed by both parties.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

EXECUTED THIS 10 DAY OF OCTOBER, 2023

CITY OF EL PASO, TEXAS:

Tracey Jerome Fox
TRACEY JEROME FOX
Cary Westin
Interim City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Joyce Garcia
Joyce Garcia
Assistant City Attorney

Anthony R. Dekeyzer
Anthony R. Dekeyzer, Director
Sun Metro/Mass Transit Department

ACKNOWLEDGMENT

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 16 day of OCTOBER, 2023, by Cary Westin, as Interim City Manager for the City of El Paso.

TRACEY JEROME FOX



Mariana Orozco
MARIANA OROZCO
Notary Public, State of Texas

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

EXECUTED THIS 15th DAY OF May, 2023.

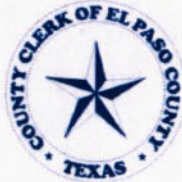
LICENSEE:

THE COUNTY OF EL PASO

Ricardo A. Samaniego
Ricardo A. ~~Samaniego~~
County Judge

ATTEST:

Delia Briones
County Clerk Delia Briones



APPROVED AS TO CONTENT:

Norma Rivera-Palacios
Executive Director, Norma Rivera-Palacios
Public Works Department

APPROVED AS TO FORM:

/s/ Alejandro Cuellar
Assistant County Attorney
Alejandro Cuellar

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 15th day of May, 2023,
by _____ of Licensee, _____ a _____
_____.



Christabelle Guzman
Notary Public, State of Texas