

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

AGENDA DATE: November 8, 2022
PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Ellen A. Smyth, (915) 212-6000

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Strategic Goal 7: Enhance and Sustain El Paso's Infrastructure Network

SUBGOAL:

SUBJECT: A Resolution to authorize the City Manager to sign an agreement between the Mass Transit Department of the City of El Paso and El Paso County to provide public transportation for jurors summoned to participate in the jury process and participants in accountability court programs.

BACKGROUND / DISCUSSION:

The City entered into an agreement with the County in 1999 to provide the public with discounted bus fare for jury service. Sun Metro accepts jury summons and documents as verification for service, manages a balance of funds provided by the County, and invoices the County monthly to provide payment for the discounted fares. Over the years, discounted fares were also made available to participants in court-ordered programs. This amended agreement will include the El Paso County Council of Judges as a party to the agreement and will allow the County to purchase bulk tokens and passes at full fare for selected jurors and court participants. The County has the ability to provide these to jurors and court participants at a reduced rate or free of charge, at its sole discretion.

PRIOR BOARD ACTION:

The Board adopted a resolution authorizing the Chairman to sign an interlocal agreement with respect to the purchase of reduced fare passes from Sun Metro for use by citizens summoned to jury service on October 5, 1999.

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Sun Metro

SECONDARY DEPARTMENT:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: *Anthony R. Dekeyser* For Ellen Smyth

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

RESOLUTION

WHEREAS, the County of El Paso and the City of El Paso Mass Transit Department (“Sun Metro”) would like to enter into an agreement pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code; and

WHEREAS, the City of El Paso operates transit services as “Sun Metro”; and

WHEREAS, the County of El Paso and the City of El Paso previously entered into an Interlocal Fares Agreement to provide free transportation for summoned jurors, through the use of Sun Metro, to enable jurors to participate in the jury process; and

WHEREAS, City of El Paso Sun Metro and the County of El Paso wish to now enter into a new Interlocal Fares Agreement that provides a public transportation option for summoned jurors and for participants in accountability court programs.

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

That the Chairman of the Mass Transit Board of the City of El Paso be authorized to sign the Interlocal Fares Agreement with the County of El Paso to provide a public transportation option for summoned jurors and for participants in accountability court programs.

That the City Manager or designee be authorized to sign any additional related paperwork, including all understanding and assurances contained therein, and accept, reject, alter, or terminate the resulting Interlocal Agreement, authorized budget transfer and submit necessary revisions to the operational plan. No cash match is required.

APPROVED this _____ day of _____ 2022.

MASS TRANSIT BOARD:

Oscar Leaser
Chairman

ATTEST:

Laura D. Prine
Secretary

APPROVED AS TO FORM:



Joyee Garcia
Assistant City Attorney

APPROVED AS TO CONTENT:

 For Ellen Smyth

Ellen Smyth, Director
Chief Transit and Field Operations Officer

STATE OF TEXAS)
)
COUNTY OF EL PASO)

INTERLOCAL FARES AGREEMENT

WHEREAS, The Mass Transit Department, City of El Paso and County of El Paso are authorized to enter into this Agreement under the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code; and

WHEREAS, The Interlocal Agreement ("Agreement") is between the Mass Transit Department, City of El Paso, Texas, ("City") and El Paso County, Texas ("County") by and through their duly authorized officials, pursuant to the Interlocal Cooperation Act. City and County shall be collectively referred to herein as the "Parties" and individually as a "Party."; and

WHEREAS the City operates transit services as "Sun Metro,"

WHEREAS, The City of El Paso and the Mass Transit Board (Sun Metro) are authorized to enter into this Agreement with the County of El Paso to provide public transportation for jurors summoned to participate in the jury process and participants in accountability court programs; and

WHEREAS, The Parties previously entered into an Interlocal agreement in regards to free transportation from the Mass Transit System to enable jurors to participate in the jury process; WHEREAS, The Parties now desire to replace the previously entered Agreement as the County wishes to continue to provide a public transportation option to participants in accountability court programs and summoned jurors to enable their participation in the jury process, and

NOW THEREFORE, the Parties agree to the following:

Section 1 - PURCHASE OF TRANSIT SERVICES.

1.1 The County will issue to summoned jurors a single-use "juror ride pass" with the summons that will be collected when presented for transit by Sun Metro. The County will pay Sun Metro the current rate per ride, or daily pass rate, whichever is less. In the event the rate changes during any year, the County will begin paying the new rate at the start of the next fiscal year (October 1st) immediately following the City's rate increase.

1.2 Sun Metro shall provide a monthly invoice to the County stating how many juror passes were accepted and at what location. Upon receipt of the invoice, the County shall have 30 days to process the invoice and submit payment to the City.

1.3 Tokens, Monthly and weekly passes. In order to support ridership for empaneled jurors or court-annexed programs, the County may purchase single-use tokens, monthly or weekly passes from Sun Metro at the current posted rate, including military, senior/disability, or student passes, as needed. Passes will be purchased by the County up-front, and shall not be subject to invoicing to the County by Sun Metro. In the event

the rate changes during any year, the County will begin paying the new rate at the start of the next fiscal year (October 1st) immediately following the City's rate increase.

1.4 Route schedules. Beginning January 1, 2023, the County agrees to pay Sun Metro for the printing of County transit routes in Sun Metro's *Schedule Paper*, which is printed when modifications of transit service are implemented. The cost shall be calculated by the percentage of pages the County routes comprise compared to the total number of pages of the *Schedule Paper*, multiplied by the total cost of the printing services. For example, if County routes account for four pages out of a *Schedule Paper* with 20 pages, the printing cost allocated to the County would be 20% of the total cost of printing. Invoice and payment process shall be identical to that outlined in Subsection 1.2.

1.5 Should the County no longer wish for Sun Metro to print County transit routes in the *Schedule Paper*, it shall provide written notice to Sun Metro, providing for 60 days until the change takes effect. At any time during the term of this agreement, when such written notice has been provided, the County may re-enroll in having its routes printed in the *Schedule Paper* by providing notice to Sun Metro,

Section 2 - TERM AND RENEWAL. The Effective Date is October 1, 2022, regardless of the date that the parties sign this Agreement ("**Effective Date**"). The term of this Agreement commences on the Effective Date and shall continue until terminated by either party in accordance with this agreement.

Section 3 - TERMINATION. Either party may terminate this Agreement without cause by giving the other party 60 days written notice. Tokens and monthly passes purchased under this Agreement will be accepted after the termination date.

Section 4 - NOTICES AND PAYMENTS. The Parties will send all notices and payments under this Agreement by postmarked and first-class mail. For purposes of this Agreement, all notices and payments are deemed to be received 5 calendar days following the postmark date on the notice or payment. The Parties will deliver all notices and payments under this Agreement to the following addresses:

If to the City:

Sun Metro

Attention: Finance Division, Accounts Receivable Section
10151 Montana Ave., El Paso, Texas 79925

Copy to:

Ellen Smyth, Chief Transit and Field Operations Officer
Sun Metro
10151 Montana Ave., El Paso, Texas 79925

If to the County:

El Paso County, Texas
Attention: Michael Cuccaro, Executive Director
Council of Judges
500 E. San Antonio Ave., Ste. #101, El Paso, Texas 79901

Copy to:

Edward Dion, County Auditor
El Paso County, Texas
800 E. Overland, Room #406, El Paso, Texas 79901

Sun Metro and the County will notify each other in writing of any changes in the addresses described above.

Section 5 - GENERAL PROVISIONS.

5.1 Governing Law and Venue. This Agreement is governed by Texas Law. The venue for any disputes regarding this Agreement lies exclusively in El Paso County, Texas.

5.2 No Joint Enterprise. This Agreement does not create any joint enterprise between the Parties.

5.3 No Third-Party Beneficiaries. This Agreement does not confer or create any rights or obligations to any third Parties.

5.4 No Personal Liability. This Agreement does not create any personal liability on the part of any employee, officer, or agent of any public body that may be a party to this Agreement.

5.5 Public Information. This Agreement is public information.

5.6 Sovereign and Governmental Immunity Acknowledged and Retained. The Parties acknowledge and agree that no provision of this Agreement is in any way intended to constitute a waiver by any party of any immunities from suit or liability that a Party may have by operation of law. The City and the County retain all governmental immunities.

5.7 Governmental Function. The Parties expressly agree that, in all things relating to this Agreement, the Parties are performing a governmental function, as defined by the Texas Tort Claims Act. The Parties further expressly agree that every act or omission of the Parties, which, in any way, pertains to or arises out of this Agreement falls within the definition of governmental function.

5.8 Independent Contractors. The City and the County are independent legal entities. Nothing in this Agreement creates the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither the City nor the County nor any of their respective agents or employees has control or the right to control the activities of the other party in carrying out the terms of this Agreement. Both Parties agree that neither

Party has, nor will attempt to assert, authority to make commitments for or to bind the other Party to any obligation other than the obligations described in this Agreement.

5.9 Headings. The paragraph or section headings contained in this Agreement are for reference purposes only and do not control the meaning or interpretation of this Agreement.

5.10 Assignment. The Parties may not assign any obligations or rights under this Agreement without the express written consent of the other Party.

5.11 No Waiver. Failure of either Party to enforce any provision of this Agreement does not constitute a waiver of rights and the parties will retain the right to require performance of any provision of this Agreement.

5.12 Complete Agreement. This Agreement constitutes the entire agreement between the Parties and any previous agreements are hereby superseded.

5.13 Severability. If any provision of this Agreement is declared unenforceable, then all other provisions of this Agreement will remain in effect.

5.14 No Indemnification. The Parties agree that, except as provided in this Agreement, neither Party shall have the right to seek indemnification or contribution from the other Party for any losses, costs, expenses, or damages directly or indirectly arising, in whole or part, from this Agreement.

5.15 Fines and Penalties. Each Party is responsible for fiscal penalties, fines, or any other sanctions occasioned as a result of a finding that violations of any applicable local, state or federal law occurred as a result of that Party's actions.

5.16 Exclusion of Incidental and Consequential Damages. Neither Party is liable under this Agreement to the other Party for any incidental, consequential, special, punitive, or exemplary damages of any kind -including lost profits, loss of business, mental anguish, emotional distress and/or attorney fees- as a result of a breach of any term of this Agreement.

5.17 All attachments referenced in this Agreement are incorporated in full to this Agreement by reference.

5.18 Contingent Funding Availability. Sun Metro acknowledges that the County is a political subdivision of the State of Texas, and as such adopts its budget according to the laws of the State of Texas for a period of one year beginning on October 1st and terminating on September 30th of each year. In the event that the County does not intend to include sufficient funds in its next annual budget, in any fiscal year during the term of this Agreement, for the payment of its obligations hereunder, the County may terminate this Agreement without penalty or further payment, upon 30 days written notice to Sun Metro, to be effective on September 30th of the then current fiscal year.


IN WITNESS WHEREOF, County and City have caused this Agreement to be executed in their names by their undersigned officers, the same being duly authorized to do so.

THE COUNTY OF EL PASO, TEXAS:



Ricardo A. Samaniego, El Paso County Judge

October 17, 2022
Date




Michael Cuccaro
Executive Director of the Council of Judges

10-24-2022
Date

THE CITY OF EL PASO, TEXAS:

Tomás González, City Manager

Date



Ellen Smyth, Chief Transit and Field Operations Officer
Sun Metro


10/24/22
Date

(City of El Paso Mass Transit Board signatures begin on the following page)

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

Oscar Leeser
Chairman

APPROVED AS TO FORM:



Joyce Garcia
Assistant City Attorney

APPROVED AS TO CONTENT:



Ellen Smyth, Director
Chief Transit and Field Operations Officer