

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

**DEPARTMENT:** MUNICIPAL CLERK  
**AGENDA DATE:** 05-23-06  
**CONTACT PERSON/PHONE:** RICHARDA D. MOMSEN  
**DISTRICT(S) AFFECTED:** ALL

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Approve a resolution that the City Manager be authorized to sign an Interlocal Cooperation Contract with the Texas Department of Public Service ("TDPS") providing for implementation of an automated system ("FTA System") whereby information regarding violators, subject to the provisions of Texas Transportation Code Chapter 706, may be accurately stored and accessed by TDPS for possible denial of renewal of a driver's license. Identified violators will be assessed an administrative fee of \$30.00 for each qualifying citation. Fees to TDPS and the vendor will be paid from collected administrative fees.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

A resolution approved on 2-24-04 that the Mayor be authorized to sign an Interlocal Governmental Agreement by and between the City of El Paso and the Texas Department of Transportation, more specifically described as the "Scofflaw Services Contract for Marking Texas Motor Vehicle Registration Records." Said agreement is contingent upon approval of an Interlocal Governmental Agreement between the City of El Paso and the County of El Paso regarding motor vehicle registration refusals pursuant to Section 702.003 of the Texas Transportation Code.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

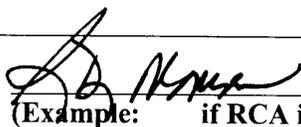
N/A

**BOARD / COMMISSION ACTION:**

**Enter appropriate comments or N/A**

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

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:**  \_\_\_\_\_  
(Example: if RCA is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:** \_\_\_\_\_

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign an Interlocal Cooperation Contract with the Texas Department of Public Safety ("TDPS") providing for implementation of an automated system ("FTA System") whereby information regarding violators, subject to the provisions of Texas Transportation Code Chapter 706, may be accurately stored and accessed by TDPS for possible denial of renewal of a driver's license. Identified violators will be assessed an administrative fee of \$30.00 for each qualifying citation. Fees to TDPS and the vendor will be paid from collected administrative fees.

**ADOPTED** this \_\_\_\_ day of May, 2006.

**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook,  
Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
John F. Nance  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Richarda Duffy Momsen  
Municipal Clerk

01 JUN 28 AM 10  
CITY CLERK

# Interlocal Cooperation Contract

STATE OF TEXAS

§  
§  
§

COUNTY OF EL PASO

## I. Parties

This Interlocal Cooperation Contract ("Contract") is made and entered into between the Texas Department of Public Safety ("TDPS"), a political subdivision of the State of Texas, and the \_\_\_\_\_ City \_\_\_\_\_ of \_\_\_\_\_ El Paso \_\_\_\_\_, a local political subdivision of the State of Texas.

## II. Overview

The purpose of this Contract is to implement the provisions of Texas Transportation Code Chapter 706. A local political subdivision may contract with the TDPS to provide information necessary to deny renewal of the driver license of a person who fails to appear for a complaint or citation or fails to pay or satisfy a judgment ordering payment of a fine and cost in the manner ordered by the court in a matter involving any offense that a court has jurisdiction of under Chapter 4, Code of Criminal Procedure.

The TDPS has authority to contract with a private vendor ("Vendor") pursuant to Texas Transportation Code §706.008. The Vendor will provide the necessary goods and services to establish an automated system ("FTA System") whereby information regarding violators subject to the provisions of Texas Transportation Code Chapter 706 may be accurately stored and accessed by the TDPS. Utilizing the FTA System as a source of information, the TDPS may deny renewal of a driver license to a person who is the subject of an FTA System entry.

Each local political subdivision contracting with the TDPS will pay monies to the Vendor based on a fee certain established by this Contract. The TDPS will make no direct or indirect payments to the Vendor. The Vendor will ensure that accurate information is available to the TDPS, political subdivisions and persons seeking to clear their licenses at all reasonable times.

## III. Definitions

"Complaint" means notice of an offense as defined in Article 27.14(d) or Article 45.019, Code of Criminal Procedure.

“Department” or “TDPS” means the Texas Department of Public Safety.

“Failure to Appear Program” or “FTA Program” refers to the implementation efforts of all parties, including those system components provided by the TDPS, local political subdivisions and the Vendor, including the FTA System.

“Failure to Appear System” or “FTA System” refers to the goods and services, including all hardware, software, consulting services, telephone and related support services, supplied by the Vendor.

“FTA Software” refers to computer software developed or maintained now or in the future by the Vendor to support the FTA System.

“Originating Court” refers to the court in which an applicable violation has been filed for which a person has failed to appear or failed to pay or satisfy a judgment and which has submitted an appropriate FTA Report.

“State” refers to the State of Texas.

“Local political subdivision” refers to a city or county of the State of Texas.

Unless otherwise defined, terms used herein shall have the meaning assigned by Texas Transportation Code Chapter 706 or other relevant statute. Terms not defined in this Contract or by other relevant statutes shall be given their ordinary meanings.

#### **IV. Governing Law**

This Contract is entered into pursuant to Texas Government Code Chapter 791 and is subject to the laws and jurisdiction of the State of Texas and shall be construed and interpreted accordingly.

#### **V. Venue**

The parties agree that this Contract is deemed performable in Travis County, Texas, and that venue for any suit arising from the interpretation or enforcement of this Contract shall lie in Travis County, Texas.

#### **VI. Application and Scope of Contract**

This Contract applies to each FTA Report submitted to and accepted by the TDPS or the Vendor by the local political subdivision pursuant to the authority of Texas Transportation Code Chapter 706.

## **VII. Required Warning on Citation for Traffic Law Violations**

A peace officer authorized to issue citations within the jurisdiction of the local political subdivision shall issue a written warning to each person to whom the officer issues a citation for a traffic law violation. This warning shall be provided in addition to any other warnings required by law. The warning must state in substance that if the person fails to appear in court for the prosecution of the offense or if the person fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court, the person may be denied renewal of the person's driver license. The written warning may be printed on the citation or on a separate instrument.

## **VIII. FTA Report**

If the person fails to appear or fails to pay or satisfy a judgment as required by law, the local political subdivision may submit an FTA Report containing the following information:

- (1) the jurisdiction in which the alleged offense occurred;
  - (2) the name of the local political subdivision submitting the report;
  - (3) the name, date of birth and Texas driver license number of the person who failed to appear or failed to pay or satisfy a judgment;
  - (4) the date of the alleged violation;
  - (5) a brief description of the alleged violation;
  - (6) a statement that the person failed to appear or failed to pay or satisfy a judgment as required by law;
  - (7) the date that the person failed to appear or failed to pay or satisfy a judgment;
- and
- (8) any other information required by the TDPS.

There is no requirement that a criminal warrant be issued in response to the person's failure to appear. The local political subdivision must make reasonable efforts to ensure that all FTA Reports are accurate, complete and non-duplicative.

## **IX. Clearance Reports**

The originating court that files the FTA Report has a continuing obligation to review the report and promptly submit appropriate additional information or reports to the Vendor or the TDPS. The clearance report shall identify the person, state whether or not a fee was required, advise the TDPS to lift the denial of renewal and state the grounds for the action. All clearance reports must be submitted within five business days of the time and date that the originating court receives appropriate payment or other information that satisfies the citizen's obligation to that court.

To the extent that a local political subdivision utilizes the FTA Program by submitting an FTA Report, there is a corresponding obligation to collect the statutorily required \$30.00 administrative fee. If the person is acquitted of the underlying offense for which the original FTA Report was filed, the originating court shall not require payment of the administrative fee. The local political subdivision shall submit a clearance report within five business days advising the TDPS to lift the denial of renewal and identifying the grounds for the action.

The local political subdivision must promptly file a clearance report upon payment of the administrative fee and:

- (1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;
- (2) the dismissal of the charge for which the warrant of arrest was issued or judgment arose;
- (3) the posting of a bond or the giving of other security to reinstate the charge for which the warrant was issued;
- (4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or
- (5) other suitable arrangement to pay the fine and cost within the court's discretion.

The TDPS will not continue to deny renewal of the person's driver license after receiving notice from the local political subdivision that the FTA Report was submitted in error or has been destroyed in accordance with the local political subdivision's record retention policy.

## **X. Compliance with Law**

The local political subdivision understands and agrees that it will comply with all local, state and federal laws in the performance of this Contract, including administrative rules adopted by the TDPS.

## **XI. Accounting Procedures**

An officer collecting fees pursuant to Texas Transportation Code §706.006 shall keep separate records of the funds and shall deposit the funds in the appropriate municipal or county treasury. The custodian of the municipal or county treasury may deposit such fees in an interest-bearing account and retain the interest earned thereon for the local political subdivision. The custodian shall keep accurate and complete records of funds received and disbursed in accordance with this Contract and the governing statutes.

The custodian shall remit \$20.00 of each fee collected pursuant to Texas Transportation Code §706.006 to the Comptroller on or before the last day of each calendar quarter and retain \$10.00 of each fee for payment to the Vendor and credit to the general fund of the municipal or county treasury.

## **XII. Payments to Vendor**

The TDPS has contracted with OmniBase Services of Texas ("Vendor"), a corporation organized and incorporated under the laws of the State of Texas, with its principal place of business in Austin, Texas, to assist with the implementation of the FTA Program.

Correspondence to the Vendor may be addressed as follows:

OmniBase Services of Texas  
7320 North Mo Pac Expressway, Suite 310  
Austin, Texas 78731  
(512) 346-6511 ext. 100; (512) 346-9312 (fax)

The local political subdivision must pay the Vendor a fee of \$6.00 per person for each violation which has been reported to the Vendor and for which the local political subdivision has subsequently collected the statutorily required \$30.00 administrative fee. In the event that the person has been acquitted of the underlying charge, no payment will be made to the Vendor or required of the local political subdivision.

The parties agree that payment shall be made by the local political subdivision to the Vendor no later than the last day of the month following the close of the calendar quarter in which the payment was received by the local political subdivision.

## **XIII. Litigation and Indemnity**

In the event that the local political subdivision is aware of litigation in which this Contract or Texas Transportation Code Chapter 706 is subject to constitutional, statutory, or common-law challenge, or is struck down by judicial decision, the local political subdivision shall make a good faith effort to notify the TDPS immediately.

Each party may participate in the defense of a claim or suit affecting the FTA Program, but no costs or expenses shall be incurred for any party by the other party without written consent.

To the extent authorized by law, the local political subdivision agrees to indemnify and hold harmless the TDPS against any claims, suits, actions, damages and costs of every nature or description arising out of or resulting from the performance of this Contract, and the local political subdivision further agrees to satisfy any final judgment awarded against the local political subdivision or the TDPS arising from the performance of this Contract, provided said claim, suit, action, damage, judgment or related cost is not attributed by the judgment of a court of competent jurisdiction to the sole negligence of the TDPS.

It is the agreement of the parties that any litigation involving the parties to this Contract may not be compromised or settled without the express consent of the TDPS, unless such litigation does not name the TDPS as a party.

This section is subject to the statutory rights and duties of the Attorney General for the State of Texas.

#### **XIV. Contract Modification**

No modifications, amendments or supplements to, or waivers of, any provision of this Contract shall be valid unless made in writing and executed in the same manner as this Contract.

#### **XV. Severability**

If any provision of this Contract is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Contract shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, and the remaining provisions shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance therefrom.

#### **XVI. Multiple Counterparts**

This Contract may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes and all of which constitutes, collectively, one agreement. But, in making proof of this Contract, it shall not be necessary to produce or account for more than one such counterpart.

#### **XVII. Effective Date of Contract**

This Contract shall be in effect from and after the date that the final signature is set forth below. This Contract shall automatically renew on a yearly basis.

However, either party may terminate this Contract upon thirty days' written notice to the other party. Notice may be given at the following addresses:

Local Political Subdivision  
City of El Paso  
Attention: Municipal Clerk  
2 Civic Center Plaza  
El Paso, Texas 79901  
(915) 541-4306 [fax]

Texas Department of Public Safety  
Safety Project Administrator, FTA Program  
5805 North Lamar Boulevard  
Austin, Texas 78773-0001  
(512) 424-5948 [fax]

Notice is effective upon receipt or three days after deposit in the U. S. mail, whichever occurs first. After termination, the local political subdivision has a continuing obligation to report dispositions and collect fees for all violators in the FTA System at the time of termination.

**TEXAS DEPARTMENT OF  
PUBLIC SAFETY**

**CITY OF EL PASO\***

\_\_\_\_\_  
Oscar Ybarra  
Chief of Finance

\_\_\_\_\_  
Joyce Wilson

\_\_\_\_\_  
City Manager  
Title

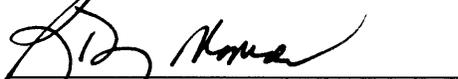
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
John F. Nance  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Richarda Duffy Momsen  
Municipal Clerk

\*An additional page may be attached if more than one signature is required to execute this Contract on behalf of the local political subdivision. Each signature block must contain the person's title and date.