

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

**DEPARTMENT:** Municipal Clerk

**AGENDA DATE:** September 11, 2012

**CONTACT PERSON NAME AND PHONE NUMBER:** Richarda Duffy Momsen 541-4531

**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.**

*Authorize the City Manager to sign an amended contract between the City of El Paso and Texas Dept of Public Safety.*

**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?**

To amend an existing contract with the Texas Department of Public Safety to deny the renewal of an individual's driver's license if the individual has an outstanding Class C warrant with the Municipal court. This amended contract requires immediate clearance of a hold whereas the existing contract allowed 5 business days to notify the Tx Dept of Public Safety of the clearance.

**PRIOR COUNCIL ACTION:**

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

*A contract has existed with the Tx Dept of Public Safety since 2006 to hold the renewal of driver's licenses if the individual has an active warrant on file.*

**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?**

*An individual who has a hold placed on his driver's license must pay \$ 30.00 on each outstanding warrant to have the driver's license hold released. \$ 20.00 is remitted to Tx Dept of Public Safety, \$ 6.00 is remitted to Omnibase, the vendor that contracts with Tx Dept of Public Safety to process the holds and clearances and \$ 4.00 is retained by the City of El Paso.*

*The \$ 20.00 DPS fee is recorded in account: 11010012-203218 and then remitted to DPS on a quarterly basis. General Fund revenue is not used to pay DPS nor Omnibase.*

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**BOARD / COMMISSION ACTION:**  
Enter appropriate comments or N/A

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

**DEPARTMENT HEAD:**

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

*Information copy to appropriate Deputy City Manager*

**RESOLUTION**

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

That the City Manager be authorized to sign an amended Interlocal Cooperation Contract with the Texas Department of Public Safety ("TDPS") providing for implementation of an automated ("FTA system") whereby information regarding violators, subject to the provisions of the 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 continue to be paid from collected administrative fees.

ADOPTED this \_\_ day of September, 2012

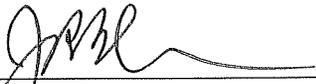
CITY OF EL PASO

\_\_\_\_\_  
John Cook, Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
John Batoon  
Assistant City Attorney

APPROVED AS TO CONTENT:

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



"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**

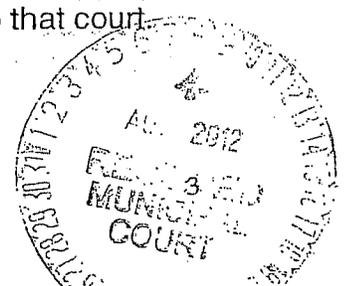
If the person fails to appear or fails to pay or satisfy a judgment as required by law, the local political subdivision may submit an FTA Report containing the following information:

- (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 immediately from 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 immediately advising the TDPS to lift the denial of renewal and identifying the grounds for the action.

The local political subdivision must immediately 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.

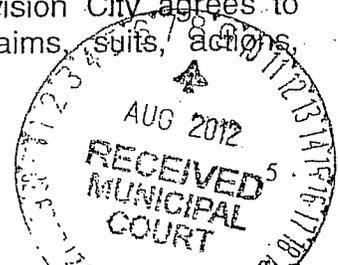
The parties agree that payment shall be made by the local political subdivision to the Vendor no later than the last day of the month following the close of the calendar quarter in which the payment was received by the local political subdivision.

## **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 City 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 City further agrees to satisfy any final judgment awarded against the local political subdivision City 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 Contract. 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

Texas Department of Public Safety

El Paso Municipal Court

Attn: Enforcement and Compliance Service

810 OVERLAND EL PASO TX

5805 North Lamar Boulevard

CITY OF EL PASO

Austin, Texas 78773-0001

2 CIVIC CENTER PLAZA

(512) 424-5311 [fax]

EL PASO, TX 79901

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**

**LOCAL POLITICAL SUBDIVISION\***

\_\_\_\_\_  
Sheri Gipson  
Deputy Administrator

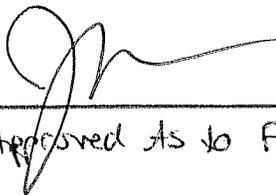
\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\*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.

  
Approved as to Form.

8-22-12  
DATE





# TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN TEXAS 78773-0001  
512/424-2600



STEVEN C. McCRAW  
DIRECTOR  
DAVID G. BAKER  
BECKWORTH  
CHERYL MacBRIDE  
DEPUTY DIRECTORS

COMMISSION  
ALLAN B. POLUNSKY, CHAIR  
ADA BROWN  
JOHN STEEN  
CARIN MARCY BARTH  
A.CYNTHIA LEON

August 3, 2012

CITY OF EL PASO; MUNICIPAL COURT  
810 E OVERLAND ST  
EL PASO TX 79901

Dear Court Administrator:

You currently have a contract for the Failure To Appear Program offered by the Driver License Division under Transportation Code Chapter 706.

During the 82<sup>nd</sup> Legislative Session, Section 706.005 was amended to require courts to immediately notify us when no cause exists to continue to deny renewal of a person's driver license. Under the existing contract, courts are required to report compliance within 5 business days.

To continue this contract, your court must complete and submit the enclosed amended contract. Please complete all of the appropriate entries on the contract, and arrange for the approval and signature of the presiding official authorized to sign contractual documents in your jurisdiction (mayor, city manager, county judge, etc.) within 45 days of the receipt of this letter.

Only 1 original signed contract should be submitted for each political subdivision; if you require a final copy for your records, please indicate so when you return the document. Signed contracts must be returned to:

**Texas Department of Public Safety  
Attn: Enforcement and Compliance Service  
P.O. Box 4087  
Austin, Texas 78773-0320**

After the contract has been returned, it will be processed for approval. Any changes made to this contract by the political subdivision will result in the rejection of the contract. Should you have further questions, please contact a Customer Service Representative at 512-424-5727.

Respectfully,

Manager  
Enforcement and Compliance Service

RH: ttp

Enclosure

