

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

DEPARTMENT: Police

AGENDA DATE: December 9, 2014

CONTACT PERSON NAME AND PHONE NUMBER: Assistant Chief Michelle Gardner, 564-7301

DISTRICT(S) AFFECTED: All

SUBJECT:

That the City Manager or his designee be authorized to sign an Agreement by and between the City of El Paso and No D.U.I. El Paso to provide finding in an amount not to exceed \$2,500.00 to offset the costs of providing designated driver transportation services for individuals within the El Paso city limits in an effort to reduce death, injuries and property damage resulting from alcohol-related traffic accidents for a term of one year beginning December 9, 2014.

BACKGROUND / DISCUSSION:

The City finds that the services provided by No D.U.I. El Paso are in the best interest of the community and such services are necessary to preserve and protect the public health and safety.

PRIOR COUNCIL ACTION:

City Council approved the expenditure of Red Light Camera Funds on October 14, 2014.

AMOUNT AND SOURCE OF FUNDING:

The contract is for an amount not to exceed \$2,500.00 over a twelve-month period.

Red Light Camera Funds # 544060 – 321 – 4351 – 21000 – P2132

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:

by Michelle M. Gardner
(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 or his designee be authorized to sign an agreement by and between the CITY OF EL PASO and NO D.U.I. EL PASO to provide funding in an amount not to exceed \$2,500 to offset the costs of providing designated driver transportation services for individuals within the El Paso city limits in an effort to reduce death, injuries and property damage resulting from alcohol-related traffic accidents for a term of one (1) year beginning on the 9th day of December, 2014, to the 8th day of December, 2015.

ADOPTED this _____ day of _____, 2014.


CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Daniel Ortiz
Assistant City Attorney

APPROVED AS TO CONTENT:



Gregory K. Allen
Chief of Police

STATE OF TEXAS)
)
COUNTY OF EL PASO)

AGREEMENT

This Agreement is entered into this ____ day of _____, 2014, by and between the **CITY OF EL PASO, TEXAS**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the "City," and **NO D.U.I. EL PASO**, a Texas nonprofit corporation, hereinafter referred to as "Contractor."

WITNESSETH

WHEREAS, the City hereby finds that providing funding to offset the direct costs of designated driver service trips by Contractor that originate within El Paso city limits will serve as a traffic safety program by reducing deaths, injuries and property damages resulting from persons driving motor vehicles while impaired by drugs or alcohol; and

WHEREAS, the City has found that a portion of the revenue generated by the City's red light camera system is available to be used to fund traffic safety programs such as the services provided by Contractor;

WHEREAS, providing funding to the Contractor for designated driver services constitutes an important public purpose or benefit to the City and residents of El Paso for which the City is willing to expend the funds designated in this Agreement; and

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter set forth, the parties hereto do mutually agree as follows:

1. **DURATION AND SCOPE.** Contractor agrees that in conjunction with its traffic safety activities, Contractor will utilize the funding provided under this Agreement solely for the purpose of offsetting the direct costs incurred in providing designated driver services trips to individuals from establishments located within the El Paso city limits in an effort to reduce death, injuries and property damages resulting from alcohol-related traffic accidents in El Paso, Texas. Direct costs are those expenses required for the designated driver services provided such as fuel, communication equipment, and/or vehicles but does not include fringe benefits or costs unrelated to providing transportation service.

2. **CONSIDERATION.** The City shall provide monetary support to Contractor in an amount not to exceed \$2,500.00 from available red light camera funds to be used to reimburse the activities performed in conjunction with the scope of work described in paragraph 1 above. Specifically, the City shall reimburse the Contractor on a monthly basis at a flat rate of \$35.00 per each verifiable designated driver trip, for a reimbursement amount not to exceed the total aggregate expenditure of \$2,500.00. All reimbursement requests shall be accompanied by the verification form attached as **Exhibit A** and must be submitted to the Office of the City Manager or his designee for consideration for payment one time per month. All reimbursement requests must be submitted no later than thirty (30) after the expiration of this Agreement.

3. **TERM.** This Agreement shall become effective on the date first written above (the "effective date") and shall terminate one year thereafter, unless sooner terminated as hereinafter provided.

4. **LEGAL RELATIONSHIP.** Nothing in this Agreement shall be construed as creating a legal relationship, co-sponsorship or responsibility between the City and Contractor or with any organization involved in providing designated driver service trips or any other activity of the Contractor. Contractor is an independent contractor, and nothing herein shall be construed as creating the relationship of employer and employee or principal and agent between the parties.

5. **RELEASE AND INDEMNIFICATION.** **CONTRACTOR HEREBY RELEASES AND FOREVER DISCHARGES THE CITY FROM ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS OR CAUSES OF ACTION, WHETHER ON ACCOUNT OF PERSONAL INJURY, DEATH OR DAMAGE TO PROPERTY, RESULTING OR TO RESULT FROM THE PROVISION OF DESIGNATED DRIVER SERVICES. CONTRACTOR FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY FROM ANY SUCH CLAIMS, CAUSES OF ACTION OR DEMANDS, INCLUDING SUBROGATION, NOW OR IN THE FUTURE DUE TO THE PROVISION OF DESIGNATED DRIVER SERVICES, INCLUDING, BUT NOT LIMITED TO, CLAIMS, DEMANDS, DAMAGES, ACTIONS OR CAUSES OF ACTION FROM OR BY ANY PERSON.**

6. **LIABILITY INSURANCE.** Contractor shall provide public liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of One Hundred Thousand Dollars (\$100,000.00) per person, and Two Hundred Thousand Dollars (\$200,000.00) for two (2) or more persons in any one accident. In addition, Contractor shall provide property damage liability insurance in a minimum sum of One Hundred Thousand Dollars (\$100,000.00) for property damage growing out of any one accident or other cause. These amounts are not a limitation upon the Contractor's agreement to indemnify and hold the City harmless.

Additionally, Contractor shall provide automobile liability insurance in an amount not less than One Hundred Thousand Dollars (\$100,000.00) per accident/occurrence, One Hundred Thousand Dollars (\$100,000.00) for property damage per accident/occurrence. The automobile liability shall also provide non-owned automobile coverage in an amount not less than Twenty Five Thousand Dollars (\$25,000.00).

6.1. Contractor shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Contractor, his officers, agents, servants or employees. All policies shall name the City of El Paso, its officers, agents, servants, and employees as additional insureds to the full amount of the policy limits.

6.2 Contractor shall file a copy of the policy or certificate of liability insurance as herein set forth with the City Manager's Office, prior to the sooner of fifteen (15) days after the execution of this Agreement. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the City, with ten (10) calendar days prior written notice as to non-payment of

insurance policy premiums. Failure to keep the policy in full force and effect throughout the term of the special privilege shall be grounds for termination of the Agreement.

7. **SAFETY.** Contractor shall comply with all applicable laws, ordinances and regulations.

8. **DISCRIMINATION.** Contractor, its officers, agents, servants, employees, volunteers and third parties will not discriminate on account of race, color, religion, sex or national origin, nor will it permit or allow any discrimination in the work done pursuant to this Agreement.

9. **NON-RELIGIOUS ACTIVITIES.** Contractor will conduct designated driver services, insofar as it may involve the City of El Paso, in a manner that is exclusively non-religious in nature and scope; there will be no religious services, proselytizing, instruction, or any other religious influences in connection with the group insofar as it may involve the City of El Paso. Contractor shall not represent that the City of El Paso is in support of or in favor of any religious services, proselytizing, instruction, or any other religious influences.

10. **COMPLIANCE WITH LAWS.** Contractor shall comply with all applicable federal, state and local laws and regulations; all City ordinances and all codes and regulations. Failure to do so in a manner which materially impairs the quality of performance hereunder or affects the administration of the funds provided hereunder shall constitute a material breach of this Agreement.

11. **TERMINATION.** Either party may terminate this Agreement by sending written notice to the other if the other is in default in a matter of serious importance to the aggrieved party. Termination shall be without prejudice to any obligation by one party to the other which shall have accrued and be owing prior thereto. In the event that the red light camera funds are not available due to a revenue shortfall, statutory changes regarding acceptable uses of red light camera funds, or other situations that prevent the use of red light camera funds beyond the control of the City, the Agreement shall be deemed terminated with no further obligation or liability for such termination on either party.

12. **SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

13. **NOTICES.** All notices and communications under this Agreement shall be either hand-delivered or mailed, postage prepaid in the United States Postal Services, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing:

CITY: City Manager
City of El Paso
300 N. Campbell
El Paso, Texas 79901

CONTRACTOR: No D.U.I. El Paso
Attn: Tyler D. Rouse, President

6020 Sorrel Drive
El Paso, Texas 79932

14. **AUDIT.** Contractor agrees to assist the City as may be needed and/or requested during any audit of the City's funding source.

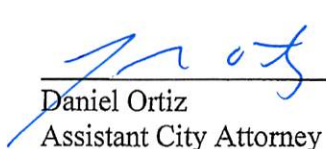
15. **ENTIRE AGREEMENT.** This Agreement constitutes and expresses the entire agreement of the parties hereto in reference to any of the matters herein provided for or herein discussed or mentioned in reference to the providing of such services, all promises, representatives, and understandings relative hereto being herein merged.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the _____ day of _____, 2014.

THE CITY OF EL PASO

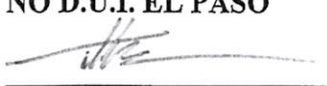
Tomás González
City Manager

APPROVED AS TO FORM:



Daniel Ortiz
Assistant City Attorney

CONTRACTOR:
NO D.U.I. EL PASO



Tyler D. Rouse, President


Approved as to Content.
by 
for Gregory K. Allen
Chief of Police

EXHIBIT A

VERIFICATION FORM

(to be filled out and submitted with each Reimbursement Request- multiple copies as necessary)

1. **Designated Driver Service Trips provided since last Reimbursement Request:**
_____ [INSERT NUMBER], covering the period from _____ to _____
[INSERT (MM/DD/YY) – (MM/DD/YY)]
2. **Total Designated Driver Service Trips to date:** _____
[INSERT TOTAL NUMBER OF TRIPS CUMULATIVE]
3. For verification purposes only, the City may contact the following volunteer drivers to verify the service trips provided for the period noted above:

Trip No. ____ [INSERT NUMBER] Date: _____
Driver Volunteer: _____ [INSERT NAME (printed)]
Phone number: (____) _____. The volunteer driver will be contacted only to confirm that a service trip occurred on the identified date.

Trip No. ____ [INSERT NUMBER] Date: _____
Driver Volunteer: _____ [INSERT NAME (printed)]
Phone number: (____) _____. The volunteer driver will be contacted only to confirm that a service trip occurred on the identified date.

Trip No. ____ [INSERT NUMBER] Date: _____
Driver Volunteer: _____ [INSERT NAME (printed)]
Phone number: (____) _____. The volunteer driver will be contacted only to confirm that a service trip occurred on the identified date.

Trip No. ____ [INSERT NUMBER] Date: _____
Driver Volunteer: _____ [INSERT NAME (printed)]
Phone number: (____) _____. The volunteer driver will be contacted only to confirm that a service trip occurred on the identified date.

Trip No. ____ [INSERT NUMBER] Date: _____
Driver Volunteer: _____ [INSERT NAME (printed)]
Phone number: (____) _____. The volunteer driver will be contacted only to confirm that a service trip occurred on the identified date.