

CAMINO REAL REGIONAL MOBILITY AUTHORITY BOARD RESOLUTION

WHEREAS, the El Paso Metropolitan Planning Organization (MPO) has identified available federal funds for the expansion of the El Paso Bike Share Program that is operated by the Camino Real Regional Mobility Authority (CRRMA), known locally as the SunCycle Program (SunCycle) for which various area agencies are interested in partnering to pursue;

WHEREAS, the expansion of the SunCycle program will add bikes and bike stations to the system, which will expand access and mobility options between the downtown El Paso area and the University of Texas at El Paso campus and the neighborhoods in between and the City of El Paso (City) therefore desires to provide partial funding for such expansion; and

WHEREAS, the CRRMA and the City now desire to execute an interlocal agreement whereby the City will provide partial funding for the expansion of the SunCycle program and the CRRMA will implement such expansion and will continue to operate and maintain the system.

NOW, THEREFORE, BE IT RESOLVED BY THE CAMINO REAL REGIONAL MOBILITY AUTHORITY:

THAT the Executive Director is authorized to execute an Interlocal Agreement with the City of El Paso (City), whereby the City will provide partial funding to the CRRMA for the expansion of the El Paso Bike Share (SunCycle) Program.

PASSED AND APPROVED THIS 13TH DAY OF APRIL 2016.

**CAMINO REAL REGIONAL
MOBILITY AUTHORITY**

ATTEST:

Susan A. Melendez, Chair

Board Secretary

APPROVED AS TO CONTENT:

Raymond L. Telles
Executive Director

INTERLOCAL AGREEMENT

This **INTERLOCAL AGREEMENT** (the “Agreement”) is entered into by and between the **CITY OF EL PASO, TEXAS** (“City”) and the **CAMINO REAL REGIONAL MOBILITY AUTHORITY** (the “CRRMA”), a political subdivision of the State of Texas (the City and CRRMA hereafter collectively referred to as the “Parties” or individually as a “Party”) for the purpose of providing financial assistance in connection with the El Paso Bike Share (SunCycle) Program, Phase 2.

WITNESSETH:

WHEREAS, the City is a Home Rule City operating pursuant to the laws of the State of Texas;

WHEREAS, the CRRMA is a regional mobility authority created and operating pursuant to Chapter 370.031(b) of the Texas Transportation Code (the “RMA Act”) and 43 TEX. ADMIN. CODE § 26.01 *et seq.* (the “RMA Rules”);

WHEREAS, pursuant to a prior Interlocal Agreement between the Parties and the El Paso Metropolitan Planning Organization, the CRRMA has developed, implemented and is now operating the first phase of a Bike Share Program in the El Paso region, known locally as the SunCycle Bike Share Program (“SunCycle”);

WHEREAS, the City and other area agencies have identified funds that may be available for the completion of Phase 2 of the SunCycle Program, which would double the size of the current program;

WHEREAS, Chapter 791 of the Texas Government Code provides that local governments or public agencies may contract with each other for the performance of governmental functions or services in which the contracting parties are mutually interested;

WHEREAS, §370.033 of the RMA Act further provides that regional mobility authorities may enter into interlocal agreements with other governmental entities for project development related services; and

WHEREAS, the Parties desire to jointly pursue, along with other area agencies, the expansion of the SunCycle Program, whereby the City and other area agencies would provide partial funding for the expansion of the SunCycle Program and the CRRMA would expand and continue to operate such program.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the undersigned Parties agree as follows:

I. FINDINGS

Recitals. The recitals set forth above are incorporated herein for all purposes and are found by the Parties to be true and correct. It is further found and determined that the Parties have authorized and approved this Agreement by their respective entities, and that this Agreement will be in full force and effect when executed by all Parties.

II. RESPONSIBILITIES OF THE PARTIES

1. Partial Funding for the SunCycle Program, Phase 2. The City will provide financial assistance to the CRRMA in the amount of ONE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$150,000.00). Such funds will be used by the CRRMA to pay for a portion of the expenses required for the expansion of the SunCycle Program generally consistent with the scope and budget more fully described within **EXHIBIT "A,"** which is attached hereto and incorporated herein for all purposes. The City funds may be used by the CRRMA for any project costs normally associated with the implementation of an expansion of a bike share program, including but not limited to, independent financial, engineering and other advisors necessary for an expansion similar in size and scope to **EXHIBIT "A."** The financial assistance provided by the City may also be used by the CRRMA to pay for necessary or incidental administrative, legal and other expenses, provided that such expenses relate to the referenced expansion.

2. Payment to the CRRMA. Funds to be made available by the City to the CRRMA under this Agreement shall be disbursed within ten (10) days of the Effective Date of this Agreement by the City and the CRRMA and shall be made in the form of a grant, without the requirement of reimbursement. The CRRMA shall own all title to, all interests in, all rights to, and all intellectual property (including copyrights, trade and service marks, trade secrets, and patentable devices or methods) arising from or developed under this Agreement. Except to the extent that a specific provision of this Agreement states to the contrary, all equipment purchased by the CRRMA or its subcontractors under this Agreement shall be owned by the CRRMA.

3. Compliance. The CRRMA will comply with applicable local, state and federal laws in the performance or securing of any work contemplated by this Agreement and will comply with any other applicable provisions of the RMA Act and the RMA Rules relating to the performance or securing of any such work.

4. Books and Records. The CRRMA will maintain its books and records relating to any work provided or secured and the financial assistance provided pursuant to this Agreement at its office for a minimum of four (4) years after expansion of the Sun Cycle Program. These materials shall be made available for inspection by the City, within a reasonable period after any such request by the City.

III. GENERAL AND MISCELLANEOUS

1. **Prior Written Agreements.** This Agreement is without regard to any and all prior written contracts or agreements between the Parties regarding any other subject matter and does not modify, amend, ratify, confirm or renew any such other prior contract or agreement between the Parties.
2. **Other Services.** Nothing in this Agreement shall be deemed to create, by implication or otherwise, any duty or responsibility of either of the Parties to undertake or not to undertake any other service, or to provide or not to provide any service, except as specifically set forth in this Agreement or in a separate written instrument executed by the Parties.
3. **Governmental Immunity.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either of the Parties nor to create any legal right(s) or claim(s) on behalf of any third party. Neither of the Parties waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
4. **Amendments and Modifications.** This Agreement may not be amended or modified except in writing and executed by all Parties to this Agreement and executed by authorized representatives of all parties hereto.
5. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision(s), and the rights and obligations of the Parties shall be construed and enforced in accordance therewith. The Parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.
6. **Execution in Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed as of the date first written above, when all Parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.
7. **Notices.** All notices provided pursuant this Interlocal Agreement shall be hand delivered or mailed, certified return receipt requested, to the respective parties at the respective addresses shown below, unless and until the parties are otherwise notified in writing by the other party:

City: City of El Paso
City Manager
P.O. Box 1890
El Paso, Texas 79950-1890

CRRMA: Camino Real Regional Mobility Authority
300 N. Campbell, 2nd Floor
El Paso, Texas 79901
Attn: Executive Director

8. Effective Date. The Effective Date of this Agreement shall be the date last executed by a Party.

9. Entire Agreement. This Agreement contains all commitments and agreements of the Parties hereto with regard to the subject matter hereof, and no verbal or written commitment shall have any force or effect if not contained herein.

10. Current Revenues. Pursuant to Section 791.001(d)(3), Texas Government Code, each party paying for the performance of governmental functions or services will make those payments from current revenues available to the paying party.

11. Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Texas, along with any applicable provisions of the federal law.

12. Venue. The parties hereto agree that this Agreement shall be enforceable in El Paso, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in El Paso County, Texas. Should the need for dispute resolution arise, venue is in El Paso County, Texas.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their authorized representatives as of the dates noted below.

(SIGNATURES BEGIN ON THE NEXT PAGE)

CITY OF EL PASO, TEXAS

By: _____

Oscar Leeser

Mayor

Date: _____

APPROVED AS TO FORM

Marvin Foust
Assistant City Attorney

APPROVED AS TO CONTENT

By: _____
Title: _____

**CAMINO REAL REGIONAL
MOBILITY AUTHORITY**

By: _____

Susan A. Melendez

Chair

Date: _____

ATTEST:

Board Secretary

EXHIBIT “A”

EL PASO BIKE SHARE (SUNCYCLE) PROGRAM, PHASE 2 PROPOSED SCOPE & BUDGET

The proposed scope of the project anticipated by this Agreement is to expand the El Paso Bike Share (SunCycle) Program, through the purchase, installation and operation of additional bikes and stations for the program at various locations in the City of El Paso. The general area for the proposed placement of the additional bike stations consists of downtown El Paso to the University of Texas at El Paso campus, including the neighborhoods and retail areas in between such general areas. Actual station locations shall be determined throughout the project process in coordination with project stakeholders and landowners. A total addition of eighty (80) bikes and eight (8) stations are anticipated; thereby doubling the current SunCycle Program. Global Positioning Systems (GPS) may be used to calculate bicycle miles traveled and GPS units may be attached to the bicycles.

El Paso Bike Share (SunCycle) Program, Phase 2 Budget:

STP-MM (TxDOT)	\$284,000
City of El Paso	\$150,000
<u>University of Texas at El Paso</u>	<u>\$150,000</u>
Total Available Funds	\$584,000

The El Paso Bike Share (SunCycle) Program, Phase 2 Budget identified above may be amended from time to time throughout the implementation of the expansion, without effect on this Agreement; provided there is no financial impact to the City.

[END OF EXHIBIT]