

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
ECONOMIC DEVELOPMENT DEPARTMENT**

TO: Mayor and City Council

FROM: Ramiro A. Cavazos, Director, Economic Development Department

THROUGH: Terry M. Brechtel, City Manager

COPIES: J. Rolando Bono, Melissa Byrne Vossmer, Peter Zaroni, Milo Nitschke, Trey Jacobson, File

SUBJECT: Ordinance authorizing an Interlocal Agreement with VIA Metropolitan Transit (VIA) in support of the Downtown Public Improvement District (PID)

DATE: September 2, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes the City Manager to negotiate and execute a five-year Interlocal Agreement with VIA, to facilitate their participation in the Downtown PID, establishes their annual contribution and authorizes the City to collect that contribution on behalf of the PID.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

The Downtown PID was created 1999, for an initial five-year term. The method of PID assessment is based on a percentage of the appraised value of real property, as determined by the current roll of the Bexar Appraisal District (BAD). Exempt jurisdictions may participate, and receive PID services through a contract with the municipality. VIA Metropolitan Transit has contributed \$30,000 each year to the PID for services that include provision of bus route information by the Ambassador Amigos, and maintenance of VIA bus stops and shelters by the Maintenance Amigos.

POLICY ANALYSIS

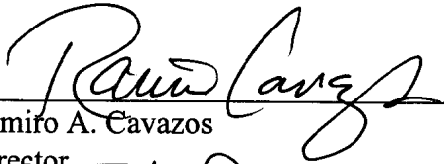
VIA has agreed to continue to participate in the PID for another five-year term and contribute a minimum of \$30,000 each year. VIA has scheduled a referendum to fund an Advanced Transportation District within San Antonio. If that referendum is successful, VIA could increase its annual contribution. The attached Interlocal Agreement (Exhibit C) formalizes VIA's continued participation in the PID and authorizes the City to collect VIA's contribution.

FISCAL IMPACT

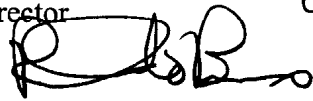
There is no fiscal impact to the City associated with this Interlocal Agreement.

COORDINATION

This item has been coordinated with the City Attorney's Office, Finance and VIA Metropolitan Transit.

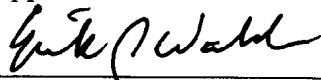


Ramiro A. Cavazos
Director



J. Rolando Bono
Deputy City Manger

Approved:



Terry M. Brechtel
City Manager

Attachment

**INTERLOCAL AGREEMENT
BETWEEN CITY OF SAN ANTONIO AND
VIA METROPOLITAN TRANSIT**

STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS
COUNTY OF BEXAR	§	

Preamble

The City of San Antonio ("CITY") a Texas municipal corporation and VIA Metropolitan Transit ("VIA") a political subdivision of the State of Texas created and existing pursuant to Chapter 451 of the Texas Transportation Code, enter into an Interlocal Agreement for the purpose of coordinating efforts to increase public utilization of the area within VIA's Service Area known as the San Antonio Downtown Public Improvement District ("DPID"), as outlined below. Each organization, as a duly constituted local governmental entity, has the legal authority to enter into this agreement pursuant to the Interlocal Cooperation Act, V.T.C.A., Government Code Section 791.001 et. seq.

1. Project Summary/Scope - General

This agreement enables VIA to recognize the benefits to its regular and potential customers that the DPID will foster, as further described in Section 3, below.

Section 2 - Term

1. The term of this Agreement shall commence on October 1, 2004, and shall terminate on September 30, 2009, unless terminated sooner under Section 4 of this Agreement.

2. Allocation of Obligations

A. VIA

1. The consideration provided by VIA under this Agreement is the payment by VIA to the City administered DPID Fund the sum, if approved by the _____ (VIA TRUSTEES?) of sixty thousand dollars (\$60,000.00) per fiscal year, during the term of this Agreement. In the event that the VIA TRUSTEES do not approve the increase of funds for this contract, the consideration provided by VIA under this Agreement shall be the sum of thirty thousand (\$30,000.00) dollars per fiscal year, during the term of this Agreement. In addition, VIA will permit uniformed personnel employed by the entity managing the DPID under agreement with the CITY, which is currently Centro San Antonio Management Corporation, to travel on VIA buses and trolleys free of charge within the DPID and to and from VIA's Ellis Alley Park and Ride to or from the DPID, while such personnel are on duty. Said uniformed personnel riding VIA buses or trolleys under this

provision must comply with and are subject to VIA policies and procedures for standard bus/trolley passengers, and the failure by such a person to comply with such policies and procedures may result in that person being excluded from no-cost ridership under this provision.

2. VIA may provide information regarding overall service in the DPID, including bus stop areas, through the CITY, to the entity managing the DPID. VIA may also, through the CITY, coordinate and suggest changes to services provided in the DPID by the entity managing the DPID.

3. VIA shall provide the entity managing the DPID with such maps, brochures, and information necessary for Public Service Representatives (PSRS) to perform as described in Section 3B herein.

B. CITY

1. During the term of this Agreement, CITY shall cause the following provisions to take place, either through its agreement with and/or control of the DPID, or through its agreement and relationship with the entity managing the DPID under agreement with the CITY, which is currently Centro San Antonio Management Corporation, a non-profit Texas corporation:

2. Under the heading "Public Service Representative" contained in the San Antonio Downtown Public Improvement District Service and Assessment Plan for Fiscal Years 2005-2009, attached hereto, PSRs "will be trained to provide information, [and] to provide directions." As part of these services, CITY shall require that the duties of the PSRs within the DPID include answering questions from, and providing information to, persons within the DPID regarding VIA bus and/or trolley routes within the DPID. Included within this, City shall require that such PSRs carry with them up to ten (10) VIA trolley route map brochures each, which shall each be no larger than four (4) inches in height and nine (9) inches in length. Such map brochures shall be distributed by the PSRs to persons requesting information on VIA bus and/or trolley routes. When asked, PSRs shall clearly state that they are not VIA or CITY employees.

3. CITY shall require that the entity managing the DPID include VIA bus stops and shelters in its performance of all of the services described under the headings "Maintenance and Landscaping/Streetscaping", of the San Antonio Downtown Public Improvement District Service and Assessment Plan for Fiscal Years 2005-2009, (hereinafter "Plan") attached hereto, and, subject to the requirements of Section 12, below, any modifications or revisions to such Plan.

4. On each occasion that the entity managing the DPID communicates recommendations to the CITY regarding the law enforcement presence in the DPID, the CITY will direct the entity managing the DPID to include law enforcement needs at VIA transit stops

within the DPID in these communications. CITY will also solicit VIA's inputs on this subject.

Section 4 - Default and Remedies

1. Default shall occur only in the event any party fails to adhere to its respective obligations hereunder. Any failure by either party to require compliance with any provision of this Agreement shall not be interpreted as a waiver thereof, and shall not prevent them from enforcing or requiring compliance with such provision or requirement at any future date. In the event of default, any non-defaulting party shall give the defaulting party written notice of the condition of default. The defaulting party may cure such default within ten (10) days from and after date of receipt of notice of default. In the event of continued failure to cure or continued absence of efforts to cure such default, any non-defaulting party may thereafter notify the defaulting party of its intent to terminate this Agreement.

2. This Agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by any party and shall be cumulative.

Section 5 - Certificate of Current Revenues

In compliance with Section 791.011, Tex. Govt. Code, the parties hereto hereby assure and certify that payments for the performance of this agreement are from current revenues available to each respective party, and that all amounts contemplated for payment will fairly compensate the party performing the services or functions under this contract.

Section 6 - Applicable Law/Venue

Venue of any court action brought directly or indirectly by reason of this Agreement shall be in Bexar County, Texas. This Agreement is made and is to be performed in Bexar County, Texas, and is governed by and will be interpreted according to the laws of the State of Texas, where there is no conflict with the applicable federal laws and regulations. In the event of conflict, the federal law or regulation will govern.

Section 7 - Independent Contractor

Both parties hereto, in the performance of this Agreement, will be acting in an independent capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever, including workers' compensation liability.

Section 8 - Funds

VIA has determined that the annual services to be provided to VIA under this Agreement are equal in value to an amount of at least \$60,000.00. CITY agrees to provide to VIA, directly or through the entity managing the DPID, all the services specified under this Agreement.

Section 9 - Assignment

This Agreement is not assignable by either party. Any attempt by either party hereunder to assign any performance of the terms of this Agreement shall be null and void and shall constitute a material breach of this Agreement upon which the non-assigning party may cancel, terminate, or suspend this Agreement.

Section 10 - Authority

The undersigned signatory for VIA and City each represents that he/she is empowered and authorized to sign this Agreement on behalf of VIA and City in accordance with the terms and conditions stated herein. The City Council of the City of San Antonio, by Ordinance Number _____ dated September 2, 2004, authorized the City Manager or their designated representative to negotiate and execute this Agreement. The VIA Metropolitan Transit Board of Directors, by Board Resolution Number dated _____, 2004, authorized its General Manager authority to negotiate and execute this Agreement.

Section 11 - Incorporation of Documents

VIA and City agree that this Agreement is to be construed together with the Plan attached hereto, and, subject to the requirements of Section 12, below, any modifications or revisions to such Plan. Such Plan is made a part of this Agreement and is incorporated herein by reference.

Section 12 - Changes to Plan

VIA and City understand and agree that City Council may, from time-to-time, amend, revise or modify the Plan. VIA and City also understand and agree that City Council may, from time-to-time, adopt a subsequent Plan. City and VIA agree that an amended, revised, modified, or subsequently adopted Plan shall automatically be incorporated herein by reference at the time such Plan becomes effective. If an amended, revised, modified, or subsequently adopted Plan does not contain the services listed in Section 3 of this Agreement, VIA has the option to exercise its rights to terminate this Agreement.

Section 13 - Legal Compliance

If any provision of this Agreement, or the application thereof to any person or circumstance is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of the Agreement and the application of such provision to

other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by the applicable law.

Section 14 - Amendments

Any amendment to this Agreement is subject to the written approval by all parties to this Agreement.

Section 15 - Notices

All notices to any party by the others required under this Agreement shall be addressed to such party at the following respective address:

VIA:

VIA METROPOLITAN TRANSIT
800 W. Myrtle
P.O. Box 12489
San Antonio, Texas 78212
Attention: John M. Milam, General Manager

CITY:

CITY OF SAN ANTONIO
Melissa Byrne Vossmer
Assistant City Manager
P.O. Box 839966
San Antonio, TX 78283-3966
Phone: 207-6192
Fax: 207- _____

Notice shall be deemed given on the date delivered in person, by mail, or faxed unless otherwise provided herein.

Signed this the ____ day of _____, 2004.

VIA METROPOLITAN TRANSIT

CITY OF SAN ANTONIO

JOHN M. MILAM
General Manager

TERRY M. BRECHTEL
City Manager

ATTEST:

ATTEST:

APPROVED AS TO FORM:

ANDREW MARTIN
City Attorney