



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Human Services Agency



DATE: September 15, 2011
BOARD MEETING DATE: September 27, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: Beverly Beasley Johnson, J.D., Director, Human Services Agency
SUBJECT: Authorizing an Agreement with San Mateo County Transit District

RECOMMENDATION:

Adopt a Resolution waiving the Request for Proposal Process (RFP) and authorizing the President of the Board to execute an Agreement from San Mateo Transit District (SamTrans) for the purpose of purchasing bus tickets and passes that is self renewing month by month until terminated. It is anticipated that the County will purchase up to \$1,000,000 in bus tickets and passes annually. The annual Net County Cost is estimated at up to \$400,000.

BACKGROUND:

HSA was recently notified by the Controller that, following a financial audit, the County's auditors have recommended that the Controller no longer direct pay invoices for bus tickets and bus passes without an underlying Agreement. SamTrans has submitted a contract for County signature which will allow the County to purchase bus tickets and passes on a monthly basis. SamTrans will no longer sell bus passes after December 2011. Clipper cards, a fare card to which funds can be added to as needed, will replace bus passes.

DISCUSSION:

The Agreement with SamTrans will allow HSA to purchase tickets, and passes (passes are available through December) monthly as needed. HSA must purchase bus tickets and bus passes on a continual basis. HSA is required to provide transportation for low-income individuals that have applied for or are on aid and do not have a means of transportation. These bus tickets and bus passes provide transportation to individuals for such purposes as accessing needed services, appointment and work opportunities. HSA also purchases bus tickets and bus passes on behalf of Probation and Health Services. HSA purchases up to \$83,000 a month in bus tickets (\$23,000) and bus passes (\$60,000).

HSA will also be negotiating contracts with Metropolitan Transportation Commission and Cubic Transportation System later on in the year when clipper cards replace bus passes. It is estimated that when Clipper cards replace bus passes, this will reduce the usage of the SamTrans Agreement by up to \$720,000 per year and that amount will be applied toward the purchase of Clipper cards.

It is requested that the RFP process be waived as SamTrans is the only entity that sells public bus transportation fare tickets and passes at this time and SamTrans should be considered a sole-source provider. The Agreement from SamTrans is a purchasing Agreement and not a Service Agreement. The County purchasing division has authorized HSA to contract directly with SamTrans. County Counsel has reviewed and approved this Agreement, Board Memo and Resolution as to form. The County has submitted proof of insurance to SamTrans to cover any theft or loss of bus tickets and bus passes.

PERFORMANCE MEASURE(S):

Purchasing bus tickets and bus passes contributes to Shared Vision 2025 of a Prosperous Community by providing a means of transportation to low-income individuals to access services such as appointments, food services, work, extraordinary circumstances and other service related activities that lead to self-sufficiency. In FY 2010-11 approximately 16,531 individuals received bus tickets and passes allowing them access to County services.

Performance Measure	FY 2010-11 Estimated
Number of individuals receiving transportation assistance for the purpose of accessing County services.	16,531

FISCAL IMPACT:

The term of the Agreement month to month. The anticipated cost for purchasing bus tickets and bus passes is up to \$1,000,000 annually. The cost is claimed to various funding sources. The anticipated Net County Cost is not to exceed \$400,000 annually. The appropriation has been included in the FY 2011-12 tentatively Adopted Budget and will be included in future year Recommended Budgets.

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION WAIVING THE REQUEST FOR PROPOSAL PROCESS (RFP) AND AUTHORIZING THE PRESIDENT OF THE BOARD TO EXECUTE AN AGREEMENT FROM SAN MATEO TRANSIT DISTRICT (SAMTRANS) FOR THE PURPOSE OF PURCHASING BUS TICKETS AND PASSES THAT IS SELF RENEWING MONTH BY MONTH UNTIL TERMINATED. IT IS ANTICIPATED THAT THE COUNTY WILL PURCHASE UP TO \$1,000,000 IN BUS TICKETS AND PASSES ANNUALLY. THE ANNUAL NET COUNTY COST IS ESTIMATED AT UP TO \$400,000

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, HSA was recently notified by the Controller that, following a financial audit, the County's auditors have recommended that the Controller no longer direct pay invoices for bus tickets and bus passes without an underlying Agreement; and

WHEREAS, HSA is required to provide transportation for low-income individuals that have applied or are on aid and do not have a means of transportation and these bus tickets and bus passes will provide transportation for such purposes as accessing needed services, appointment and work opportunities; and

WHEREAS, HSA also purchases bus tickets and bus passes on behalf of Probation and Health Services; and

WHEREAS, the Agreement from SamTrans is from month to month until terminated by either party and the number of tickets and bus passes purchased

annually shall not exceed the amount of \$1,000,000; and

WHEREAS, it is requested that the RFP process be waived as SamTrans is the only entity that sells public bus transportation fare tickets and passes at this time and SamTrans should be considered a sole-source provider; and

WHEREAS, this Board has been presented with a form of such Agreement and has examined and approved it as to both form and content and desires to enter into the same.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the request for proposal process is waived and the President of this Board of Supervisors is hereby authorized and directed to execute said Agreement for and on behalf of the County of San Mateo, and the Clerk of this Board shall attest the President's signature thereto.

* * * * *

**SAN MATEO COUNTY TRANSIT DISTRICT AND COUNTY OF SAN MATEO
FARE PRODUCT AGREEMENT**

This Agreement, made this ____ day of September, 2011, by and between the SAN MATEO COUNTY TRANSIT DISTRICT, a public corporation of the State of California ("District") and the COUNTY OF SAN MATEO ("County").

WHEREAS, the District makes available for purchase by the general public prepaid transportation fare media ("Fare Media"); and

WHEREAS, two County departments – The County of San Mateo Health System and the Human Services Agency (separately "Department" and together "Departments") – desire to provide improved access to transportation to their program participants; and

WHEREAS, the County wishes to obtain Fare Media from the District, at the prices set in the District's Codified Tariff, for sale or other distribution to recipients of certain County services; and

WHEREAS, after December 2011, the District expects to stop issuing the paper-type Monthly Passes addressed in this Agreement and therefore the sections of this Agreement concerning only that fare medium will become null and void upon the discontinuation of this fare type; however, the remainder of the Agreement shall remain in full force and effect; and

WHEREAS, this Agreement is not intended to supersede the separate Memorandum of Understanding between the District and the San Mateo County Human Services Agency for pass-through of State Transit Assistance / Lifeline Transportation Funds.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1. **Placement of Orders for Fare Media; Departments Eligible to Place Orders.**
 - A) Each Department and the District will establish an initial Monthly Pass order. Each Department may adjust the quantity of its order by requesting a change, in writing, submitted to the duly authorized District representative by the 1st of the month in which the order will be fulfilled.
 - B) Local-ride Ticket and Paratransit Ticket Book orders shall be placed with the duly authorized District representative as needed.

2. **Delivery of Fare Media.**
 - A) As long as Monthly Passes are issued by the District, the District will deliver this Fare Media to ordering Departments by the 18th of every month prior to the month for which any included Monthly Passes are valid, which delivery shall be accompanied by a Pass Form with the quantity and serial numbers of the Fare Media enclosed.
 - B) The District will deliver Local-ride Tickets and Paratransit Ticket Books to ordering Departments within five business days from the date the order was placed, which delivery shall be accompanied by a Pass Form with the quantity and serial numbers of the Fare Media enclosed, and an Invoice for the enclosed Fare Media in accordance with the then-current Codified Tariff.

3. **Verification.** Upon receipt of each Fare Media delivery, the receiving Department shall verify the quantity and serial numbers of the Fare Media as indicated on the Pass Form. The Department shall contact the duly authorized District representative within one business day if any discrepancy is found.
4. **Distribution of Fare Media by the County.**
 - A) Monthly Passes may be distributed by the County starting the 21st of the month prior to the month that the pass is valid, through the 9th of the month that the pass is valid.
 - B) Local-ride Tickets and Paratransit Ticket Books may be distributed anytime.
5. **Return of Fare Media.**
 - A) If a Department desires to return Monthly Passes, the following procedures shall apply. The Department shall complete the relevant portion of the Pass Form, or other mutually agreed-upon report, listing the type and quantity of Monthly Passes returned. The County must return the Pass Form and unused passes to the District by the 15th of the month following the month for which the Monthly Passes were valid. Payment for the prior month's Monthly Passes received by the County and not being returned must be submitted in accordance with the following Section 6, Payment, simultaneously with any returns.
 - B) Local-ride Tickets and Paratransit Ticket Books are not subject to return.
6. **Payment; Commission.**
 - A) Payment for Monthly Passes shall be remitted by the deadline for Return of Fare Media provided in Section 5 (A), above. The County shall be responsible for payment for any Monthly Passes received from, and not returned to, the District by such deadline, whether the Monthly Passes are distributed to the County's program participants, held by the County or otherwise lost or misappropriated. Payment for Monthly Passes shall be for the Codified Tariff price thereof; however the County shall retain a commission of 3% of the Codified Tariff price. This 3% commission shall not apply to those Monthly Passes distributed under the Lifeline Transportation Program. Each Department shall indicate upon payment of each invoice how many Monthly Passes were distributed through the Lifeline Transportation Program for the subject month.
 - B) Payment for Local-ride Tickets and Paratransit Ticket Books shall be remitted to the District within 30 days from receipt of the Fare Media and accompanying Invoice. The County shall be entitled to 3% commission for Local-ride Tickets except if distributed under the Lifeline Transportation Program. The County shall be responsible for payment for all Local-ride Tickets and Paratransit Ticket Books received from the District, whether distributed to its program participants, saved for later use, lost or misappropriated.
 - C) The District will suspend fulfilling Fare Media orders to any Department whose account becomes late by more than 45 days until such time that the Department's account is brought current.
7. **Title to Monthly Pass Fare Media; Duty of Care.** Title to all Monthly Passes shall be in the name of the District - and the County shall be in the position of trustee of said Monthly Passes for the District - at all times after the County's receipt of the Monthly Passes until distribution to County program participants or receipt of returned Monthly Passes to the District pursuant to Section 5 of this Agreement. The County shall safeguard Monthly Passes in the care or under the supervision of the County with the

highest degree of care and shall reimburse the District for any loss or damage to such property.

8. **Indemnification.**

The County agrees to indemnify, defend and hold harmless the District, its directors, officers, employees and volunteers from any and all suits, claims, actions, liability or damages arising directly or indirectly from distribution by the County of District Fare Media. This indemnification survives termination of this Agreement.

9. **Security.** As long as the District issues Monthly Passes distributed to and by the County pursuant to this Agreement, the County must provide for the protection of this District property. The District therefore requires the County to obtain the following insurance coverages:

- A) Employee Dishonesty Coverage covering County employees for theft of the District's Monthly Passes in the amount of \$10,000 or a minimum of three times the value of Monthly Passes distributed to the County.
- B) Money and Securities Coverage covering the District's Monthly Passes while on or away from the County's premises against disappearance, theft, and/or robbery in the amount of \$10,000 or a minimum of three times the value of Monthly Passes distributed to County.

Regarding the above coverages:

- i. County shall reimburse the San Mateo County Transit District for any and all losses within the deductible and, for insured losses, the cost to prove the loss including accountants' fees, attorneys' fees, defense costs and any other fees associated with a claim.
- ii. The San Mateo County Transit District shall be named as a Joint Loss Payee on the policy, or the County will provide a separate Client Property Blanket Bond or Third Party Crime coverage naming the San Mateo County Transit District.
- iii. County agrees to maintain the required coverage as long as both the District issues Monthly Passes and this Agreement is in effect.

10. **Inspection and Audit.** District may, by appointment during Department's regular business hours, inspect, check and audit all records and accounts kept or supervised by the County pertaining to this Agreement.

11. **Term; Termination.** The term of this Agreement shall be for successive periods of one month each from the date of this Agreement, subject to termination by at least 30 days' prior notice from either party to the other. Provided, however, that District may immediately terminate this Agreement without notice in the event of any default of the County's payment obligation described in Section 6, above. Further, District may terminate this Agreement immediately for violation of any other provision of this Agreement which is not remedied within 10 days after notice thereof. Within 30 days of termination, the County shall pay for or return to the District all undistributed Fare Media.

12. **Attorneys' Fees.** If suit or collection proceedings are initiated by the District to collect any money or Fare Media due under this Agreement from the County, County shall

pay the District any expenses incurred by the District in instituting and prosecuting such, including reasonable attorneys' fees.

13. **Relationship between the District and County.** This Agreement shall create no relationship between the District and the County other than that of independent contractors except as expressly contemplated in Section 7 of this Agreement. The County shall limit its activities for District to the obligations and duties specified in this Agreement. The County shall have no power to bind the District by contract or otherwise except as specified in this Agreement for the provision of Fare Media. The District reserves no control whatsoever over the employment, discharge or compensation of, or services rendered by, any employee, subordinate, or associate of the County. The District shall not be responsible for the acts or omissions of said employees, subordinates, or associates and the County agrees to indemnify, defend, and hold harmless the district from any and all liability caused by such acts or omissions in relation to the performance of this Agreement.
14. **No Third-party Beneficiaries.** This Agreement is not for the benefit of any person or entity other than the parties.
15. **Assignment.** The County shall not assign any of its rights nor transfer any of its duties or obligations under this Agreement without the prior written consent of the District.
16. **No Waiver.** The District's waiver of any breach or default by the County shall not be a waiver of any other breach or default. If the District consents to an act by the County that requires District's approval, this does not relieve the County from obtaining the District's consent for any other subsequent similar act by the County.
17. **Notices.** All notices required by this Agreement shall be in writing and may be given to the other party by personal delivery or by mailing the notice in a prepaid envelope addressed as follows:

If to the District:
San Mateo County Transit District
1250 San Carlos Ave.
San Carlos, CA 94070-1306
Attn: Rita P. Haskin

If to the County:
County of San Mateo, Human Services Agency
400 Harbor Blvd, Bldg. B
Belmont, CA 94002
Attn: Yim Wong

And/Or:
County of San Mateo Health System
225 W. 37th Avenue, Room 178
San Mateo, CA 94403
Attn: Joshua Andres

The address to which mailings may be made may be changed from time to time by notice mailed as described above. Any notice given by mail shall be deemed given on the day after that on which it is deposited in the United States mail.

18. **Applicable Law.** The County shall comply with all applicable federal, state and local laws and regulation in undertaking the obligations set forth under this Agreement.

This Agreement, its interpretation and all work performed under it, shall be governed by the laws of the State of California.

- 19. **Binding on Successors.** All of the terms, provisions and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.
- 20. **Severability.** If any provision of this Agreement shall be deemed invalid or unenforceable by a court of competent jurisdiction, that provision shall be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement; and in any event, the remaining provision of this Agreement shall remain in full force and effect.
- 21. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties. This Agreement supersedes all prior oral and written communications. Any modification to this Agreement shall be in writing and signed by both parties except for the addition of other County departments as addressed herein.

In WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

COUNTY OF SAN MATEO

SAN MATEO COUNTY TRANSIT DISTRICT

By: _____
Carole Groom,
President, Board of Supervisors

By: _____
Rita P. Haskin
Executive Officer, Customer Service and
Marketing

ATTEST

APPROVED AS TO FORM:

By: _____
Clerk of Said Board

By: _____
Attorney for Agency