



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Adopt resolution authorizing the City Manager to execute an Administrative Fee Agreement between the Sacramento Regional Transit District and the City of Elk Grove

MEETING DATE: April 14, 2021

PREPARED BY: Robert Murdoch, P.E., Public Works Director/
DEPARTMENT HEAD: City Engineer

RECOMMENDED ACTION:

Staff recommends that the City Council adopt a resolution authorizing the City Manager to execute an Administrative Fee Agreement (Agreement) between the Sacramento Regional Transit District (SacRT) and the City of Elk Grove.

BACKGROUND INFORMATION:

The City has administered and maintained fixed-route transit services (known as e-tran) and Americans with Disabilities Act (ADA) paratransit services (known as e-van) since January 2005, and July 2006, respectively. These services were assumed from the Sacramento Regional Transit District (SacRT) and Paratransit, Inc., which had both administered and operated the respective services within the City's jurisdictional boundaries prior to the City taking over their administration.

Historically, the City has used a third-party contractor to directly provide the operating and maintenance staff personnel and functions necessary to implement the e-tran and e-van services, while the planning, development and financial administration of transit service has been maintained by the City. From January 2005, through June 2019, the City contracted with MV Transportation, Inc. (MV) to provide for the City's transit operations and maintenance service functions.

In early 2017, SacRT formally approached the City regarding an offer to operate the existing e-tran and e-van contracted services, with the intent to eventually annex the City's transit services back into SacRT. On July 1, 2019, the City's contracted transit operations and maintenance services were transitioned from MV to SacRT (City Contract Agreement No. C-19-087).

ANALYSIS/DISCUSSION:

The Agreement is one of three Agreements that have been negotiated to finalize annexation terms. The other two agreements will be considered by the City Council under a separate item on this agenda.

The purpose of this Agreement is for SacRT to provide the City of Elk Grove with an annual administrative fee that Elk Grove must use to pay for transit-related expenses including, but not limited to, funding a Transit Liaison staff position, which will perform duties such as the gathering and analysis of transit data, generating transit reports, evaluating ridership and transit needs, and assisting with transit-related projects within Elk Grove.

The annual administrative fee will be set at \$98,180 initially and then adjusted annually to match the percentage increase or decrease in the Transportation Development Act apportionment attributable to Elk Grove.

The effective date of this Agreement will be July 1, 2021. However, this date is dependent on the annexation of Elk Grove transit services into SacRT. If annexation does not occur, this Agreement will be void.

Assuming annexation moves forward, this Agreement will be in effect until one of the following occurs:

1. Elk Grove detaches from the SacRT District
2. Elk Grove, in its sole discretion, determines that the Administrative Fee is no longer needed.
3. City and SacRT mutually agree to terminate the Agreement.

ALTERNATIVE ACTIONS:

The City Council could decide not to approve this Agreement and forego the annual funding provided. Staff does not recommend this option because the City will need to dedicate staff time to work with SacRT on transit-related issues and this Agreement provides the funding needed for that effort.

FISCAL IMPACT:

The City anticipates the need to work closely with SacRT on transit-related issues well into the future. The purpose of the annual Administrative Fee is to fund this effort. While this effort will be ongoing, it will not require the dedication of a fulltime position. After a review of the duties involved, it was determined that dedication of only fifty percent of a full-time City position will be needed and that is how the amount of the Administrative Fee was determined.

ATTACHMENTS:

1. Resolution
2. Administrative Fee Agreement

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADMINISTRATIVE FEE
AGREEMENT BETWEEN THE SACRAMENTO REGIONAL TRANSIT DISTRICT AND
THE CITY OF ELK GROVE**

WHEREAS, the City has administered and maintained fixed-route transit services and Americans with Disabilities Act paratransit services since January 2005 and July 2006, respectively; and

WHEREAS, the City has used a third-party contractor to provide the operating and maintenance personnel and functions necessary to implement these services; and

WHEREAS, in 2017, Sacramento Regional Transit District (SacRT) approached the City regarding an offer to operate existing contracted services with the intent to eventually annex the transit services into the SacRT District; and

WHEREAS, the City's services were transitioned to SacRT in July 2019; and

WHEREAS, the Administrative Fee Agreement is one of three agreements that have been negotiated to finalize annexation terms; and

WHEREAS, the purpose of this agreement is for SacRT to provide the City of Elk Grove an annual administrative fee that Elk Grove must use to pay for transit-related expenses; and

WHEREAS, the annual administrative fee will initially be \$98,180 and then be adjusted annually based on the percentage increase or decrease in Transportation Development Act apportionment for Elk Grove.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby authorizes the City Manager to execute an Administrative Fee Agreement between the Sacramento Regional Transit District (SacRT) and the City of Elk Grove in substantially the form presented with the accompanying staff report.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 14th day of April 2021

BOBBIE SINGH-ALLEN, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

**ADMINISTRATIVE FEE AGREEMENT BETWEEN
REGIONAL TRANSIT AND THE CITY OF ELK GROVE**

THIS ADMINISTRATIVE FEE AGREEMENT (“Agreement”) between **SACRAMENTO REGIONAL TRANSIT DISTRICT**, a public corporation, herein referred to as “SacRT,” and **CITY OF ELK GROVE**, a municipal corporation, herein referred to as “CITY,” is made and entered into on _____, 20__ (“Effective Date”).

1. PURPOSE

The purpose of this Agreement is for SacRT to provide CITY an annual administrative fee that CITY must use to pay for transit related expenses including, but not limited to, funding a Transit Liaison staff position to be employed by CITY. The Transit Liaison will serve as the liaison between SacRT and CITY on transit related matters following annexation of CITY into the SacRT transit district. The Transit Liaison will perform transit-related duties for CITY, including, without limitation, assisting with the gathering and analysis of data, generating transit reports, evaluating ridership and transit needs, and assisting with transit related projects within CITY’s jurisdiction. SacRT will be provided access to the Transit Liaison’s reports and work product and the Transit Liaison will provide assistance to SacRT with transit related projects within CITY. This position will provide support to SacRT’s transit planning and public outreach efforts for promoting transit in CITY. While SacRT will have access to the Transit Liaison’s work product and will work with the Transit Liaison, the Transit Liaison is a CITY employee and SacRT will not control the Transit Liaison’s wages, hours or working conditions. The Transit Liaison’s work schedule, working conditions, training, discipline, and any other factors generally controlled by an employer will be exclusively controlled by CITY and Transit Liaison will not be SacRT’s employee.

2. TERM

The term of this Agreement will commence immediately upon annexation of CITY into the SacRT transit district (“Effective Date”), and continue until the sooner of, (1) CITY detaches from the SacRT district, (2) CITY, in its sole discretion, in consultation with SacRT, determines that the Administrative Fee is no longer necessary, and/or (3) CITY and SacRT mutually agree, in a writing signed by each party’s authorized representative, to terminate this Agreement. In the event CITY does not annex into the SacRT transit district, this Agreement shall be void and have no effect.

3. COMPENSATION

Within thirty (30) days of the Effective Date of this Agreement, and annually thereafter within thirty (30) days of the anniversary of the Effective Date, SacRT must submit to CITY an Administrative Fee payment, in the amount of ninety-eight thousand one hundred eighty dollars (\$98,180). The initial annual payment of \$98,180 will be the base fee amount, which will be adjusted annually after the first year to match the percentage increase or decrease of the budgeted Transportation Development Act (TDA) apportionment for the CITY for that fiscal year. Consequently, in FY 2022/2023, the base amount will be \$98,180 adjusted up or down based on the TDA apportionment percentage for CITY for FY 2022/2023 and revised in accordance with any revised apportionments. If the Effective Date of this Agreement

commences after July 1st of the current year, CITY shall invoice SacRT on a pro-rata basis for the remaining term of the fiscal year (July 1 – June 30).

The funds paid by SacRT to CITY under this Agreement must be used by CITY annually to fund transit related costs including the CITY’s Transit Liaison, transit improvement planning, development, services, amenities, implementation and/or other transit related activities, including capital improvements. Upon written request by SacRT or its auditors, CITY may be required to provide documentation that the funds were expended on eligible transit related costs.

4. NOTICES

All notices and other communications under this Agreement must be in writing and will be deemed to have been duly given (i) on the date of delivery, if delivered before 2:00 p.m. personally to the party to whom notice is given, or (ii) at the earlier of actual receipt or the fifth business day following deposit in the United States mail, postage prepaid. Notices and other communications must be directed to the parties at the addresses shown below. A party may change its person designated to receive notices, or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Article.

To CITY:	City Manager City of Elk Grove 8401 Laguna Palms Way Elk Grove, CA 95758 Phone: 916.478.2201	Copy to:	Public Works Director City of Elk Grove 8401 Laguna Palms Way Elk Grove, CA 95758 Phone: 916.687.3030
----------	--	----------	---

To SacRT:	General Manager/CEO P.O. Box 2110 Sacramento, CA 95812-2110 Phone 916.321.2811	Copy to:	
-----------	---	----------	--

5. INDEMNIFICATION

Pursuant to Section 895.4 of the California Government Code: (1) each party, as indemnitor, must hold harmless, defend, and indemnify the other party, as indemnitee, against any claim, loss, damage, expense, or liability caused by the negligent, wrongful or unlawful act or omission of the indemnitor occurring in the performance of this Agreement, and (2) if a party is held liable upon any judgment for damages caused by negligent, wrongful or unlawful act or omission occurring in the performance of this Agreement and that party pays in excess of its share based upon principles of comparative fault, that party is entitled to a contribution from the other party to the extent of the other party’s comparative fault. If any excess amount remains outstanding after the foregoing contribution is made, the other party will contribute a fraction of that excess equal to: its percentage of fault divided by the total percentage of fault of the parties to this Agreement. Unless and until a judicial determination is made that the indemnitor is not obligated to indemnify the indemnitee as provided for herein, or as otherwise agreed by the parties, the indemnitor shall remain obligated to defend, indemnify, and hold harmless the indemnitee, its officers, officials, employees, volunteers, and agents pursuant to this Agreement. The provisions of this section shall survive termination or suspension of this Agreement.

It is the intent of the parties that, where negligence is determined to have been contributory, principles of comparative negligence will be followed and each party must bear the proportionate cost of any loss, damage, expense and liability attributable to that party's negligence.

The parties acknowledge and agree that the Transit Liaison is not a SacRT employee, therefore, CITY will fully indemnify SacRT for any employment based claims filed by or against the Transit Liaison, including but not limited to, worker's compensation, wage and hour claims, or employment tort claims filed against SacRT related to the Transit Liaison position.

6. NONWAIVER

Waiver of any breach or default hereunder will not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

7. MODIFICATION

No waiver, alteration, modification, or termination of this Agreement will be valid unless made in writing and signed by the authorized parties hereof.

8. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute but one and the same instrument.

9. CAPTIONS

The heading or captions to the Articles of this Agreement are not a part of the Agreement and will have no effect upon the construction or interpretation of any part thereof.

10. SEVERABILITY

If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of the Agreement will remain in effect.

11. SURVIVORSHIP

The obligations that either party is required to perform during the term of this Agreement will survive the expiration or other termination of this Agreement to the extent that those obligations remain unperformed as of the expiration or termination of this Agreement.

12. SUCCESSORS AND ASSIGNS

This Agreement will be binding upon and the benefits of this Agreement will inure to the successors and assigns of the parties hereto.

13. EFFECT

The effect of this Agreement is to provide an opportunity for SacRT and CITY to develop a long term agreement that will, among other things, coincide with fiscal year reporting, incorporate Connect Card data, and analyze impacts of the CRC and Franklin Boulevard light rail stations to both systems.

14. AMBIGUITIES

The parties have each carefully reviewed this Agreement and have agreed to each condition, term, and provision of this Agreement. No ambiguity is presumed to be construed against either party.

15. AUTHORITY TO BIND

Each of the signatories to this Agreement represent that they are authorized to sign this Agreement on behalf of such party and that all approvals, resolutions and consents that must be obtained to bind such party have been obtained and that no further approvals, acts, or consents are required to bind such party to this Agreement.

16. ENTIRE AGREEMENT

This Agreement, including its Exhibits, contains the entire agreement between SacRT and CITY in connection with the subject matter hereof and this Agreement supersedes and replaces any and all prior and contemporaneous agreements, understandings, and communications between the parties, whether oral or written with regard to this subject matter hereof or any course of dealing, course of performance, or usage of the trade. Parol evidence shall be inadmissible to show agreement between SacRT and CITY to any term or condition contrary to or in addition to the terms and conditions contained in this Agreement. Both parties acknowledge that each has not relied on any promise, representation or warranty, express or implied, not contained in this Agreement.

17. MINOR MODIFICATIONS/CHANGES TO CONTRACT

Both SacRT's General Manager, or his/her designee, and CITY's City Manager, or his/her designee, shall have the ability to make minor modifications to this Agreement as necessary to reflect any changes to SacRT/CITY transit service schedules, route modifications, or transfer locations. However, any changes to the overall cost or compensation required by SacRT, to be paid by CITY, shall require approval from CITY's City Council.

[SIGNATURES CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the day and year first hereinabove appearing.

CITY OF ELK GROVE

SACRAMENTO REGIONAL TRANSIT DISTRICT

By: _____
JASON BEHRMANN
City Manager

By: _____
STEVE MILLER , Chair

Attest:

By: _____
HENRY LI
General Manager/CEO

By: _____
JASON LINDGREN
City Clerk

Approved as to Form:

Approved as to Content:

By: Jonathan P. Hobbs
JONATHAN P. HOBBS
City Attorney

By: _____
LAURA HAM
VP of Planning & Accountability

Approved as to Funding:

By: _____
BRENT BERNEGGER
VP of Finance/CFO

Approved as to Legal Form:

By: _____
OLGA SANCHEZ-OCHOA
General Counsel