

City of Houston, Texas Ordinance No. 2020-540

**AN ORDINANCE APPROVING AND AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF HOUSTON AND THE TEXAS DEPARTMENT OF PUBLIC SAFETY FOR ENFORCEMENT OF CERTAIN WARRANTS THROUGH THE FAILURE TO APPEAR PROGRAM FOR THE MUNICIPAL COURTS DEPARTMENT; CONTAINING PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.**

\* \* \* \*

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

Section 1. The City Council hereby approves and authorizes the contract, agreement or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents.

Section 2. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement, agreements or other undertaking described in the title of this ordinance, in the event of changed circumstances.

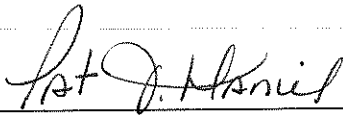
Section 3. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contract without further authorization from Council.

Section 4. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 17th day of June, 2020.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor of the City of Houston, Texas

  
 City Secretary

(Prepared by Legal Dept.   
 (ELN:dlg 5/18/2020) Assistant City Attorney  
 (Requested by J. Elaine Marshall, Director and Presiding Judge, Municipal Courts Department)  
 (L.D. File No. 0442000005001)

| AYE     | NO      |                        |
|---------|---------|------------------------|
| ✓       |         | <b>MAYOR TURNER</b>    |
| ....    | ....    | <b>COUNCIL MEMBERS</b> |
| ✓       |         | PECK                   |
| ✓       |         | DAVIS                  |
|         |         | KAMIN                  |
|         |         | EVANS-SHABAZZ          |
| ✓       |         | MARTIN                 |
|         | ✓       | THOMAS                 |
| ✓       |         | TRAVIS                 |
| ✓       |         | CISNEROS               |
| ✓       |         | GALLEGOS               |
|         | ✓       | POLLARD                |
| ✓       |         | MARTHA CASTEX-TATUM    |
| ✓       |         | KNOX                   |
| ✓       |         | ROBINSON               |
| ✓       |         | KUBOSH                 |
|         | ✓       | PLUMMER                |
| ✓       |         | ALCORN                 |
| CAPTION | ADOPTED |                        |

CAPTION PUBLISHED IN DAILY COURT  
 REVIEW  
 DATE:

JUN 23 2020

**Interlocal Cooperation Contract  
Failure to Appear (FTA) Program**

State of Texas  
County of Harris

**I. PARTIES AND AUTHORITY**

This Interlocal Cooperation Contract (Contract) is entered into between the Department of Public Safety of the State of Texas (DPS), an agency of the State of Texas and the Municipal Court of the [City or County] of Houston (Court), a political subdivision of the State of Texas, referred to collectively in this Contract as the Parties, under the authority granted in Tex. Transp. Code Chapter 706 and Tex. Gov't Code Chapter 791 (the Interlocal Cooperation Act).

**II. BACKGROUND**

As permitted under Tex. Transp. Code § 706.008, DPS contracts with a private vendor (Vendor) to provide and establish an automated FTA system that accurately stores information regarding violators subject to the provisions of Tex. Transp. Code Chapter 706. DPS uses the FTA system to properly deny renewal of a driver license to a person who is the subject of an FTA system entry.

**III. PURPOSE**

This Contract applies to each FTA Report submitted by the Court to DPS or its Vendor and accepted by DPS or its Vendor.

Court will supply information to DPS, through its Vendor, that is necessary to deny renewal of the driver license of a person who fails to appear for a complaint or citation or fails to pay or satisfy a judgment ordering payment of a fine and cost in the manner ordered by the Court in a matter involving any offense that Court has jurisdiction of under Tex. Code Crim. Proc. Chapter 4.

**IV. PERIOD OF PERFORMANCE**

This Contract will be effective on the date of execution and will automatically renew on the anniversary date of execution for up to three additional years unless terminated earlier.

**V. COURT RESPONSIBILITIES**

**A. Written warnings**

A peace officer authorized to issue citations within the jurisdiction of the Court must issue a written warning to each person to whom the officer issues a citation for a traffic law violation. This warning must be provided in addition to any other warnings required by law. The warning must state in substance that if the person fails to appear in court for the prosecution of the offense or if the person fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the Court, the person may be denied

renewal of the person's driver license. The written warning may be printed on the citation or on a separate instrument.

#### **B. FTA Report**

An FTA Report is a notice sent by Court requesting a person be denied renewal in accordance with this Contract. The Court may submit an FTA Report to Vendor if a person fails to appear or fails to pay or satisfy a judgment as required by law. There is no requirement that a criminal warrant be issued in response to the person's failure to appear. The Court must make reasonable efforts to ensure that all FTA Reports are accurate, complete, and non-duplicative. The FTA Report must include the following information:

1. the jurisdiction in which the alleged offense occurred;
2. the name of the court submitting the report;
3. the name, date of birth, and Texas driver license number of the person who failed to appear or failed to pay or satisfy a judgment;
4. the date of the alleged violation;
5. a brief description of the alleged violation;
6. a statement that the person failed to appear or failed to pay or satisfy a judgment as required by law;
7. the date that the person failed to appear or failed to pay or satisfy a judgment; and
8. any other information required by DPS.

#### **C. Clearance Reports**

The Court that files the FTA Report has a continuing obligation to review the FTA Report and promptly submit appropriate additional information or reports to the Vendor. The clearance report must identify the person, state whether or not a fee was required, and advise DPS to lift the denial of renewal and state the grounds for the action. All clearance reports must be submitted immediately, but no later than two business days, from the time and date that the Court receives appropriate payment or other information that satisfies the person's obligation to that Court.

To the extent that a Court uses the FTA system by submitting an FTA Report, the Court must collect the statutorily required \$10.00 reimbursement fee. If the person is acquitted of the underlying offense for which the original FTA Report was filed, the Court will not require payment of the reimbursement fee.

Court must submit a clearance report for the following circumstances:

1. the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;
2. the dismissal of the charge for which the warrant of arrest was issued or judgment arose;
3. the posting of a bond or the giving of other security to reinstate the charge for which the warrant was issued;
4. the payment or discharge of the fine and cost owed on an outstanding judgment of the Court; or

5. other suitable arrangement to pay the fine and cost within the Court's discretion.

DPS will not continue to deny renewal of the person's driver license after receiving notice from the Court that the FTA Report was submitted in error or has been destroyed in accordance with the Court's record retention policy.

**D. Quarterly Reports and Audits**

Court must submit quarterly reports to DPS in a format established by DPS.

Court is subject to audit and inspection at any time during normal business hours and at a mutually agreed upon location by the state auditor, DPS, and any other department or agency, responsible for determining that the Parties have complied with the applicable laws. Court must provide all reasonable facilities and assistance for the safe and convenient performance of any audit or inspection.

Court must correct any non-conforming transactions performed by the Court, at its own cost, until acceptable to DPS.

Court must keep all records and documents regarding this Contract for the term of this Contract and for seven years after the termination of this Contract.

**E. Accounting Procedures**

Court must keep separate, accurate, and complete records of the funds collected and disbursed and must deposit the funds in the appropriate municipal or county treasury. Court may deposit such fees in an interest-bearing account and retain the interest earned on such accounts for the Court.

Court will allocate \$6.00 of each \$10.00 reimbursement fee received for payment to the Vendor and \$4.00 for credit to the general fund of the municipal or county treasury.

**F. Non-Waiver of Fees**

Court will not waive the \$10.00 reimbursement fee for any person that has been submitted on an FTA Report, unless the person is deemed to be indigent, or the person is acquitted of the charges for which the person failed to appear.

Failure to comply with this section will result in: (i) termination of this Contract for cause; and (ii) the removal of all outstanding entries of the Court in the FTA Report, resulting in the lifting of any denied driver license renewal status from DPS.

**G. Litigation Notice**

The Court must make a good-faith attempt to immediately notify DPS in the event that the Court becomes aware of litigation in which this Contract or Tex. Transp. Code Chapter 706 is subject to constitutional, statutory, or common-law challenge, or is struck down by judicial decision.

**VI. PAYMENTS TO VENDOR**

Court must pay the Vendor a fee of \$6.00 per person for each violation which has been reported to the Vendor and for which the Court has subsequently collected the statutorily required \$10.00 reimbursement fee. In the event that the person has been acquitted of the underlying charge or is indigent, no payment will be made to the Vendor or required of the Court.

Court agrees that payment will be made to the Vendor no later than the last day of the month following the close of the calendar quarter in which the payment was received by the Court.

DPS will not pay Vendor for any fees collected by Court.

**VII. GENERAL TERMS AND CONDITIONS**

- A. Compliance with Law.** The Court understands and agrees that it will comply with all local, state, and federal laws in the performance of this Contract, including administrative rules adopted by DPS.
- B. Contract Amendment.** DPS and Court may amend this Contract through a written amendment signed by an authorized signatory on behalf of the respective party.
- C. Notice.** The respective party will send the other party notice as noted in this section.

| Court    |                                               | Department of Public Safety                                                            |  |
|----------|-----------------------------------------------|----------------------------------------------------------------------------------------|--|
| Attn.:   | Director & Presiding Judge J. Elaine Marshall | Enforcement & Compliance Service                                                       |  |
| Address: | 1400 Lubbock                                  | 5805 North Lamar Blvd.                                                                 |  |
| Address: | Houston, Texas 77002                          | Austin, Texas 78752-0001                                                               |  |
| Fax:     |                                               | (512) 424-5311 [fax]                                                                   |  |
| Email:   |                                               | <a href="mailto:Driver.Improvement@dps.texas.gov">Driver.Improvement@dps.texas.gov</a> |  |
| Phone:   |                                               | (512) 424-7172                                                                         |  |

- D. Termination.** Either party may terminate this Contract with 30 days' written notice. DPS may also terminate this Contract for cause if Court doesn't comply with Section V.F., *Non-Waiver of Fees*. After termination, the Court has a continuing obligation to report dispositions and collect fees for all violators in the FTA system at the time of termination. Failure to comply with the continuing obligation to report will result in the removal of all

outstanding entries of the Court in the FTA Report, resulting in the lifting of any denied driver license renewal status from DPS.

**VIII. CERTIFICATIONS**

The Parties certify that (1) the Contract is authorized by the governing body of each party; (2) the purpose, terms, rights, and duties of the Parties are stated within the Contract; and (3) each party will make payments for the performance of governmental functions or services from current revenues available to the paying party.

The undersigned signatories have full authority to enter into this Contract on behalf of the respective Parties.

**Court\***

**Department of Public Safety**

\_\_\_\_\_  
**Authorized Signature**

\_\_\_\_\_  
**Driver License Division Chief or Designee**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

\*An additional page may be attached if more than one signature is required to execute this Contract on behalf of the Court. Each signature block must contain the person's title and date.

**ATTEST/SEAL:**

**CITY OF HOUSTON, TEXAS**

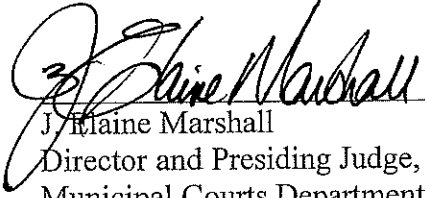
Signed by:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

**APPROVED:**

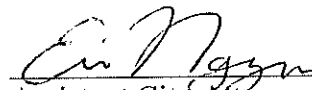
**COUNTERSIGNED BY:**

  
\_\_\_\_\_  
J. Elaine Marshall  
Director and Presiding Judge,  
Municipal Courts Department

\_\_\_\_\_  
City Controller

**DATE COUNTERSIGNED:**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Assistant City Attorney  
L.D. File No. 0442000005001

\_\_\_\_\_