



Staff Summary Report

Council Meeting Date: April 9, 2009

Agenda Item Number: _____

SUBJECT: Request approval of a five (5) year intergovernmental agreement with the Regional Public Transportation Authority (RPTA) for purchase and supply of public transit services.

DOCUMENT NAME: 20090409pwgj01 TRANSPORTATION PLANNING (1101-01)

SUPPORTING DOCS: Yes

COMMENTS: Cost to Tempe is \$3,452,821 less fare revenue collected. RPTA shall pay City \$16,312,011 less fare revenue collected.

PREPARED BY: Greg Jordan, Transit Administrator, 858-2094

REVIEWED BY: Carlos de Leon, Deputy Public Works Manager, 350-8527
Glenn Kephart, Public Works Manager, 350-8205

LEGAL REVIEW AS

TO FORM BY : Teresa Voss, Assistant City Attorney, 350-8814

FISCAL NOTE: Funding for this service is provided in cost center 3914 / account codes 6619 and 6643.

RECOMMENDATION: Approve five (5) year intergovernmental agreement with the RPTA for purchase and supply of public transit services.

ADDITIONAL INFO: The five (5) year intergovernmental agreement provides funding for and facilitates the supply of local and regional transit and continues a long-standing partnership between the City of Tempe and the Regional Public Transportation Authority (RPTA). The agreement stipulates four (4) methods for the funding, purchase, and supply of transit services. Figures stated below are gross amounts that include fare revenue estimates. Actual payments between the agencies will be based on net costs:

1. RPTA provides Proposition 400 funding for and operates bus service on Tempe's behalf (Red Line/40-Apache, 61-Southern, 72-Rural/Scottsdale, 81-McClintock, and multiple Express routes). No funding transfer required. Value of service to Tempe is \$1,505,687 (Schedule B).
2. Tempe purchases transit service from RPTA on bus routes that serve Tempe (30-University, 45-Broadway, 61-Southern, and 81-McClintock). Gross cost to Tempe is \$3,452,821 less fare revenue collected (Schedule C).
3. RPTA provides Proposition 400 funding to Tempe for service the city itself will operate (72-Rural/Scottsdale, 81-McClintock, and 520/521 Express routes). Gross revenue supplied by RPTA to Tempe is \$2,963,415 less credits and fare revenue collected (Schedule C continued).
4. RPTA purchases bus service from Tempe on behalf of neighboring cities (Chandler, Fountain Hills, Gilbert, Guadalupe, Mesa, Phoenix, and Scottsdale). Gross revenue supplied by RPTA to Tempe is \$13,348,596 less credits and fare revenue collected (Schedule D).

TRANSIT SERVICE AGREEMENT
(The "Agreement")

169-31-2009

BETWEEN: THE City of Tempe, a Municipal Corporation (hereinafter referred to as the "CITY")

AND: THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY (of Maricopa County), a public agency established pursuant to A.R.S. Section 48-5101, et seq., (hereinafter referred to as the "RPTA").

WHEREAS: The RPTA is authorized to contract for the provision of public transportation services pursuant to A.R.S. Sections 48-5122 and 48-5123; and

WHEREAS: The CITY is authorized to contract for the provision of public transportation services pursuant to the City of Tempe Code; and

WHEREAS: The CITY and the RPTA together with other Maricopa County cities desire to provide a regional public transportation system; and

WHEREAS: CITY has been authorized by its CITY Council and RPTA has been authorized by its Board of Directors to enter into this Agreement; and

WHEREAS: The RPTA has established a network of regional public transportation services within Maricopa County; and

WHEREAS: The CITY, a municipal corporation, and the RPTA, a public agency, have authority in accordance with A.R.S. Section 11-952 to enter into intergovernmental agreements;

NOW, THEREFORE IT IS AGREED by and between the parties, as follows:

DEFINITIONS:

Regional Transit Services: As described in Schedule A, (as may be amended with RPTA approval from time to time during the term of this Agreement), means a public system for the transport of passengers by any means.

Service specifications: A detailed description of the Regional Transit Services funded by RPTA and covered by the Agreement, including:

- a street by street description of routes;
- times of operations;
- route name and number;

- frequency;
- days of operation;
- first and last trip times;
- connections with other routes;
- timing points;
- boarding and alighting policies; and
- estimates of revenue hours and miles on weekly hours.

Transit stop: any location or structure and any ancillary facilities the purpose of which is to enable passengers to board or alight from transit vehicles.

SECTION 1: SERVICE AREA AND TRANSIT SERVICES

The boundaries of the CITY which are lawfully in effect on the 1st day of July, 2008 shall designate and define the limits of the service area for the purposes of the Agreement, and the services specified in Schedule A shall be operated during the term of this Agreement.

SECTION 2: TERM AND RENEWAL

This agreement shall commence on July 1, 2008, and shall terminate on June 30, 2013, unless terminated earlier by one of the parties, in which case, written notice of termination shall be required no less than thirty (30) days prior to the proposed termination date. Funding levels for this Agreement shall be determined annually and shall be incorporated into this Agreement through the amendment of Schedules A, B C, and D. Upon termination of this Agreement any and all property used in connection with this Agreement will be promptly returned to the party holding title thereto.

SECTION 3: RPTA RESPONSIBILITY

- 3.1 With respect to Regional Transit Services, the RPTA shall:
- a. approve annual operating budgets for the provision of Regional Transit Service hereunder;
 - b. recommend service specifications (as contained in Schedule A) in consultation with the CITY;
 - c. determine, set and amend the fare structure for transit services provided hereunder; provided, however, CITY shall have discretion to implement local fare programs (e.g. free fare for youth program) for its residents as directed by the City Council prior to any local fare program being implemented, RPTA and CITY shall mutually agree to the terms of such fare program, including financial remuneration to funding entities, as appropriate.
 - d. recommend (subject to CITY approval) functional standards for construction and establishment of transit stops and capital projects, such as park and ride and transit exchange facilities. Provided, however, CITY shall not be bound by such recommendation and shall act upon its independent judgment and discretion;
 - e. coordinate the negotiation of operating agreements with operating companies for the provision of transit service specifically designated hereunder as the operational responsibility of the RPTA;
 - f. provide marketing and merchandising of transit service provided hereunder;

- g. provide administrative services, equipment, personnel and management services necessary to provide the CITY with local bus scheduled, fixed route transit service specifically designated hereunder as the operational responsibility of the RPTA. Scheduled transit services will be delivered by independent contractor(s) selected and approved by the RPTA in consultation with member cities. The RPTA shall ensure that the contractor(s) are duly qualified, licensed, trained, and have adequate equipment to perform services under this Agreement;
 - h. provide monthly reports on ridership, revenue collected, and applicable performance standards; and
 - i. provide professional staff, as requested, to assist the CITY in developing, evaluating and adjusting services.
- 3.2 RPTA shall pay City, in accordance with Schedule D, for a share of expenses incurred by CITY in operation of bus routes as requested by RPTA.
- 3.3 At the end of each quarter, RPTA will conduct a financial reconciliation of all costs of service (including any administrative fees) for informational purposes only. At the end of the fiscal year, a final reconciliation will be performed by RPTA and submitted to the CITY. RPTA shall use its best effort to submit the final reconciliation within sixty (60) calendar days of the end of the fiscal year. If it is found that City has paid more than its share of the costs of service, RPTA shall refund such overpayment to City within thirty (30) days of delivering the reconciliation notice to the City. Conversely, if City has underpaid its share of the costs of services, the City shall pay the RPTA such underpayment within (30) days of receipt of reconciliation notice.
- 3.4 Operations
- RPTA shall notify CITY of authenticated operations incidents as soon as practicable.
- 3.5 Marketing
- As directed by CITY, RPTA shall place and permit distribution of all customer educational, promotional and collateral material developed by CITY on to any route funded, in whole or in part, by CITY.
- 3.6 Auditing of Records
- RPTA, the Federal Transit Administration, the Arizona Dept. of Transportation, the Comptroller General of the United States, or any designee may conduct service, performance, and financial audits for service operated by the CITY and funded in whole or in part by or through RPTA. RPTA or its designee shall have access to any books, documents, papers, and records which are pertinent to this Agreement for the purpose of making an audit, examination, excerpts and transcriptions. All required records shall be maintained for a minimum of five (5) years after all pending matters are closed.
- 3.7 As reasonably required by CITY, RPTA shall furnish all necessary transit rate information used to formulate the total cost and per revenue mile rate charged by RPTA for the present year and following fiscal year's transit service. This information shall be provided to CITY no later than November 30th of each year. If RPTA cannot adhere to the November 30th annual

deadline, RPTA shall send a letter to CITY stating its inability to provide a timely contract estimate for the following fiscal year, its reasons for delay, and its estimated time of delivery of the contract estimate to CITY.

- 3.8 RPTA shall provide financial and operational data to the CITY with respect to all transit services funded hereunder. The RPTA shall provide CITY on a quarterly basis, data indicating the City's performance in meeting the target performance goals as outlined in the Service Effectiveness and Efficiency Study as approved by the RPTA Board on June 8, 2007 for all regional fixed route and paratransit transportation services. Specifically the RPTA shall provide operational, service effectiveness data to CITY on a quarterly basis as outlined in Exhibit A hereto. RPTA shall also provide monthly the total boardings by route and jurisdiction; and fare type paid. RPTA shall provide all data to the CITY in a timely manner. Quarterly data shall be provided within 30 days following the end of the applicable quarter and monthly data shall be provided within 30 days following the end of the applicable month.

In addition to other data already being provided, the following data for the services funded hereunder shall be submitted monthly to CITY:

- Miles operated by route by jurisdiction
- Miles between mechanical failures
- Scheduled maintenance as a percentage of all maintenance activity
- Unscheduled maintenance as a percentage of all maintenance activity
- PMI schedule adherence
- Number of deferred maintenance items in excess of 30 days
- On-time performance
- Customer comments per 100,000 boardings
- Missed miles by route
- Missed Trips

SECTION 4: CITY RESPONSIBILITY

4.1(a). The CITY expressly acknowledges, understands and agrees that:

- (i). any recommendation provided by RPTA to the CITY pursuant to this Agreement or otherwise (including, but not limited to, any recommended service specifications or functional standards for construction and establishment of transit stops and any capital project) are simply general recommendations that the RPTA makes available to certain political subdivisions of the State of Arizona;
- (ii). all such recommendations must be tailored to the specific requirements of the CITY;
- (iii). the RPTA makes no representation or warranty to CITY that any such representation is sufficient or adequate to meet the specific requirements of the CITY; and
- (iv). it is the CITY's sole responsibility to review, approve or modify as appropriate any recommendation of the RPTA hereunder, including (but not limited to) any recommendation concerning pedestrian and traffic control.

- a. With respect to services provided hereunder, the CITY shall provide traffic control and transit priority measures such as turning movements, on CITY streets on regular routes;
 - b. The CITY shall purchase and install bus stop signs and associated amenities;
 - c. The CITY shall provide advice to the RPTA and to any operator providing service required by this Agreement in the preparation and amendment of service plans;
 - d. Coordinate the negotiation of operating agreements with operating companies for the provision of transit service specifically designated hereunder as the operational responsibility of the CITY;
 - e. Provide administrative services, equipment, personnel and management services necessary to provide the RPTA with local bus scheduled, fixed route transit service specifically designated hereunder as the operational responsibility of the CITY. Scheduled transit services will be delivered by independent contractor(s) selected and approved by the City in consultation with RPTA. The City shall ensure that the contractor(s) are duly qualified, licensed, trained, and have adequate equipment to perform services under this Agreement; and
 - f. Provide monthly reports on ridership, revenue collected, and applicable performance standards.
- 4.2 The CITY shall provide reasonable financial and operational data to the RPTA with respect to all regional transportation services, as requested from time to time.
- 4.3 CITY shall expend a certain percent of its Local Transportation Assistance Funds (LTAF) on transit as required by ARS Section 48-5104 and as referenced in Schedule B.
- 4.4 The CITY shall pay the RPTA monthly, in accordance with Schedules C, for a share of expenses incurred by the RPTA in the operation of bus routes as requested by the CITY.
- 4.5 Provide a written ninety (90) calendar day notice for major service changes.
- 4.6 The CITY is responsible for making payment on or before July 1st for each fiscal year set forth on Schedule C, and as amended each fiscal year. In the event that there is a disagreement with the proposed rate, the City shall make the payment at the rate for the prior fiscal year until such time that the disagreement can be resolved
- 4.7 At the end of each quarter, CITY will conduct a financial reconciliation of all costs of service (including any administrative fees) for informational purposes only. At the end of the fiscal year, a final reconciliation will be performed by CITY and submitted to the RPTA. CITY shall use its best effort to submit the final reconciliation within sixty (60) calendar days of the end of the fiscal year. If it is found that RPTA has paid more than its share of the costs of service, CITY shall refund such overpayment to RPTA within thirty (30) days of delivering the reconciliation notice to the RPTA. Conversely, if RPTA has under paid its share of the costs of services, the RPTA shall pay the CITY such underpayment within (30) days of receipt of reconciliation notice.

4.8 Auditing of Records

The CITY, the Federal Transit Administration, the Arizona Dept. of Transportation, the Comptroller General of the United States, or any designee may conduct service, performance, and financial audits for service operated by the RPTA and funded in whole or in part by or through CITY. CITY or its designee shall have access to any books, documents, papers, and records which are pertinent to this Agreement for the purpose of making an audit, examination, excerpts and transcriptions. All required records shall be maintained for a minimum of five (5) years after all pending matters are closed.

4.9 Transit Life Cycle Program

City shall comply with all applicable laws, ordinances, regulations and codes of the federal, state and local governments. In performing hereunder, CITY shall adhere to RPTA's Transit Life Cycle Program and its approved policies, as they may be amended from time to time, (collectively referred to as the "TLCP").

- 4.10 As reasonably required by RPTA, City shall furnish all necessary transit rate information used to formulate the total cost and per revenue mile rate charged by City for the present year and following fiscal year's transit service. This information shall be provided to RPTA no later than November 30th of each year. Failure to adhere to this schedule may cause agreements to be issued to affected cities later than the mutually agreed upon schedule committed to by RPTA, its members and regional transit operators. If City cannot adhere to the November 30 annual deadline, City shall send a letter to RPTA and all RPTA member agencies stating its inability to provide a timely contract estimate for the following fiscal year, its reasons for delay, and its estimated time of delivery of the contract estimate to RPTA.

4.11 Marketing

As directed by RPTA, CITY shall place and permit distribution of all customer educational, promotional and collateral material developed by RPTA on to any route funded, in whole or in part, by RPTA.

4.12 Funding Credit

City shall, to the best of its ability, provide credit to Proposition 400 and/or the RPTA, for any route funded in whole or in part by RPTA. This credit shall be referenced as appropriate in any and all publications, passenger notices, media correspondence or advertising.

4.13 Financial and Operational Data

The City shall provide financial and operational data to the RPTA with respect to all transit services funded hereunder. The City shall provide RPTA on a quarterly basis, data indicating the City's performance in meeting the target performance goals as outlined in the Service Effectiveness and Efficiency Study as approved by the RPTA Board on June 8, 2007 for all regional fixed route and paratransit transportation services. Specifically the

City shall provide operational, service effectiveness data to RPTA on a quarterly basis as outlined in Exhibit A hereto. City shall also provide monthly the total boardings by route and jurisdiction; and fare type paid. City shall provide all data to the RPTA in a timely manner. Quarterly data shall be provided within 30 days following the end of the applicable quarter and monthly data shall be provided within 30 days following the end of the applicable month.

In addition to other data already being provided, the following data shall be submitted monthly to RPTA:

- Miles operated by route by jurisdiction
- Miles between mechanical failures
- Scheduled maintenance as a percentage of all maintenance activity
- Unscheduled maintenance as a percentage of all maintenance activity
- PMI schedule adherence
- Number of deferred maintenance items in excess of 30 days
- On-time performance
- Customer comments per 100,000 boardings
- Missed miles by route
- Missed Trips

Further, as reasonably required by RPTA, City shall furnish all necessary transit rate information used to formulate the total cost and per revenue mile rate charged by City for the present year's and following fiscal year's transit service. This information shall be provided to RPTA no later than January of each year. Failure to adhere to this schedule may cause agreements to be issued to affected cities later than the mutually agreed upon schedule committed to by RPTA, its members and regional transit operators. If City cannot adhere to the January 5th annual deadline, City shall send a letter to RPTA and all RPTA member agencies stating its inability to provide a timely contract estimate for the following fiscal year, its reasons for delay, and its estimated time of delivery of the contract estimate to RPTA.

4.14 Operations

City shall notify RPTA of authenticated operations incidents as soon as practicable.

- 4.15 CITY shall not make changes to routes funded by RPTA without first apprising RPTA of the suggested route change(s). CITY shall advise RPTA of suggested route changes as soon as practicable but not less than ninety (90) days prior to the implementation date for the recommended route change. CITY shall not be permitted to reallocate funding of RPTA funded routes or route portions without prior approval.

SECTION 5:

5.1 Records

The Federal Transit Administration (FTA), the Arizona Department of Transportation, the Comptroller General of the United States, or any designee, including RPTA, shall have access to any books, documents, papers and records which are pertinent to this Agreement for the

purpose of making audit, examination, excerpts and transcriptions. All required records shall be maintained for a minimum of three years after all pending matters are closed.

5.2 Covenant Against Contingent Fees

Both parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of Congress, CITY Council, the RPTA Board or any employee of CITY or RPTA, has any interest, financially or otherwise, in this Agreement.

5.3 Alteration in Character of Work

Minor alterations in the character of work shall be authorized in writing by RPTA and acknowledged by CITY by letter.

5.4 Termination

RPTA and CITY hereby agree to full performance of the covenants and obligations contained herein, except that each reserves the right, at its option and sole discretion, to terminate or abandon the service provided for in this Agreement, or any portion thereof.

Termination of this Agreement may be at any time and for any reason, with or without cause, upon providing thirty (30) calendar days prior written notice. Termination shall be effected by delivery of a Notice of Termination specifying the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective. Upon termination, RPTA shall calculate actual expenses incurred up to and including the date of termination together with any penalty or costs imposed by other funding sources and any costs attributing to Section 13(c) of the Federal Transit Act of 1964, as amended, the total of which is hereinafter referred to as "termination costs." If CITY has paid RPTA sums in excess of the termination costs, RPTA shall refund the excess; if CITY has paid RPTA an amount less than the termination costs, then CITY shall pay to RPTA an amount equal to the difference between the termination costs and the amount that CITY has already paid under this Agreement. Further there is a reciprocal responsibility for service purchased by RPTA from the CITY, then if RPTA has paid CITY sums in excess of the termination costs, CITY shall refund the excess; if RPTA has paid CITY an amount less than the termination costs, then RPTA shall pay to CITY an amount equal to the difference between the termination costs and the amount that RPTA has already paid under this Agreement.

5.5 Additional Work

Additional work, when authorized by executed Contract Change Order or Supplement Agreement, shall be compensated for by a fee, mutually agreed upon by both parties.

5.6 Successors and Assigns

This Agreement shall not be assignable, except at the written consent of the parties hereto; and it shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

5.7 Title VI Assurances

The parties agree that as a condition of this Agreement, they will comply with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, federal policies and any implementing requirements the FTA may issue. The parties also agree that they shall include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA.

5.8 Legal Compliance:

To the extent applicable, RPTA and CITY each warrant compliance with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction over transit services provided via this Agreement, and all applicable employment laws, rules and regulations, including to the extent applicable, the Fair Labor Standards Act, the Walsh-Healey Act, Arizona Executive Order No. 99-4, and the Arizona Fair and Legal Employment Act, along with all laws, rules and regulations attendant thereto. Parties acknowledge that a breach of this warranty is a material breach of this Agreement and parties are subject to penalties for violation(s) of this provision, including termination of this Agreement. CITY and RPTA each retain the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors performing work and/or services relating to this Agreement to ensure compliance with this warranty. Any and all costs associated with inspections are the sole responsibility of the party subject to inspection. RPTA and CITY each hereby agree to indemnify, defend and hold each other harmless for, from and against all losses and liabilities arising from any and all violations thereof. In addition, the parties each certify that it does not have a scrutinized business operation in either Iran or Sudan.

SECTION 6: INDEMNIFICATION

Each party to this Agreement agrees to defend, indemnify, save and hold harmless the other (and each of their respective directors, officers, agents and employees) from and against all liabilities, suits, obligations, claims, demands, damages, fines, costs and expenses (including reasonable attorney's fees) arising under this Agreement to the extent that such are attributable, directly or indirectly, to the indemnifying party's negligence, error, omission or intentional act. An indemnifying party's negligence, error, omission or intentional act, as that phrase is used herein, includes the negligence, error, omission or intentional act of its officers, agents and employees. This provision shall survive the termination of this Agreement.

SECTION 7: AMENDMENT

This Agreement may be amended in whole or in part by written agreement of the parties.

SECTION 8: RELATIONSHIP OF PARTIES

Each party to this Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venturer, associate, or any other representative capacity of the other. Each party shall be solely and entirely responsible for its acts or the acts of its agents and employees during the performance of this Agreement.

SECTION 9: INTEGRATION

This agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof are revoked and superseded by this Agreement, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

SECTION 10: ATTORNEYS' FEES

In the event suit is brought or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any moneys due hereunder, or to collect money damages for breach hereof, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith.

SECTION 11: SEVERABILITY

If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.

SECTION 12: NO ASSIGNMENT

This Agreement is personal to each of the parties hereto, and neither party may assign or delegate any of its rights or obligations hereunder without first obtaining the written consent of the other; provided, however, that RPTA may assign its rights and delegate its obligations hereunder to a successor in interest without obtaining such consent.

SECTION 13: WAIVER

Failure of any party to exercise any right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.

SECTION 14: COUNTERPARTS

This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof.

SECTION 15: CAPTIONS

Captions and section heading used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant in construing this Agreement.

SECTION 16: CANCELLATION

This agreement is subject to cancellation pursuant to A.R.S. Section 38-511.

This Agreement shall be in full force and effect after it has been approved by the RPTA Board of Directors, after it has been executed by the duly authorized officials of the parties and after it has been filed with the County Recorder and the Secretary of State if necessary as provided by A.R.S. Section 11-952.

SECTION 17: NOTICES

Any notice, consent or other communication ("Notice") required or permitted under this Agreement shall be in writing and either delivered in person, sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed as follows:

If to RPTA:

Regional Public Transportation Authority
302 North 1st Ave., Suite 700
Phoenix, Arizona 85004
(Attention: David A. Boggs, Executive Director)

If to CITY:

City of Tempe
200 East 5th Street
Tempe, Arizona 85281
(Attention: Gregory Jordan, Transit Administrator)

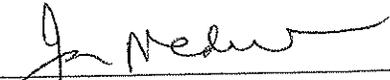
Notices shall be deemed received at the time it is personally served, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or, if mailed, ten (10) days after the Notice is deposited in the United States mail as above provided. Any time period stated in a Notice shall be computed from the time the Notice is deemed received. Either party may change its mailing address or the person to receive Notice by notifying the other Party as provided in this paragraph. Notices sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission.

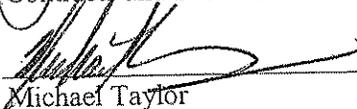
IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day
of _____, 2009.

By: _____
Hugh Hallman
Mayor

By: 
David A. Boggs
Executive Director

ATTEST: _____
Tempe City Clerk

ATTEST: 
Jon Medwin
Contracts and Procurement Manager

ATTEST: 
Michael Taylor
Acting Deputy Executive Director

Finance

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with the requirements of A.R.S. Section 11-952(D), each of the undersigned attorneys acknowledge that: (1) they have reviewed the above Agreement on behalf of their respective clients; and, (2) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

For the City of Tempe



Attorney for RPTA

SCHEDULE A

The following routes are funded in whole or in part by the City of Tempe and/or RPTA pursuant to this Agreement.

Routes

30
40
45
56
61
65
66
72
76
77
81
84
92
108
114
510
512
520
521
531
532
533
540
541
543
544
RED

SCHEDULE B

1. Conventional Transit Services

(a) Regional Bus Service *1,237,093
 (including express)

*The above line represents the value of transit service paid for by the RPTA, in the City of Tempe. The calculation to derive this figure is daily revenue miles of service x number of service days x cost per revenue mile of service.

RPTA Operated and Funded Service in the City of Tempe
 Contract Estimate for FY 2008-09

Weekday Service					RPTA	
Jurisdiction	Route	Miles	Costs	Fares	Admin	Net Cost
Tempe	40	37,619	\$190,352	\$38,071	\$0	\$152,281
Tempe	61	66,867	\$338,344	\$92,574	\$0	\$245,770
Tempe	72	25,267	\$127,851	\$29,358	\$0	\$98,493
Tempe	81	32,912	\$166,535	\$29,073	\$0	\$137,462
Tempe	531	20,615	\$104,313	\$0	\$0	\$104,313
Tempe	532	8,943	\$45,253	\$9,642	\$0	\$35,611
Tempe	533	18,491	\$93,562	\$0	\$0	\$93,562
Tempe	540	8,683	\$43,937	\$28,122	\$0	\$15,815
Tempe	541	17,069	\$86,368	\$0	\$0	\$86,368
Tempe	543	26,297	\$133,063	\$19,960	\$0	\$113,103
Tempe	544	10,726	\$54,274	\$5,428	\$0	\$48,846
Total Weekday		273,489	1,383,852	252,228	0	1,131,624
Saturday Service					RPTA	
Jurisdiction	Route	Miles	Costs	Fares	Admin	Net Cost
Tempe	40	6,369	\$32,227	\$3,868	\$0	\$28,359
Tempe	72	4,430	\$22,416	\$3,504	\$0	\$18,912
Tempe	81	3,279	\$16,592	\$3,059	\$0	\$13,533
Total Saturday		14,078	71,235	10,431	0	60,804
Sunday Service					RPTA	
Jurisdiction	Route	Miles	Costs	Fares	Admin	Net Cost
Tempe	40	6,859	\$34,707	\$2,777	\$0	\$31,930
Tempe	72	3,141	\$15,893	\$3,158	\$0	\$12,735
Total Sunday		10,000	50,600	5,935	0	44,665
Total Tempe Service		297,567	\$1,505,687	\$268,594	\$0	\$1,237,093
Net Service Provided to Tempe						\$1,237,093

2. Local Transportation Assistance Funds
 (1/3 transit expenditure requirement)

\$249,076

SCHEDULE C

For the period July 1, 2008 to June 30, 2009 the City of Tempe will pay the Regional Public Transportation Authority \$2,790,239 for bus service in Tempe.

Payments made by the CITY to RPTA for operation of Bus Routes depicted in Schedule C shall consist of twelve (12) monthly installments of \$232,519.92 commencing July 1, 2008 and shall be become due within thirty (30) days of receiving an invoice from the RPTA.

RPTA Operated Service Funded by City of Tempe
Contract Estimate for FY 2008-09

Weekday Service					RPTA	
Jurisdiction	Route	Miles	Costs	Fares	Admin	Net Cost
Tempe	30	186,317	\$942,763	\$188,418	\$0	\$754,345
Tempe	45	134,132	\$678,706	\$135,741	\$0	\$542,965
Tempe	61	89,107	\$450,881	\$121,994	\$0	\$328,887
Tempe	81	125,527	\$635,167	\$110,259	\$0	\$524,908
Total Weekday		535,082	\$2,707,517	\$556,412	\$0	\$2,151,105
Saturday Service					RPTA	
Jurisdiction	Route	Miles	Costs	Fares	Admin	Net Cost
Tempe	30	30,555	\$154,609	\$20,831	\$0	\$133,778
Tempe	45	19,301	\$97,661	\$14,649	\$0	\$83,012
Tempe	61	23,113	\$116,952	\$23,639	\$0	\$93,313
Tempe	81	8,788	\$44,469	\$8,200	\$0	\$36,269
Total Saturday		81,757	\$413,691	\$67,319	\$0	\$346,372
Sunday Service					RPTA	
Jurisdiction	Route	Miles	Costs	Fares	Admin	Net Cost
Tempe	30	10,862	\$54,961	\$5,897	\$0	\$49,064
Tempe	45	20,020	\$101,301	\$8,104	\$0	\$93,197
Tempe	61	22,612	\$114,418	\$16,041	\$0	\$98,377
Tempe	81	12,042	\$60,933	\$8,809	\$0	\$52,124
Total Sunday		65,536	\$331,613	\$38,851	\$0	\$292,762
Total Tempe Service		682,376	\$3,452,821	\$662,582	\$0	\$2,790,239

SCHEDULE C Cont.

Schedule C - PTF Funded Service Operated by City of Tempe

FY 2009 ESTIMATED Mileage/Cost Detail (July 1, 2008 - June 30, 2009)

	Miles	Contract		Fuel		Facilities		Staff		Gross		CREDITS			Net Cost
		Cost		Cost		Cost		Cost		Cost		Alt Fuel	ACM	Revenue	
Weekday Service	520	\$ 77,599	\$ 15,967	\$ 2,851	\$ 1,818	\$ 98,234	\$ (4,931)	\$ (288)	\$ (13,478)	\$ 79,538					
Tempe	28,611	\$ 135,616	\$ 27,904	\$ 4,982	\$ 3,177	\$ 171,680	\$ (8,618)	\$ (503)	\$ (28,975)	\$ 133,584					
Tempe	72	\$ 1,551,600	\$ 324,738	\$ 57,983	\$ 36,976	\$ 1,971,296	\$ (100,291)	\$ (5,849)	\$ (334,450)	\$ 1,530,706					
Tempe	81	\$ 159,833	\$ 33,452	\$ 5,973	\$ 3,809	\$ 203,067	\$ (10,331)	\$ (602)	\$ (34,521)	\$ 157,612					
Weekday Total	412,242	\$ 1,924,648	\$ 402,060	\$ 71,789	\$ 45,780	\$ 2,444,277	\$ (124,171)	\$ (7,241)	\$ (411,424)	\$ 1,901,441					
Saturday Service	72	\$ 198,002	\$ 41,440	\$ 7,399	\$ 4,719	\$ 251,559	\$ (12,798)	\$ (746)	\$ (42,680)	\$ 195,335					
Tempe	3,410	\$ 15,891	\$ 3,326	\$ 594	\$ 379	\$ 20,189	\$ (1,027)	\$ (60)	\$ (3,432)	\$ 15,670					
Saturday Total	45,900	\$ 213,892	\$ 44,766	\$ 7,993	\$ 5,097	\$ 271,748	\$ (13,825)	\$ (806)	\$ (46,112)	\$ 211,005					
Sunday Service	72	\$ 194,719	\$ 40,753	\$ 7,277	\$ 4,640	\$ 247,389	\$ (12,586)	\$ (734)	\$ (41,972)	\$ 192,097					
Tempe	41,785	\$ 194,719	\$ 40,753	\$ 7,277	\$ 4,640	\$ 247,389	\$ (12,586)	\$ (734)	\$ (41,972)	\$ 192,097					
Sunday Total	499,927	\$ 2,333,259	\$ 487,580	\$ 87,058	\$ 55,518	\$ 2,963,415	\$ (150,582)	\$ (8,781)	\$ (499,508)	\$ 2,304,543					

SCHEDULE D

For the period July 1, 2008 to June 30, 2009 the RPTA will pay the City of Tempe \$11,361,085.00 for bus service operated by Tempe. Payments made by the RPTA to the City for operation of Bus Routes depicted in Schedule D shall consist of twelve (12) monthly installments of \$946,757.08 commencing July 1, 2008 and shall be become due within thirty (30) days of receiving an invoice from the City.

Schedule D - PTF Funded Service Operated by City of Tempe

FY 2009 ESTIMATED Mileage/Cost Detail (July 1, 2008 - June 30, 2009)

Weekday Service	Route	Miles	Contract		Fuel		Facilities		Staff		Gross		CREDITS		Revenue	Net Cost
			Cost	Miles	Cost	Miles	Cost	Miles	Cost	Miles	Cost	Miles	Alt Fuel	ACM		
Chandler	65	25,904	\$ 120,713	\$ 25,264	\$ 4,511	\$ 2,877	\$ 153,365	\$ (7,803)	\$ (455)	\$ (14,398)	\$ 130,710	\$ (14,398)	\$ (455)	\$ (14,398)	\$ 130,710	
Chandler	72	99,350	\$ 462,973	\$ 96,897	\$ 17,301	\$ 11,033	\$ 588,204	\$ (29,925)	\$ (1,745)	\$ (57,358)	\$ 499,175	\$ (57,358)	\$ (1,745)	\$ (57,358)	\$ 499,175	
Chandler	81	16,484	\$ 76,815	\$ 16,077	\$ 2,871	\$ 1,831	\$ 97,593	\$ (4,965)	\$ (290)	\$ (11,252)	\$ 81,087	\$ (11,252)	\$ (290)	\$ (11,252)	\$ 81,087	
Chandler	108	27,486	\$ 128,085	\$ 26,807	\$ 4,786	\$ 3,052	\$ 162,731	\$ (8,279)	\$ (483)	\$ (13,314)	\$ 140,655	\$ (13,314)	\$ (483)	\$ (13,314)	\$ 140,655	
Fountain Hills	512	4,794	\$ 22,724	\$ 4,676	\$ 835	\$ 532	\$ 28,766	\$ (1,444)	\$ (84)	\$ (280)	\$ 26,958	\$ (280)	\$ (84)	\$ (280)	\$ 26,958	
Gilbert	108	64,974	\$ 302,779	\$ 63,369	\$ 11,315	\$ 7,216	\$ 384,678	\$ (19,571)	\$ (1,141)	\$ (16,825)	\$ 347,141	\$ (16,825)	\$ (1,141)	\$ (16,825)	\$ 347,141	
Guadalupe	56	29,820	\$ 138,961	\$ 29,083	\$ 5,193	\$ 3,312	\$ 176,549	\$ (8,982)	\$ (524)	\$ (32,771)	\$ 134,273	\$ (32,771)	\$ (524)	\$ (32,771)	\$ 134,273	
Mesa	45	18,878	\$ 87,973	\$ 18,412	\$ 3,288	\$ 2,096	\$ 111,769	\$ (5,686)	\$ (332)	\$ (16,929)	\$ 88,823	\$ (16,929)	\$ (332)	\$ (16,929)	\$ 88,823	
Mesa	77	16,465	\$ 76,727	\$ 16,058	\$ 2,867	\$ 1,828	\$ 97,481	\$ (4,959)	\$ (289)	\$ (28,991)	\$ 63,241	\$ (28,991)	\$ (289)	\$ (28,991)	\$ 63,241	
Mesa	108	17,340	\$ 80,804	\$ 16,912	\$ 3,020	\$ 1,926	\$ 102,661	\$ (5,223)	\$ (305)	\$ (10,162)	\$ 86,971	\$ (10,162)	\$ (305)	\$ (10,162)	\$ 86,971	
Phoenix	45	14,515	\$ 67,641	\$ 14,157	\$ 2,528	\$ 1,612	\$ 85,937	\$ (4,372)	\$ (255)	\$ (19,408)	\$ 61,902	\$ (19,408)	\$ (255)	\$ (19,408)	\$ 61,902	
Phoenix	56	97,071	\$ 452,351	\$ 94,673	\$ 16,904	\$ 10,780	\$ 574,708	\$ (29,239)	\$ (1,705)	\$ (59,912)	\$ 483,853	\$ (59,912)	\$ (1,705)	\$ (59,912)	\$ 483,853	
Phoenix	77	190,254	\$ 886,584	\$ 185,555	\$ 33,131	\$ 21,128	\$ 1,126,398	\$ (57,306)	\$ (3,342)	\$ (169,503)	\$ 896,247	\$ (169,503)	\$ (3,342)	\$ (169,503)	\$ 896,247	
Phoenix	92	18,099	\$ 84,341	\$ 17,652	\$ 3,152	\$ 2,010	\$ 107,155	\$ (5,452)	\$ (318)	\$ (7,527)	\$ 93,859	\$ (7,527)	\$ (318)	\$ (7,527)	\$ 93,859	
Phoenix	510	11,016	\$ 52,216	\$ 10,744	\$ 1,918	\$ 1,223	\$ 66,101	\$ (3,318)	\$ (194)	\$ (1,765)	\$ 60,825	\$ (1,765)	\$ (194)	\$ (1,765)	\$ 60,825	
Phoenix	512	17,646	\$ 83,642	\$ 17,210	\$ 3,073	\$ 1,960	\$ 105,885	\$ (5,315)	\$ (310)	\$ (2,327)	\$ 97,933	\$ (2,327)	\$ (310)	\$ (2,327)	\$ 97,933	
Phoenix	520	21,869	\$ 103,658	\$ 21,329	\$ 3,808	\$ 2,429	\$ 131,224	\$ (6,587)	\$ (384)	\$ (11,465)	\$ 112,788	\$ (11,465)	\$ (384)	\$ (11,465)	\$ 112,788	
Phoenix	521	35,514	\$ 168,336	\$ 34,637	\$ 6,184	\$ 3,944	\$ 213,101	\$ (10,697)	\$ (624)	\$ (20,431)	\$ 181,350	\$ (20,431)	\$ (624)	\$ (20,431)	\$ 181,350	
Scottsdale	66	86,190	\$ 401,645	\$ 84,061	\$ 15,009	\$ 9,572	\$ 510,288	\$ (25,961)	\$ (1,514)	\$ (50,299)	\$ 432,513	\$ (50,299)	\$ (1,514)	\$ (50,299)	\$ 432,513	
Scottsdale	72	438,782	\$ 2,044,723	\$ 427,944	\$ 76,410	\$ 48,728	\$ 2,597,806	\$ (132,165)	\$ (7,707)	\$ (273,522)	\$ 2,184,412	\$ (273,522)	\$ (7,707)	\$ (273,522)	\$ 2,184,412	
Scottsdale	76	174,958	\$ 815,304	\$ 170,637	\$ 30,468	\$ 19,429	\$ 1,035,838	\$ (52,699)	\$ (3,073)	\$ (68,868)	\$ 911,198	\$ (68,868)	\$ (3,073)	\$ (68,868)	\$ 911,198	
Scottsdale	81	215,592	\$ 1,004,659	\$ 210,267	\$ 37,544	\$ 23,942	\$ 1,276,411	\$ (64,938)	\$ (3,787)	\$ (79,837)	\$ 1,127,850	\$ (79,837)	\$ (3,787)	\$ (79,837)	\$ 1,127,850	
Scottsdale	84	48,552	\$ 226,252	\$ 47,353	\$ 8,455	\$ 5,392	\$ 287,452	\$ (14,624)	\$ (853)	\$ (15,526)	\$ 256,448	\$ (15,526)	\$ (853)	\$ (15,526)	\$ 256,448	
Scottsdale	114	58,905	\$ 274,497	\$ 57,450	\$ 10,258	\$ 6,542	\$ 348,747	\$ (17,743)	\$ (1,035)	\$ (16,232)	\$ 313,738	\$ (16,232)	\$ (1,035)	\$ (16,232)	\$ 313,738	
Scottsdale	510	7,701	\$ 36,503	\$ 7,511	\$ 1,341	\$ 855	\$ 46,210	\$ (2,320)	\$ (135)	\$ (2,512)	\$ 41,243	\$ (2,512)	\$ (135)	\$ (2,512)	\$ 41,243	
Scottsdale	512	11,730	\$ 55,600	\$ 11,440	\$ 2,043	\$ 1,303	\$ 70,386	\$ (3,533)	\$ (206)	\$ (1,363)	\$ 65,283	\$ (1,363)	\$ (206)	\$ (1,363)	\$ 65,283	
Weekday Total			\$ 8,256,507	\$ 1,726,175	\$ 308,212	\$ 196,550	\$ 10,487,445	\$ (533,106)	\$ (31,089)	\$ (1,002,773)	\$ 8,920,476	\$ (1,002,773)	\$ (31,089)	\$ (1,002,773)	\$ 8,920,476	

EXHIBIT A

Efficiency and Effectiveness Performance Measures Targets--Board Approved 4-19-2007
 With Administrative Correction Now Recommended

FIXED ROUTE BUS, SYSTEMWIDE	TARGET	ASSUMPTIONS
Cost Efficiency/Effectiveness		
Farebox Recovery Ratio	25%	Regional Fare Policy recommendation to Board
Operating Cost per Boarding	\$2.32	Baseline from FY05-06 PMAS FR average
Subsidy (Net Opg Cost) per Boarding	\$1.75	Baseline from FY05-06 PMAS FR average
Cost per Revenue Mile	\$4.96	Baseline from FY05-06 PMAS FR average
Average Fare	\$0.67	Five year timeframe starting in FY08
Service Effectiveness		
Total Boardings	3%*	Matches 3% CPI increase; Subject to service increases
Boardings Avg. Weekday, Sat., Sun.	3%*	Matches 3% CPI increase; Subject to service increases
Boardings per Revenue Mile	2.1	Baseline from FY05-06 PMAS FR average
Safety Incidents per 100,000 Vehicle Miles	1.2	Baseline from FY05-06 PMAS FR average
Security Incidents per "x" Boardings	0	Ultimate goal, 0 was achieved by RPTA Veolia for entire 2006
Complaints per "x" Boardings	28	Low end of current RPTA "C" range; meets Phoenix current complaints
On-time Performance	90%	Meets both RPTA and Phoenix current performance
Miles between Mechanical Failures	23,400	Baseline from CY06 RPTA data (weighted average across fleets). Phoenix OK with target. Need to move to Miles between Mechanical Failures over time with next contract negotiations. Number will go down some, bcs there are more Mech. Failures than Roadcalls.
Customer Satisfaction	89%	Customer satisfaction index based on March survey - Combination of "very satisfied" and "somewhat satisfied" with overall service

FIXED ROUTE BUS, ROUTE LEVEL	TARGET	ASSUMPTIONS
Cost Efficiency/Effectiveness		
Farebox Recovery Ratio	25%	Regional Fare Policy recommendation to Board
Operating Cost per Boarding	\$2.32	Baseline from FY05-06 PMAS FR average
Subsidy (Net Opg Cost) per Boarding	\$1.75	Baseline from FY05-06 PMAS FR average
Cost per Revenue Mile	\$4.96	Baseline from FY05-06 PMAS FR average
Service Effectiveness		
Total Boardings	3%*	Matches 3% CPI increase; Subject to service increases
Boardings Avg. Weekday, Sat., Sun.	3%*	Matches 3% CPI increase; Subject to service increases
Boardings per Revenue Mile	2.1	Baseline from FY05-06 PMAS FR average; peer average
Boardings per Revenue Hour (Express Bus)	TBD	Challenge: Phoenix does not currently break out this data.
On-time Performance	90%	Meets both RPTA and Phoenix current performance
Miles between Mechanical Failures	23,400	Baseline from CY06 RPTA data (weighted average across fleets). Need to move to Miles between Mechanical Failures over time with next contract negotiations. Number will go down some, bcs there are more Mech. Failures than Roadcalls.

PARATRANSIT	TARGET	ASSUMPTIONS
Cost Efficiency/Effectiveness		
Farebox Recovery Ratio	5%	Baseline from FY05-06 PMAS DAR system average
Operating Cost per Boarding	\$28.55	Baseline from FY05-06 PMAS DAR system average
Subsidy (Net Opg Cost) per Boarding	\$27.16	Baseline from FY05-06 PMAS DAR system average
Operating Cost per Revenue Hour	\$50.30	Baseline from FY05-06 PMAS DAR system average
Average Fare	TBD	No goal currently. Set by each agency
Service Effectiveness		
Total Boardings	3%*	Matches 3% CPI increase; Subject to service increases
Boardings Avg. Weekday, Sat., Sun.	3%*	Matches 3% CPI increase; Subject to service increases
Boardings per Revenue Hour	1.76	Baseline from FY05-06 PMAS DAR system average; close to low of peers
Percent No Shows	5%	Phoenix does not have a target for "no shows", but has seen 5.3% from July-Dec 2006. Paratransit consultant/RPTA recommended 5%. The Glendale target is 10%.
On-time Performance	90%	Glendale target. Phoenix's performance standard is also 90% or above
Miles between Mechanical Failures	TBD	Set by each agency (Phoenix tracks miles per 100,000 service miles)
Customer Satisfaction	90%	Glendale and Phoenix (Satisfied and Very Satisfied; every 2-5 yrs).

EXHIBIT A Cont.

RAIL	TARGET	ASSUMPTIONS
Cost Efficiency/Effectiveness		
Farebox Recovery Ratio	25%	Regional Fare Policy recommendation to Board
Operating Cost per Boarding	TBD	To be provided in Spring, 2008 as part of VMR Budget process
Subsidy (Net Opg Cost) per Boarding	TBD	To be provided in Spring, 2008 as part of VMR Budget process
Cost per Revenue Mile	TBD	To be provided in Spring, 2008 as part of VMR Budget process
Average Fare	TBD	To be provided in Spring, 2008 as part of VMR Budget process
Service Effectiveness		
Total Boardings	7,827,000	Based on FTA formula for annualizing Avg. Weekday Boardings
Boardings Avg. Weekday	26,090	Based on FFGA New Starts
Boardings Avg. Sat.	N/A	Not available
Boardings Avg. Weekday Sun./Holiday	N/A	Not available
Boardings per Vehicle Revenue Mile	3.94	Rail. Based on 2,184,000 car miles in 2010 (Financial Plan).
Boardings per Revenue Mile	8.04	Rail. Based on 1,071,000 car miles in 2010 (Financial Plan).
Safety Incidents per 100,000 Vehicle Miles	N/A	To be provided in Spring, 2008 as part of VMR Budget process
Security Incidents per "x" Boardings	N/A	To be provided in Spring, 2008 as part of VMR Budget process
On-time Performance	95%	Rail (Peer data is 98%)
Miles between Failures	25,000	Rail (Peer data shows 35,000 with outliers excluded)
Customer Satisfaction	89%	Estimate index number based on bus targets

Other Rail Measures in New Starts but not in RPTA Measures Framework

- Capital cost
- Annual vehicle miles
- Annual hours of service
- Frequency by route
- Operating days and hours
- Frequency and type of service affected by implementation of rail
- Aggregate level of service provided
- Capacity of service provided
- Transit service area
- Vehicle revenue miles required to operate service
- Vehicle revenue hours required to operate service
- Rail boardings by station
- New trips using New Start
- Ridership on transit routes effected by the project
- Ridership on the transit system as a whole
- New riders on transit
- Systemwide fare revenue