

STATE OF TEXAS)
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COUNTY OF EL PASO) **INTERLOCAL AGREEMENT**

This Interlocal Agreement (“**Agreement**”) is between the City of El Paso, Texas, (“**City**”) and El Paso County, Texas (“**County**”) by and through their duly authorized officials, pursuant to the Interlocal Cooperation Act. City and County shall be collectively referred to herein as the “**Parties**” and individually as a “**Party**.”

RECITALS

WHEREAS, the Texas Interlocal Cooperation Act, V.T.C.A., Government Code, §791.001, et seq., allows local governments and political subdivisions of the state to contract among each other or with a federally recognized Indian tribe for the provision of governmental functions and services or to study the feasibility of the performance of a governmental function or service by an Interlocal contract; and

WHEREAS, tourism and the convention and hotel industry are important to the health and vitality of the El Paso’s regional economy and

WHEREAS, Mexican Table, LLC (“**Producer**”) wishes to include El Paso in a primetime television special about the border food scene entitled “La Frontera” (the “**Special**”); and

WHEREAS, the **Special** would air nationally on PBS in 2021 and would consist of two one-hour episodes; and

WHEREAS, **Producer** has requested \$150,000.00 to partially underwrite the production, distribution, and support of the **Special**; and

WHEREAS, **SMG**, as manager of Destination El Paso, will contract with and work directly with **Producer**; and

WHEREAS, underwriting the **Special** is in accordance with the City’s and County’s respective strategic plans and visions for promotion of the region; and

WHEREAS, this Interlocal Agreement allows the parties to promote tourism and the convention and hotel industry in the El Paso region.

FOR THESE REASONS, and in consideration of the mutual promises contained in this Agreement, the County and the City mutually agree as follows:

1. **SCOPE OF SERVICES.**

- 1.1 The City and County will each contribute \$75,000.00 towards the underwriting cost of the Special, for a total underwriting contribution of \$150,000.00.
- 1.2 The City will provide its \$75,000.00 to the Producer through SMG, as manager of Destination El Paso.
- 1.3 The County will provide its \$75,000.00 to the City within 20 days of the Effective Date of this Interlocal Agreement. The City will provide the County's \$75,000.00 to the Producer through SMG, as manager of Destination El Paso.
- 1.4 If production of the Special has not commenced by July 1, 2021, the County's \$75,000.00 contribution shall be returned to County upon the County's request via wire transfer within ten business days of County's request.
- 1.5 The City and County agree that, as a condition to providing their \$75,000.00 contributions, the executed Underwriting Agreement between SMG and the Producer must include a provision that the City and the County will receive equal recognition as top sponsors of the two-hour show that will be filmed in El Paso.

2. **PAYMENTS.** Pursuant to Section 791.011(d)(3), Texas Government Code, each party paying for the performance of governmental functions or services will make those payments from current revenues available to the paying Party.

3. **TERM.** The term of this Agreement commences on the Effective Date and ends August 1, 2021. The Effective Date is the date that the last party, either the El Paso County Judge or Mayor of the City of El Paso, signs this Agreement ("**Effective Date**").

4. **TERMINATION.** This Agreement may be terminated as provided in this section.

A. Termination for Convenience. Either party may terminate this Agreement for any reason by sending a written notice to the non-terminating party at least 15 calendar days before termination. All parties providing work under this Agreement will halt all work when the termination notice sent by the terminating party is received by the non-terminating party.

B. Termination by Either Party for Cause. Either party may terminate this Agreement if one party fails to fulfill the obligations set out in this Agreement. Before terminating this Agreement pursuant to this provision, the terminating party will provide written notice of intent to terminate, enumerating the failures for which the termination is being sought, and provide at least 30 calendar days to the non-terminating party to cure such a failure.

5. **NOTICES AND PAYMENTS.** The Parties will send all notices and payments under this Agreement by certified mail. For purposes of this Agreement, all notices and payments are deemed

to be received 5 calendar days following the postmark date on the notice or payment. The County may also email notice to the City's Economic Development at the email address noted below. The Parties will deliver all notices and payments under this Agreement to the following addresses:

NOTICES

<u>CITY:</u>	City of El Paso Attn: City Manager PO Box 1890 El Paso, Texas 79950-1890
<u>COPY TO:</u>	City of El Paso Attn: Director of Economic Development 123 W Mills Ave. Suite 111 El Paso, TX 79901 HERRERAJL@ELPASOTEXAS.GOV
<u>COUNTY:</u>	El Paso County Attn: County Judge 500 E. San Antonio Ave., Room 301 El Paso, Texas 79901
<u>COPY TO:</u>	El Paso County Attn: Economic Development Director 500 E. San Antonio Ave., Room 312 El Paso, Texas 79901

PAYMENTS

<u>CITY:</u>	City of El Paso Financial Services P.O. Box 1890 El Paso, TX 79950-1890
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The City and the County will notify each other in writing of any changes in the addresses described above.

6. NO INDEMNIFICATION.

A. The Parties agree that neither Party will have the right to seek indemnification or contribution from the other Party for any losses, costs, expenses, or damages arising from this Agreement.

B. Each Party must handle any claims resulting from the actions in this Agreement.

C. Each Party agrees that each will be responsible for the acts or omissions of its respective representatives.

6. GENERAL PROVISIONS.

6.1 Governing Law and Venue. This Agreement is governed by Texas Law. The venue for any disputes regarding this Agreement lies exclusively in El Paso County, Texas.

6.2 No Joint Enterprise. This Agreement does not create any joint enterprise between the Parties.

6.3 No Third Party Beneficiaries. This Agreement does not confer or create any rights or obligations to any third Parties.

6.4 No Personal Liability. This Agreement does not create any personal liability on the part of any employee, officer, or agent of any public body that may be a party to this Agreement.

6.5 Public Information. This Agreement is public information.

6.6 Sovereign and Governmental Immunity Acknowledged and Retained. The Parties acknowledge and agree that no provision of this Agreement is in any way intended to constitute a waiver by any party of any immunities from suit or liability that a Party may have by operation of law. The City and the County retain all governmental immunities.

6.7 Governmental Function. The Parties expressly agree that, in all things relating to this Agreement, the Parties are performing a governmental function, as defined by the Texas Tort Claims Act. The Parties further expressly agree that every act or omission of the Parties, which, in any way, pertains to or arises out of this Agreement falls within the definition of governmental function.

6.8 Independent Contractors. The City and the County are independent legal entities. Nothing in this Agreement creates the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither the City nor the County nor any of their respective agents or employees has control or the right to control the activities of the other party in carrying out the terms of this Agreement. Both Parties agree that neither Party has, nor will attempt to assert, authority to make commitments for or to bind the other Party to any obligation other than the obligations described in this Agreement.

6.9 Headings. The paragraph or section headings contained in this Agreement are for reference purposes only and do not control the meaning or interpretation of this Agreement.

6.10 Assignment. The Parties may not assign any obligations or rights under this Agreement without the express written consent of the other Party.

6.11 No Waiver. Failure of either Party to enforce any provision of this Agreement does not constitute a waiver of rights and the parties will retain the right to require performance of any provision of this Agreement.

6.12 Complete Agreement. This Agreement constitutes the entire agreement between the Parties.

6.13 Severability. If any provision of this Agreement is declared unenforceable, then all other provisions of this Agreement will remain in effect.

6.14 Fines and Penalties. Each Party is responsible for fiscal penalties, fines, or any other sanctions occasioned as a result of a finding that violations of any applicable local, state or federal law occurred as a result of that Party's actions.

6.15 Exclusion of Incidental and Consequential Damages. Neither Party is liable under this Agreement to the other Party for any incidental, consequential, special, punitive, or exemplary damages of any kind –including lost profits, loss of business, mental anguish, emotional distress and/or attorney fees- as a result of a breach of any term of this Agreement.

6.16 All attachments referenced in this Agreement are incorporated in full to this Agreement by reference.

Signature page for the City of El Paso, Interlocal Agreement between the City
of El Paso and the County of El Paso, Texas.

CITY OF EL PASO

Mayor Oscar Leeser

Date: _____

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Roberta Brito
Assistant City Attorney

APPROVED AS TO CONTENT:

Jessica Herrera, Director
Economic & International Development


Signature page for El Paso County, Interlocal Agreement between the City of El Paso and El Paso County, Texas.

APPROVED this ____ day of _____, 2021.

COUNTY OF EL PASO

Ricardo A. Samaniego
County Judge

APPROVED AS TO LEGAL FORM ONLY:



Kevin McCary
Assistant County Attorney

APPROVED AS TO CONTENT:

Jose M. Landeros, Interim Director
Economic Development Department