

STATE OF TEXAS §
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COUNTY OF EL PASO §
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**INTERLOCAL PUBLIC SERVICE TRANSIT AND CONTRIBUTION
AGREEMENT FOR FISCAL YEAR 2024**

This Agreement (“Agreement”) is made by and between the **EL PASO AREA TRANSPORTATION SERVICES, LGC** (“EPATS”) and the **COUNTY OF EL PASO** (“COUNTY”), acting by and through their duly authorized officials. EPATS and COUNTY are each referred to hereinafter as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, EPATS is a local government corporation organized and existing under the laws of the State of Texas for the purpose of encouraging and assisting local units of government to join and cooperate with one another to provide and deliver regional multimodal transportation solutions and services (the “Transit Service”) for the residents of the Greater El Paso community; and

WHEREAS, COUNTY is a political subdivision of the State of Texas and is a member entity of EPATS and has appointed a representative to serve on the EPATS Board of Directors; and

WHEREAS, the Parties are committed to working together to provide and improve the Transit Service in El Paso County; and

WHEREAS, COUNTY agrees that as a member entity of EPATS it will make a financial contribution to support the Transit Service for fiscal year 2024; and

WHEREAS, the Parties acknowledge that the amount of COUNTY’s financial contribution was calculated and determined by the Texas A&M Transportation Institute (“TTI”) and that TTI has provided or made available information explaining the Transit Service for fiscal year 2024, the different funding sources for the Transit Service, and the methodology used by TTI to calculate the amounts of the financial contributions to be made by COUNTY and each of the other member entities of EPATS; and

WHEREAS, pursuant to and under the authority of the Texas Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended, EPATS and COUNTY are authorized to enter into this Agreement.

NOW, THEREFORE, in consideration of the covenants, conditions, provisions, and mutual benefits received as set forth herein, which is hereby acknowledged by EPATS and the Member Entities, the parties agree as follows:

AGREEMENT

1. **Effective Date:** This Agreement is effective when signed by the Parties' authorized representatives. This Agreement will remain in effect through September 30, 2024, unless terminated as provided below.
2. **Termination:** This Agreement terminates on September 30, 2024, unless prior to that date:
 - a. The Agreement is terminated in writing with the Parties' mutual consent; or
 - b. The Agreement is terminated by one Party because of a breach by the other Party, after providing written notice and a reasonable opportunity to cure the breach.
3. **Administrative and Fiscal Agent:** The Rio Grande Council of Governments ("COG") serves as the administrative and fiscal agent of EPATS.
4. **Transit Service:** EPATS has approved the Transit Service for fiscal year 2024, which may be changed or amended as necessary to ensure the safe or efficient operation of the Transit Service. If a material change to the Transit Service occurs, EPATS will promptly notify COUNTY but no later than thirty (30) days.

Furthermore, notwithstanding anything to the contrary, EPATS and COUNTY agree that the County of El Paso has the authority to take immediate action to initiate a change or modification to the Transit Service without prior approval from EPATS if the change or modification is needed to address a significant safety issue or public concern. The County will notify EPATS of any such change at the next EPATS Board meeting, or as soon as possible. The Parties agree that required detours or other short-term changes do not require any notification to or action by EPATS.

5. **Contribution Amount:** COUNTY will pay EPATS the sum of \$169,300 for fiscal year 2024 within thirty (30) business days of the Agreement's effective date.
6. **Use of Contribution Amount:** COUNTY agrees that EPATS may use all funds received under this Agreement for any and all lawful purposes necessary to carry out the purposes of this Agreement.
7. **Refund of Contribution Amount:** If either Party terminates the Agreement before September 30, 2024, COUNTY may request a refund of the remaining balance of its financial contribution amount that has not yet been used, spent, promised, or allocated by EPATS towards the Transit Service.
8. **Notices and Payments:** All notices and payments required by this Agreement must be sent to the Rio Grande Council of Governments by mail to the following address:

Rio Grande Council of Governments
Annette Gutierrez, Executive Director

8037 Lockheed Drive, Suite 100
El Paso, Texas 79925

NOTE: Payments submitted under this Agreement shall be made payable to: RIO GRANDE COUNCIL OF GOVERNMENTS

9. **Suspension of Transit Service:** If COUNTY fails to pay its contribution amount, EPATS may immediately suspend all services provided to COUNTY under the Transit Service.
10. **Public Meetings:** COUNTY agrees to participate in public meetings pertaining to the Transit Service, assist with coordinating such events, including coordination with EPATS marketing efforts, and locating or providing facilities where public meetings can be hosted with easy access to the community. COUNTY will advertise and announce public meetings pertaining to the Transit Service on its social platforms.
11. **EPATS Duties and Responsibilities:** The Parties agree that EPATS shall have the following duties and responsibilities for the Transit Service:
 - A. Approve and implement the Transit Service for fiscal year 2024.
 - B. Hold public meetings to discuss, review, evaluate, and take appropriate action related to the Transit Service, including public engagement, marketing plans, and the functioning and operations of EPATS and the Transit Service.
 - C. Prepare, approve, and implement policies and procedures for EPATS and the Transit Service.
12. **El Paso County Duties and Responsibilities:** The Parties agree that El Paso County shall have the following duties and responsibilities for the Transit Service:
13. Maintain, repair, and clean the bus stops and related amenities consistent with the Transit Service, including removing trash, graffiti, debris, snow, ice, or other hazards and obstacles. All repairs will meet the same specifications as El Paso County construction specifications.
14. Install and maintain bus stop poles and signs at bus stops for the Transit Service. The graphics used for the signs and the locations of the poles and signs shall be approved by El Paso County prior to installation.
15. Construct and maintain (or cause to be constructed and maintained) all necessary facilities at the bus stops, including any necessary sidewalks, pavement, lighting, or bus shelters. Maintenance will include cleaning trash, debris, snow, ice, or other hazards or obstacles at bus stops. At the same time, COUNTY shall be responsible for the infrastructure required to close any gaps in pedestrian connectivity to the bus shelter facility.

16. COUNTY Duties and Responsibilities: The Parties agree that COUNTY shall have the following duties and responsibilities regarding the Transit Service:

- A. COUNTY shall permit EPATS to operate the Transit Service on its streets and at approved bus stops. COUNTY shall provide all maintenance of the streets as necessary and shall be responsible for wear and tear of pavement surfaces.
- B. COUNTY shall provide EPATS and County of El Paso with guidance and will help expedite the obtaining of all permits, licenses, inspections, and permissions required for the Transit Service in its jurisdiction.
- C. COUNTY shall assist in marketing and communications regarding the Transit Service to residents using COUNTY's website, resident newsletter, or other methods of communication controlled by COUNTY or the County of El Paso.
- D. COUNTY shall obtain all permits and permissions required for the Transit Service.

17. No Indemnification: The Parties agree that no Party will have the right to seek indemnification or contribution from any other Party for any losses, costs, expenses, or damages arising from this Agreement. Each Party must handle any claims resulting from their actions in this Agreement. Each Party agrees that each will be responsible for the acts or omissions of its respective agents, employees, and representatives.

18. General Provisions:

- A. **Sovereign Immunity.** Notwithstanding any other provision of this Agreement, nothing herein shall be construed as a waiver by either Party of its constitutional, statutory, or common law rights, privileges, immunities, or defenses. To the extent the terms of this paragraph conflict with any other provision in this Agreement, the terms of this paragraph shall control.
- B. **No Waiver.** A Party may waive any default without waiving any prior or subsequent defaults. A Party's failure to exercise or delay in exercising any right under this Agreement will not operate as a waiver of such right.
- C. **Independent Contractor Relationship.** Nothing in this Agreement will be construed to constitute either Party as a partner, employee or agent of the other Party, nor will either Party have the authority to bind the other in any respect. Each Party will remain an independent contractor responsible for its own actions.
- D. **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- E. **Public Information Act.** It is the independent responsibility of the Parties to comply with the provisions of Chapter 552 of the Texas Government Code (Texas Public Information Act), as those provisions apply to the Parties' respective information.

- F. Governing Law.** Texas law governs this Agreement.
- G. Venue.** The venue for disputes regarding this Agreement among the Parties will be El Paso County, Texas.
- H. Severability.** A future finding of invalidity of any provision of this Agreement does not affect the validity of any remaining provisions of this Agreement.
- I. Headings.** The headings and subheadings of this Agreement are for information purposes only and are not substantive terms.
- J. Compliance with the Laws.** The Parties will comply with all applicable laws, administrative orders, and rules or regulations relating to the obligations under this Agreement.
- K. Force Majeure.** There is no breach of contract should any Party's obligations within this Agreement be delayed due to an act of God, outbreak of hostilities, riot, civil disturbance, acts of terrorism, the act of any government or authority, fire, explosion, flood, theft, malicious damage, strike, lockout, or any cause or circumstances beyond any Party's reasonable control. The delayed Party must resume performing its obligations in this Agreement after the reason for the delay is resolved.
- L. Successors and Assigns.** This Agreement binds the Parties and the Parties' successors and assigns. No Party may assign, sublet, or transfer its interest or obligations in this Agreement without the written consent of the other Party.
- M. Third-Party Beneficiaries.** There are no third-party beneficiaries for this Agreement.
- N. Provisions Surviving this Agreement.** Representations, releases, warranties, covenants, indemnities, and confidentiality survive past the execution, performance, and termination of this Agreement.
- O. Representations and Warranties.** Each person executing this Agreement on behalf of any Party hereby represents and warrants that they have full and complete authority to sign on behalf of their respective Party.
- P. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same instrument.
- Q. Amendments.** This Agreement may be amended at any time by written instruments executed by the authorized officials of the Parties.

(Signature pages follow)

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Signature page for the El Paso Area Transportation Service Local Government Corporation

APPROVED this ____ day of November 2023.

Chair Carlos Leon
EPATS, LGC Board Chair

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Signature page for the County of El Paso, Texas

APPROVED this ____ day of November 2023.

Ricardo A. Samaniego
County Judge