

BYLAWS OF EL PASO AREA TRANSPORTATION SERVICE, LGC

ARTICLE I PURPOSES

El Paso Area Transportation Service, LGC (the “Corporation”) is organized 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 for the residents of the Greater El Paso community.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of the State of Texas to non-profit corporations incorporated under the Local Government Corporation Act, including, without limitation, the Texas Transportation Code Section 431.01, *et seq.*, the Texas Nonprofit Corporation Law, Chapter 22, Business Organizations Code, Section 22.001, *et seq.*

The Corporation shall not create a legal obligation for any Members, as defined in Article 3 or local units of government that are a Member of the Corporation (“Local Government Units”) save and except with the express consent of a Member or Local Government Unit. The Corporation shall comply, when applicable, with all Federal Transit Administration (“FTA”) requirements.

The Corporation shall have the power to acquire real property, subject to the approval of the Board of Directors. The Corporation may, except as prohibited in any interlocal agreement with a Local Government Unit, contract with any qualified and appropriate person, association, corporation or governmental entity to acquire personal property or to perform and discharge designated tasks which will aid or assist the Corporation in the performance of its duties.

The Corporation shall have the power to accept any contribution or donation from any source and shall have the power to request and accept any appropriation, grant, or other form of aid from the federal government or the State or from any other source.

ARTICLE II AUTHORITY AND DUTIES OF THE CORPORATION

Section 2.01. Board Functions and Authority. In order to accomplish its objectives and purposes, the Board of Directors shall perform the following functions:

- a. Adopt and revise the Bylaws of the Corporation.
- b. Elect Corporation Officers.
- c. Adopt an Annual Budget.

In addition to the above functions, the Board of Directors has the authority to:

1. Prepare periodic reports as may be required by the Bylaws of the Corporation and Federal and State legislation or regulations.
2. Receive and expend gifts, contributions, and donations which may be made to the Corporation to accomplish its purposes.
3. Apply and contract for, receive and expend for Corporation purposes, funds or grants from the State of Texas, the Federal Government, or any other source.
4. Receive and expend funds from Corporation Members, as provided in these Bylaws, to finance the cost of operations, except that the Corporation shall not have the authority to levy taxes of any kind.
5. Coordinate and assist in planning and development for countywide public transit and provide assistance to Local Government Units in the implementation of their planning.

ARTICLE III MEMBERS

Eligible governmental units within El Paso County may become members of the Corporation by passage of an ordinance, minute order, resolution or other appropriate and legal action of the governing body of such governmental units adopting these Bylaws and appropriating the funds required to pay their share of the dues of the Corporation as set forth by Article VII of these Bylaws.

Governmental units eligible to become members of the Corporation shall be:

1. Incorporated cities and towns.
2. Independent and Common School Districts, and Junior College Districts.

A member of the Council may, by ordinance, minute order, resolution or other appropriate and legal action of that governing body, withdraw from the Corporation. Governmental units which withdraw from the Council may subsequently apply for readmission as new members. In the event of withdrawal by a member of the Council, said member shall not be entitled to a return of any portion of previously paid annual dues.

Advisory membership in the Corporation may be permitted by action of the Board of Directors. In no event shall advisory membership entitle voting representation or voice in the governing body of the Corporation.

ARTICLE IV DIRECTORS

Section 4.01. Board of Directors. All powers of the Corporation shall be vested in the Board of Directors (the “Board”). The Board shall consist of five (5) persons. Each Local Government Unit member shall have one (1) Director whom shall be appointed by that Local Government Unit by an ordinance, minute order, resolution or other appropriate and legal action of that governing body. Additionally, the County shall appoint the Chair of the Board and shall

unilaterally adopt the appropriate criteria for serving in that capacity. Any Members added, in accordance with Article III of these bylaws and excluding advisory membership, shall be entitled to appoint an additional Director to represent their member agency on the Board.

Each Director, with exception of the Chair, must be an employee or contracted consultant of the appointing Local Government Unit. Additionally, the Director shall not be a member of the Local Government Unit's governing body. Any Director may be removed from office at any time, with or without cause, by the Local Government Unit which appointed that Director.

At the first annual meeting, the Directors shall be divided into three equal groups and designated by the Board to serve one, two, or three year terms. Thereafter, the term of office of each Director shall be two years. Each Director, including a Director elected to fill a vacancy, shall hold office until the expiration of the term for which he or she was elected and until the election and qualification of a successor, or until that Director's earlier resignation or removal in accordance with these Bylaws. Upon the expiration of the term of office of any such Director appointed by resolution of the appointing Local Government Unit, or upon removal or resignation of such Director, the applicable Local Government Unit shall appoint a successor Director, and the term of office for each such successor Director shall also be two (2) years. Notwithstanding anything to the contrary in these Bylaws, each Director serves at the pleasure of Corporation. The removal of any Director shall be for cause, and shall be by a majority vote of the entire Board.

To the extent allowed under Tex. Const. art. XVI, §17 (Officers to Serve Until Successors Qualified), in the event that a Director resigns, is removed or, is separated from his or her employment by their appointing Local Government Unit or, otherwise is no longer qualified to serve as a Director, then such Director shall be considered removed from the Board of Directors and the Member or Local Government Unit that appointed the Director shall provide for the appointment of a new Director to complete the unexpired term of such Director.

Any Director or officer may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the Chair or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Vacancies on the Board shall be filled by the Member or Local Government Unit affiliated with that vacancy. An interim appointment may be made by the Member or Local Government Unit affiliated with that vacancy.

Section 4.02. Meetings of Directors. The Directors may hold their meetings and may have an office and keep the books of the Corporation at such place or places as the Board may

from time to time determine: provided, however, in the absence of any such determination, such places shall be the registered office of the Corporation in the State of Texas.

The Board and any committee of the Board exercising the powers of the Board shall meet in accordance with and file notices of each meeting of the Board as is required by Chapter 551 of the Texas Government Code (the “Open Meetings Act”).

Section 4.03. Annual Meetings. The first regular meeting of the Board following the start of each federal fiscal year shall be the Annual Meeting. The Annual Meeting shall be held at the registered office of the Corporation and shall be for the purpose of transacting such business as may be brought before the meeting.

Section 4.04. Regular Meetings. Regular meetings of the Board shall be held at such times and places as shall be designated, four times per year, by a resolution of the Board.

Section 4.05. Special Meetings. Special meetings of the Board shall be held whenever called by the Chair of the Board or by a majority of the Directors and shall be in accordance with the provisions of the Texas Open Meetings Act.

Each Director shall be given reasonable notice of each Special Meeting in person by telephone, electronic transmission (e.g., facsimile transmission or electronic mail) or mail at least seventy-two (72) hours before the meeting. Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a Special Meeting.

Section 4.06. Quorum. A majority of the Board (which must include an El Paso County Director) shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. The act of a majority of the Directors present (which must include an El Paso County Director) and voting at a meeting at which a quorum is in attendance shall constitute the act of the Board. The Board of Directors shall exercise a one person-one vote policy for the membership that he or she represents. The Chair shall only exercise voting privileges in the event of a tie or as explicitly required by these Bylaws.

The affirmative votes of all six Directors shall be required to approve the following:

1. The amendment of the Articles of Incorporation;
2. The amendment of these Bylaws

A proposal to alter, amend, or repeal these Bylaws shall be made by the affirmative vote of all the Directors at any annual or regular meeting, or at any special meeting if notice of the proposed amendment be contained in the notice of said special meeting. However, any proposed change or

amendment to the Bylaws must be approved by the El Paso County Commissioners Court to be effective.

Section 4.07. Conduct of Business. At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board may determine.

At all meetings of the Board, the Chair shall preside, and in the absence of the Chair, the Vice-Chair shall preside. In the absence of the Chair and the Vice-Chair, an acting presiding officer shall be chosen by the Board from among the Directors present.

The Secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting. The Secretary of the Corporation shall be a member of be of the El Paso County staff.

Section 4.08. Compensation of Directors; Reimbursement for Expenses. Directors shall not receive any salary or compensation for their services as Directors. Directors shall be reimbursed for their actual expenses incurred in the performance of their duties as Directors.

Section 4.09. Director's Liability. No Director shall be liable to the Corporation for monetary damages for an act or mission in the Director's capacity as a Director, except as is authorized by Texas or Federal law for public officials of a Texas governmental entity.

Section 4.10. Director's Reliance on Consultant Information. Unless there is an established rule of law to the contrary, a Director shall not be liable if while acting in good faith and with ordinary care, the Director relies on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person that were prepared or presented by:

(a) one or more officers or Directors of the Corporation or employees of the Members or Local Government Units; or

(b) legal counsel, public accountants, or other persons as to matter the Director reasonably believes are within the person's professional or expert competence.

ARTICLE V OFFICERS

Section 5.01. Titles and Term of Office. The officers of the Corporation shall be a Chair, a Vice-Chair, and other officers as the Board may from elect at the annual meeting. The initial term of the officers of the Corporation shall be two (2) years.

Any vacancy in the office of an officer shall be filled by a majority vote of the Board.

Section 5.02. Powers and Duties of the Chair. The Chair shall be appointed by the County Commissioners Court, will act as the principal executive officer of the Corporation and shall be in general charge of the properties and affairs of the Corporation. In furtherance of the purposes of the Corporation and subject to the limitations contained in the Articles of Incorporation, the Chair or the Vice-Chair may sign and execute all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, notes, contracts and other obligations in the name of the Corporation. The Chair shall have such other duties as are assigned by the Board. The Chair may call special meetings of the Board.

Section 5.03. Powers and Duties of the Vice-Chair. The Vice-Chair shall perform the duties and exercise the powers of the Chair upon the Chair's death, absence, disability, or resignation, or upon the Chair's inability to perform the duties of his or her office. Any action taken by the Vice-Chair in the performance of the duties of the Chair shall be conclusive evidence of the absence or inability to act of the Chair at the time such action was taken. The Vice-Chair shall have such other powers and duties as may be assigned to him or her by the Board or the Chair.

Section 5.04. Compensation and Staff. Officers are not entitled to compensation.

Section 5.05. Officer's Liability. No officer shall be liable to the Corporation for monetary damages for an act or omission in the officer's capacity as an officer, except as is authorized by Texas or Federal law for public officials of a Texas governmental entity.

Section 5.06. Officer's Reliance on Consultant Information. Unless there is an established rule of law to the contrary, an officer shall not be liable if while acting in good faith and with ordinary care, the officer relies on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person that were prepared or presented by:

- (a) one or more other officers or Directors of the Corporation or employees of the Members or Local Government Units; or
- (b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

Section 5.07. Removal from Office. Any officer may be removed from office at any time, with or without cause, by the Board of Directors.

Section 5.8. Non-Officer Staff. Staff functions for the Corporation may be performed by El Paso County staff and the Corporation shall pay costs for such services as from time to time shall be billed to the Corporation by El Paso County. The staff functions shall include, but not be limited to, the following:

- Secretary - The Secretary shall keep or cause to be kept the minutes of all meetings of the Board in books provided for that purpose and he or she shall attend to the giving and serving of all notices. He or she shall have charge of the Corporation's books, records, documents and instruments, except the books of account and financial records and securities of which the Treasurer shall have custody and charge, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to the inspection of any Director upon application at the office of the Corporation during business hours and he or she shall, in general, perform all duties incident to the office of Secretary subject to the control of the Board.
- Treasurer. The Treasurer shall have custody of all the funds and securities of the Corporation which come into his or her hands. When necessary or proper, he or she may endorse, on behalf of the Corporation, for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as shall be designated in the manner prescribed by the Board; he or she may sign all receipts and vouchers for payments made to the Corporation, either alone or jointly with such other officer as is designated by the Board; whenever required by the Board, he or she shall render a statement of his or her cash account; he or she shall enter or cause to be entered regularly in the books of the Corporation to be kept by him or her for that purpose full and accurate accounts of all moneys received and paid out on account of the Corporation; and he or she shall perform all acts incident to the position of Treasurer subject to the control of the Board.

ARTICLE VI BUDGET AND FISCAL YEAR

The fiscal year of the Corporation shall commence on October 1 of each year and end on September 30 of the following year. By the first Monday in October of each year, the Board shall prepare and adopt a proposed budget of expected revenues and proposed expenditures for the next ensuing fiscal year. The budget shall be considered adopted upon formal approval of the Board of Directors.

ARTICLE VII FINANCE

Section 7.01. Member Annual Dues. Upon recommendation of the Board of Directors, annual dues of the Members for the next ensuing fiscal year shall be adopted at the Annual Board of Directors Meeting in July of each year. This action shall require a two-thirds (2/3) majority of the voting representatives present and is tied directly to the implementation of County transit

expansion. This action shall require membership dues to become due and payable on January 1 of each year. An eligible Local Government Unit joining the Corporation during the year shall have its annual dues prorated to the nearest beginning month for the remainder of the fiscal year. A Member that is more than six months in arrears in its dues as set forth in Section A of this Article may be denied its voting privileges by action of the Executive Committee until such time as dues are paid. A member which is more than one year in arrears in its dues may be expelled by action of the Executive Committee. To allow for further project development and collaboration, additional funds may be pledged by a Local Government Unit to the Corporation for a specific project or purpose upon approval of the Board. These projects are not subject to the payment deadlines or requirements otherwise established by this Article as they are tied to project milestones and other relevant deadlines.

Section 7.02. Corporation Funds. Funds of the Corporation shall be deposited in a depository to be designated at least every five (5) years by the Board of Directors. Funds may be expended only for budgeted items approved by the Board of Directors. Payments are to be made subject to the [Financial Policies and Procurement Policies], as adopted or revised by the Board of Directors.

Section 7.03. Corporation Fiscal Year. The fiscal year of the Corporation shall be October 1 through September 30 of the following year.

ARTICLE VIII AUDIT AND ANNUAL REPORT

The Corporation shall have an annual audit performed by a qualified independent auditor or auditing firm. This audit shall be performed as soon after the conclusion of the Corporation's fiscal year as applicable and reflect the financial accounts and transactions of the preceding fiscal year.

Following the conclusion of each fiscal year, the Corporation shall prepare and present an annual report to each Local Governmental Unit that reflects the activities and progress of the Corporation for the preceding year by April 1. This report shall include a summary budget or financial report and shall be distributed to all Members, all required Stated and Federal Agencies and any other agencies, governmental units or organizations deemed beneficial by this Corporation.

ARTICLE IX INDEMNIFICATION

Section 9.01. Indemnification. Given that the Corporation has been created as a local government corporation pursuant to the LGC Act and therefore is a Texas governmental unit whose operations are all governmental and not proprietary functions for any purposes, to the maximum extent allowed by Texas law for local governmental entities, the Corporation may indemnify current and former directors, officers, and employees (“Indemnified Person”) for acts and/or omissions that occur within the scope and course of their duties with the Corporation.

Section 9.02. Insurance. The Corporation may purchase and maintain insurance, at its expense, to protect itself and any Indemnified Person.

ARTICLE X CODE OF ETHICS

Section 10.01. Policy and Purposes.

- A. It is the policy of the Corporation that Directors and officers conduct themselves in a manner consistent with sound business and ethical practices; that the public interest always be considered in conducting corporate business; that the appearance of impropriety be avoided to ensure and maintain the public confidence in the Corporation; and that the Board establish policies to control and manage the affairs of the Corporation, fairly, impartially, and without discrimination.
- B. This Code of Ethics included in Exhibit A has been adopted as part of the Board's Bylaws for the following purposes: (a) to encourage high ethical standards in official conduct by Directors and corporate officers; and (b) to establish guidelines for such ethical standards of conduct.

Section 10.02. Unlawful Acts. In addition to any unethical conduct prohibited by Texas or Federal law and/or regulation for a Texas governmental officer or public official, a Director or officer shall not intentionally or knowingly offer, confer or agree to confer on another, or solicit, or agree to accept from another:

- (a) Any benefit as consideration for the Director or officer's decision, opinion, recommendation, vote, or other exercise of discretion as a Director or officer; or
- (b) Any benefit as consideration for a violation of a duty imposed by law on the Director or officer.

ARTICLE XI ALLOCATION OF NET INCOME

To allow for further project development and collaboration, any net income of the Corporation identified at the end of the fiscal year that is not needed to pay Corporation's expenses or obligations may be used by the Corporation for a specific project or purpose upon approval of the Board.

ARTICLE XII MISCELLANEOUS PROVISIONS

Section 12.01. Notice and Waiver of Notice. Whenever any notice whatever is required to be given under the provisions of these Bylaws, such notice shall be deemed to be sufficient if given by depositing the same in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at this or her post office address, as it appears on the books of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. A waiver of notice, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

Section 12.02. Amendments. A proposal to alter, amend, or repeal these Bylaws shall be made by the affirmative vote of all the Directors at any annual or regular meeting, or at any special meeting if notice of the proposed amendment be contained in the notice of said special meeting. However, any proposed change or amendment to the Bylaws must be approved by the El Paso County Commissioners Court to be effective.

Section 12.03. Gender. References herein to the masculine gender shall also refer to the feminine in all appropriate cases, and vice versa.