



The City of Albuquerque (“City”) requires any Shared Active Transportation Program Operator to be registered and permitted in order to operate in the public right-of-way, pursuant to Part 8-3-5 of the Code of Ordinances (O-18-29, enactment no. O-2018-021). This Shared Active Transportation Permit and Agreement must be completed, agreed to, and submitted to the City Planning Department for review. The City Planning Director (or his/her designee) will review the completed application and determine whether it meets the City’s minimum requirements for permitting and operation. The Planning Director shall, in his/her sole discretion, either approve or deny the Permit. Where the Permit is denied, an explanation of the decision shall be provided.

It is unlawful for any Shared Active Transportation Program Operator to offer or manage Small Vehicles except in conformance with this Permit and the requirements of Part 8-3-5 of the Code of Ordinances.

**Applicant Information**

Operator:	Website:
Business Address:	Mailing Address
City, State, Zip:	City, State, Zip
Primary Contact:	Phone
Email:	
Local Contact:	Phone:
Email:	

**Application Information:**

Proposed Number of Small Vehicles:	Vehicle Type:
Proposed Number of Stations or Drop Zones:	

**Application Checklist**

The following must be submitted to the City in order for this Permit Application to be considered complete.

- Operating Permit and Agreement, completed in full and signed by an authorized representative of the Operator.
- Application Fee. See Section VIII of this Permit for a fee schedule.
- Operator’s proof of identity, Articles of Incorporation, Partnership agreement, LLC documents, etc.
- Operator’s proof of active City Business Registration.
- Operator’s proof of insurance. See Section XV of this Permit and Agreement for insurance requirements.
- List of Small Vehicles that will be operating in the city, identified by a unique identification number.
- Proof that all Small Vehicles to be deployed comply with applicable safety standards. See Section IX.G of this Permit for safety standards.
- List, map (KML, Shapefile, CSV, or other GIS data), and scaled diagrams (if applicable) of any proposed Station. See Section X of this Permit for Parking and Station requirements.
- Proof of private agreement with any property owner on whose private property any Station will be located.
- Documentation of how data will be reported to the City. See Section XIV of this Permit for data and reporting requirements.
- Description of any equity-focused program.



- Map and description of the geo-fenced area of operation.
- Contact information for the local contact who will be available 24 hours per day, seven days a week to monitor the fleet on a daily basis, promptly respond to any issues that may arise, and deal with overall management of the fleet.

## **Shared Active Transportation Program Operating Permit and Agreement**

### **I. Definitions**

For the purposes of this Permit and Agreement (“Permit”), the following terms, phrases, words, and their derivations, shall have the meaning given below, unless more specifically defined within a specific article or paragraph herein. When not inconsistent with the context, words used in the present tense include the future and past tense, and words in the singular number include the plural number. The word “shall” is mandatory and the word “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- A. **Public Right-of-way:** The total area of land deeded, reserved by plat or otherwise acquired by the City primarily for the use of the public for purposes of vehicular and/or pedestrian traffic. The public right-of-way does not include federal interstate highways, state highways, or routes under the jurisdiction of the New Mexico Department of Transportation and does not include any privately-owned roadway or roadways owned by a separate jurisdiction within the city, including CNM and UNM.
- B. **Shared Active Transportation:** A network or system of small vehicles, placed in the public right-of-way and for rent in short time increments, that provides increased mobility options over short distances in urban areas.
- C. **Shared Active Transportation Operator (“Operator”):** Any private entity that extends the use, rental, or service of Small Vehicles to its customers.
- D. **Shared Active Transportation Station (“Station”):** Permitted stations placed throughout the right-of-way and adjacent public and private property where customers pick up and return small vehicles. For the purposes of this Permit, unless indicated otherwise, this term includes Drop Zones for shared Small Vehicle programs.
- E. **Powered Micro-mobility Vehicles (“PMV”):** A wheeled vehicle that must be fully or partially powered, have a curb weight of less than 500 lbs., an electric motor less than 750 watts, and have a top speed of less than 30 mph. These include powered standing scooter, powered self-balancing board, powered non-self-balancing board, and powered skates. This definition does not include electric bicycles as otherwise defined in this code.
- F. **Electric-Assisted Bicycle: Electric-Assisted Bicycle or E-Bike.** A bicycle having two or three wheels, fully operable pedals and an electric motor. Electric-Assisted Bicycles are classified as follows:
  - a. **Class 1 Electric-Assisted Bicycle:** An electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour;
  - b. **Class 2 Electric-Assisted Bicycle:** An electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour; and
  - c. **Class 3 Electric-Assisted Bicycle:** An electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight miles per hour.
- G. **Small Vehicle:** Bicycles, scooters, e-bikes, e-scooters, PMVs, and all other small, wheeled vehicles designed specifically for shared-use by no more than two individuals at a time, that are deployed by private Shared Active Transportation Program Operators. Users of small vehicles have the same rights and restrictions as operators of bicycles in the use of streets, highways, roadways, and sidewalks, except as otherwise specifically provided herein.



## II. Scope

Subject to the terms and conditions of this Permit, the City permits \_\_\_\_\_ (“Operator”) to operate, maintain, repair, replace, and remove Small Vehicles on or from City Property, including the public right-of-way, as more particularly shown on the maps, drawings, and other documents which are attached hereto and made a part of this Permit. This Permit allows the Operator to conduct a program where they rent Small Vehicles for use within the City of Albuquerque. This Permit does not allow the Operator to install and/or attach any infrastructure, attachment, equipment, or any other personal property to any infrastructure, including but not limited to utility poles and street lights, belonging now or in the future to the City or any third-party utility without prior approval from the City.

Other jurisdictions within the City of Albuquerque limits, including other municipalities, counties, or institutions may have additional requirements or limitations for Shared Active Transportation Programs and/or the operation of Small Vehicles within their jurisdiction. The Operator is responsible for knowing and following these regulations, as applicable.

## III. Terms

- A. This Permit will remain in effect for a period of one (1) year from the date of the execution of the Permit by the City, (hereinafter referred to as the “Term”), unless terminated and/or revoked pursuant to Section V of this Permit.
- B. The Operator may renew and extend this Permit annually for a total of five (5) years (therefore, 4 renewals) by notifying the City in writing no later than sixty (60) days prior to the expiration of the then-current Term of this Permit. The City reserves the right to increase pricing for the third and subsequent years provided that written notice is provided to the Operator no less than ninety (90) days before the annual renewal date.
- C. The City maintains the right to review the Operator’s compliance at any time.
- D. The Operator shall submit in writing any requested revisions to this Permit, including but not limited to increasing the number of Small Vehicles or adding, removing, or moving Stations. Such changes shall not be implemented without approval from the City. The operator shall utilize only the pre-approved stations in the list provided by the City.

## IV. Permit and Approvals

The City is entering into this Permit in its capacity as a property owner and in its capacity as a regulatory government agency. Nothing in this Permit shall limit or override in any way the Operator’s or Operator’s agents’ obligations to obtain any required regulatory approvals from the City or any other governmental authority, board, council, or commission that may have proprietary or regulatory authority over public rights-of-way and real property where Operator’s Small Vehicles may travel and/or occupy. By entering into this Permit, the City is not modifying or limiting in any way the Operator’s obligations to cause the public rights-of-way or City real property to be used or occupied in accordance with all laws and any provisions as provided herein.

## V. Termination

This Permit may be revoked or terminated under any of the following conditions:

- A. The City may revoke and terminate this Permit if the Operator fails to perform on or comply with any material term, condition, or agreement of this Permit, subject to the Operator’s ability to cure such default within ten (10) days after receipt of written notice of such failure from the City unless a shorter period to cure is necessitated by public health and safety. However, no such failure will be deemed to exist provided that the Operator cures such default within the noticed period to cure and provided that, if such period to cure is extended by mutual agreement, such efforts to cure are prosecuted diligently to completion.



- B. The City may revoke and terminate this Permit in part or in its entirety at any time for any reason or no reason upon advanced written notice at least sixty (60) days in advance of termination of any or all of the Station locations listed in this Permit or termination of the entire Permit.
- C. The Operator may terminate this Permit for any reason or no reason with no less than thirty (30) days written notice to City and with such termination, Operator and City will have no further rights, obligations or liabilities to one another under this Permit except for those obligations and liabilities which survive termination, including the requirements below about restoring the public right-of-way and any City real property to the condition it was in prior to the installation of Stations or other infrastructure.
- D. An order of a court of competent jurisdiction may terminate this Permit.

Should the City or Operator wish to remove one or more Stations as listed in the attachments to this Permit, both parties may agree in writing to do so without terminating the whole of this Permit.

Upon termination of this Permit, the Operator shall restore any public right-of-way or City real property as nearly as possible to the condition it was in prior to the installation of Stations or other infrastructure, all at the sole expense of the Operator and to the satisfaction of City.

If, after termination and within twenty (20) days after being directed to do so by the City, the Operator fails to remove any of the Operator's property from the public right-of-way and restore the right-of-way or City real property, the City may perform the work and the Operator shall reimburse the City for the costs of such work within thirty (30) days after the City submits a bill to the Operator.

Termination of this Permit for any reason shall not release the Operator from any liability or obligation relating to the construction, installation, operation, maintenance, repair, or removal of the Operator's property or any other term of this Permit.

## VI. Use

The Operator shall provide Small Vehicles for rent to the public in accordance with this Permit, including the following:

- A. The Operator shall not use this Permit for any purpose other than those stated and granted in this Permit without prior written approval of the City.
- B. The Operator shall operate and maintain all Small Vehicles and Stations in a safe, sanitary, and operable condition.
- C. The Operator shall not add any additional Small Vehicles or Stations without prior written approval of the City, pursuant to Section III of this Permit.
- D. Small Vehicle and all other permitted electric vehicle riders shall comply with all posted signage on multi-use trails, parks, and open space properties.
- E. Small Vehicle and all other permitted electric vehicle riders shall comply with all posted speed limits. No small vehicle shall exceed 15 miles per hour on any City right-of-way.
- F. Small vehicle and all other permitted electric vehicle riders shall comply with all City Ordinances applicable to such vehicles, and the more restrictive provisions in such ordinances shall override any provisions in this Permit and Agreement.

## VII. Local Contact

- A. The Operator shall provide the contact information of a locally based manager or operations staff member who can respond to City requests, emergencies, or other issues at any time. The presence of a locally based manager or operations staff member is mandatory.
- B. If the name or contact information of this local contact changes, the Operator shall provide the City with updated information within 24 hours.



**VIII. Permit Fees**

With the exception of publicly funded Shared Active Transportation Programs, the Operator shall remit the following fees, as detailed in the Table below, to the City. All funds collected from the Shared Active Transportation Program shall be used for infrastructure improvements related to pedestrian and shared active transportation movement and the City’s costs related to provide maintenance and oversight of any shared active transportation programs.

- A. Application Fee, to be paid upon application submission. A Renewal Fee must be paid annually for a renewal of the Permit pursuant to Section III of this Permit.
- B. Permit Fee, to be paid prior to the Operator’s launch date.
- C. Station Fee, for any Station authorized by the City within any City-owned property, public space, or right-of-way, to be paid prior to installation of any Station. Station Fees will be prorated for additional Stations that have been approved by the City after this Permit is approved.
- D. Daily fee per Small Vehicle in service, to be determined based on the Operator’s deployed fleet.
- E. Fees for improperly parked Small Vehicles and for removal of Small Vehicles by City Staff.

<b>Fee Schedule for Shared Active Transportation Program</b>		
<b>Fee Type</b>	<b>Payment Schedule</b>	<b>Amount</b>
Application Fee and Annual Fee	Annual	\$150 / Year
Permit Fee	Annual	\$4,000.00
Station Fee	Annual	\$40.00 / Station
Annual Small Vehicle Fee	Quarterly, billed by the City*	\$75.00 / Small Vehicle
Trip Fee	Quarterly, billed by the City*	\$0.10 / Trip
Failure to Remove Damaged, Abandoned, or Improperly Parked Small Vehicle Fee	Quarterly, billed by the City*	\$250 / Day
Removal and Storage Fee	Quarterly, billed by the City*	\$100 for relocation or removal \$200 / day for storage

\* Payment for fees billed by the City must be paid within thirty (30) calendar days of the billing date.

**IX. Fleet**

- A. Twenty (20) percent of the fleet’s small vehicles must be deployed in Census Tracts with a score of .6 – 1 in the City’s Social Vulnerability Index Map.  
<https://www.arcgis.com/home/webmap/viewer.html?webmap=fa4a526a7a384158a599c9fd71bd5c48&extent=-106.8806,34.9931,-106.4301,35.1878>
- B. All Operators shall cap all small vehicle fleets at 1,000 units within the boundaries of operation in the City.
- C. The City has the unilateral right to limit the number of Small Vehicles that the Operator may have operating in their fleet at any time.
- D. The Operator may reduce the number of Small Vehicles in operation without prior notice to the City.
- E. The Operator may increase the number of Small Vehicles in operation if, and only if, the City consents in advance in writing to such an increase.
- F. The Operator shall ensure that each Small Vehicle is in working order, well-maintained, and clean.
- G. The Operator shall affix its logo and a clearly visible unique, permanent identification number to each of its Small Vehicles in the City and shall not allow other logos or advertisements to appear on any of its Small Vehicles.
- H. The Operator shall provide, at minimum, a customer service phone number on each Small Vehicle, with information about how to report a damaged or incorrectly parked Small Vehicle.
- I. The Operator shall certify that all Small Vehicles deployed comply with safety standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials, and all other applicable federal, state, and City safety standards.



- J. The Operator shall ensure that all Small Vehicles within the fleet have a curb weight of less than 500-lbs, an electric motor less than 750 watts, a speedometer, and a top speed of 15 miles per hour.
- K. Electric assist for any Small Vehicle within the fleet must comply with all posted speed limits. Any small vehicle within the fleet may not exceed a top speed of 15 miles per hour.

## X. Parking and Stations

Small Vehicles must be parked at an approved Station, a bicycle rack, in a landscaping/buffer area (as defined in §6-5-5-4 of the Code of Ordinances), or at any other permanent fixture meant for the placement of Small Vehicles that does not violate the provisions of Section B below.

- A. Small Vehicles shall not be parked in any of the following locations:
  - 1. Any location that impedes the normal and reasonable movement of pedestrian or other traffic. A pedestrian travel space to a width of at least four (4) feet must be maintained on all sidewalks.
  - 2. Any location that impedes access to entrances to private property or driveways.
  - 3. Any location that impedes access to any bike share station.
  - 4. Any location that impedes access to an intersection approach, particularly access to pedestrian crossing buttons and curb ramps.
  - 5. Any location that impedes access to a bus stop or station, including on ART stations, or impedes any individual's ability to board or alight from a City transit vehicle.
  - 6. Any location that impedes access in any way to a required ADA parking space.
  - 7. Otherwise in accordance with the New Mexico Vehicle Code and the City Municipal Code.
- B. The Operator shall provide Stations for the distribution of Small Vehicles and/or where users can park their Small Vehicles. The operator shall utilize only the pre-approved stations in the list provided by the City.
  - 1. Stations must be located in areas that meet the requirements of Subsections A and B of this Section, above.
  - 2. The Operator shall provide a list and detailed maps of all proposed Stations as part of this Permit application.
  - 3. Stations may be marked physically and/or designated in an online application for users. Regardless of how they are indicated, such areas must be approved by the City if they are designated for parking multiple Small Vehicles.
  - 4. Stations may be marked with the Operator's name and/or logo. For Small Vehicle Share Programs that involve e-scooters, the Operator shall allow co-location of e-scooters owned by another Shared Active Transportation Program Operator in their designated drop zones.
  - 5. The Operator shall submit any proposed Stations or any changes to any existing Station in writing to the City and obtain written approval from the City before making such changes.
  - 6. The City may deny a Station location for any reason, including for reasons of present and future municipal purposes or for safety reasons.
  - 7. The City reserves the right to eliminate, either permanently or temporarily, a Station at any time for present and future municipal or safety reasons. The Operator shall have sixty (60) days to remove the Station after notification from the City. If a Station presents an emergency situation, the City may require the Operator to remove a Station within a 24-hour period. If the Operator is unable or unwilling to remove the Station, the City may perform the work and the Operator shall reimburse the City for the costs of such work within thirty (30) days after the City submits a bill to the Operator.

## XI. Removal of Small Vehicles

- A. Every Small Vehicle must have the ability to be remotely disabled in the case that it is reported to be damaged or unsafe for use.



- B. The Operator shall remove damaged, abandoned, or improperly parked Small Vehicles in accordance with local law and without prior demand from the City.
- C. The City may notify the Operator of damaged, abandoned, or improperly parked Small Vehicles. After such notification, the Operator shall remove that Small Vehicle within 24 hours. Failure to remove damaged, abandoned, or improperly placed Small Vehicles shall result in a monetary penalty per Section VIII.
- D. The Operator shall, upon request by the City, temporarily remove all Small Vehicles from specific locations in the event of emergencies, special events, or regular street maintenance within 24 hours of the request.
- E. The City shall have the right, but no obligation, to remove any abandoned, unattended, or improperly placed Small Vehicle that is, in the sole opinion of the City, a safety hazard or an impediment to access ensured by the Americans with Disabilities Act. The City may charge the Operator a removal and storage fee for any Small Vehicle removed for these reasons.

## XII. Advertising

- A. The Operator shall not advertise or publish the City's participation in or endorsement of the program in Operator's marketing or promotional materials without the City's prior written consent.
- B. The Operator shall not sell or display of third-party advertising on any Station.

## XIII. Education

- A. The Operator shall use all of its communication platforms to ensure that their users are aware of existing regulations about use of Small Vehicles, including but not limited to Part 8-3-3 of the City Code of Ordinances, which pertains to bicycles and, by definition, to Small Vehicles.
- B. The Operator shall use all of its communication platforms to educate users on safe and proper Small Vehicle operation and parking.

## XIV. Data and Reporting

- A. The Operator shall provide a publicly accessible application program interface that shows, at a minimum, the current location of any Small Vehicles available for rental at all times.
- B. The Operator shall provide new users an in-app, email, and text notice upon initial user registration outlining that a variety of data, including location data and individual trips taken, is collected and used for service, operational, or marketing purposes, if applicable. The notice shall direct users to a full privacy policy.
- C. The Operator shall provide to the City a monthly report that provides, at a minimum, the following data for the previous month:
  - 1. Unique permanent identification numbers for Small Vehicles that were in operation during the month.
  - 2. Number of rides taken.
  - 3. Number of Small Vehicles in service.
  - 4. Number of rides per Small Vehicle per day.
  - 5. Anonymized trip data that includes the origin and destination, trip duration, and date and time of all trips taken.
  - 6. Safety reports involving any of the Operator's Small Vehicles.
  - 7. Aggregated repair information for any of the Operator's Small Vehicles.
- D. The Operator shall respond to additional data requests from the City. The City may request aggregate data on system use and aspects of system operation, including but not limited to parking complaints, damaged or lost Small Vehicles, and reported crashes. In the case of crashes or incidents, the City may request specific data for the Small Vehicle involved, including user data and Small Vehicle location, movement, and speed data.



XV. Insurance

The Operator shall procure and maintain at its expense at all times during the Term, insurance policies in the following kinds and amounts provided below, written with insurance companies authorized to do business in the State of New Mexico, which policies cover all operations under this Permit, whether performed by the Operator or its agents. Before operating under this Permit, the Operator shall furnish to the City a certificate or certificates of insurance, in form satisfactory to the City, showing that the Operator complies with this Section. All certificates of insurance shall be provided upon approval of this Permit and upon any cancellation or change in policy, and the certificates shall provide thirty (30) days prior written notice of any cancellation, material change to, or non-renewal of a policy be given to:

Risk Manager  
Department of Finance and Administrative Services  
City of Albuquerque  
P.O. Box 470  
Albuquerque, New Mexico 87103

With respect to all commercial general liability coverages required, the City shall be named as an additional insured, which shall be reflected on all certificates of insurance and endorsement documents. All coverages afforded shall be primary with respect to operations provided. The kinds and amounts of insurance are set out below:

A. Commercial General Liability Insurance. A commercial general liability insurance policy with combined limits of liability for bodily injury or property damage as follows:

\$2,000,000	Per Occurrence
\$2,000,000	Policy Aggregate
\$2,000,000	Umbrella
\$1,000,000	Products Liability/Completed Operations
\$1,000,000	Personal and Advertising Injury
\$ 15,000	Medical Payments

The policy of insurance must include coverage for all operations performed for the City by the Contractor, and contractual liability coverage shall specifically insure the hold harmless provisions of this Agreement.

B. Workers' Compensation Insurance. Workers' Compensation Insurance for its employees in accordance with the provisions of the Workers' Compensations Act of the State of New Mexico (the "Act"). If the Contractor has determined that the Contractor is not subject to the Act, the Contractor shall certify in a signed statement that the Contractor is not subject to the Act. The Contractor shall notify the City and comply with the Act if the Contractor becomes subject to the Act during the term of the Agreement.

XVI. Indemnification and Damages

A. The Operator shall, on behalf of itself and its successors and assigns, indemnify, defend, and hold harmless ("Indemnify") the City, its officials, Agents and Invitees, employees, and their respective heirs, legal representatives, successors, and assigns (individually and collectively, the "Indemnified Parties") from and against any and all liabilities, losses, costs, claims, suits, actions, proceedings, judgments, settlements, damages, liens, fines, penalties, and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, "Claims"), incurred in connection with or arising in whole or in part from any of the following:

1. Injury to or death of a person or damage received or sustained by any person, persons, or property arising out of or resulting from the services performed by the Operator or in connection with the Operator's





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services under this Permit or by reason of any asserted act or omission, neglect, or misconduct of the Operator or Operator's agents or employees or any subcontractor or its agents or employees.

2. Any default by Operator in the observation or performance of any of the terms, covenants, or conditions of this Permit to be observed or performed on Operator's part.
  3. The use, occupancy, or manner of use or occupancy of the public right-of-way or public property by the Operator, its agents and employees, invitees, users, or any person or entity claiming through or under any of them.
  4. The condition of or any occurrence on the public right-of-way or public property from any cause attributable to the events described in clauses 1, 2, or 3 above.
  5. Any acts, omissions, or negligence of the Operator, its agents, or invitees, or users in, on, or about the public right-of-way or public property; all regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Permit and further, except to the extent that such claim is caused by the willful misconduct or active negligence of the City. The foregoing Indemnity shall also include, without limitation, reasonable fees of attorneys, consultants, experts, and related costs and the City's costs of investigating any claim. The Operator specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Indemnified Parties from any claim which actually or potentially falls within this indemnity provision, even if such allegation is or may be groundless, fraudulent, or false, which obligation arises at the time such claim is tendered to Operator by the City and continues at all times thereafter. The defense and indemnity required herein shall not be limited by reason of the specification of any particular insurance coverage required.
- B. Any form of liability of the City in all cases shall be subject to the immunities and limitations of the New Mexico Tort Claims Act, §41-4-1 et seq., NMSA 1978, as amended.
- C. The Operator shall include the following language in its end user agreement: "The user understands, and agrees, that the use of Small Vehicles is an inherently dangerous activity. Roadways, streets, alleys, sidewalks, paths, and trails may have dangerous conditions adverse to the user. The user shall obey all laws, and assumes all responsibilities and liabilities associated with travel conditions while operating a Small Vehicle."
- D. The Operator shall repair or pay for all actual damages done to any City Property or City improvements or to the improvements of the City's tenants or utility franchisees in the public right-of-way caused by Operator's operation.

### XVII. Records

- A. The Operator shall be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements. The City shall maintain records of all actions taken pursuant to this Permit and shall make records available to Operator for inspection, if requested.
- B. The City and Operator shall use, restrict, safeguard, and dispose of all information related to the Permit, in accordance with all relevant state and federal and local statutes, regulations, and policies.
- C. The Operator understands and shall abide by all provisions of the Accountability in Government Ordinance, §2-10-1 et seq. and Inspector General Ordinance, §2-17-1 et seq. R.O.A. 1994.

### XVIII. Assignment

No transfer or assignment of the Permit, or of any part thereof or interest therein, directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer or assignment is first approved in writing by the City.



**XIX. Miscellaneous**

- A. The Operator and any of its contractors shall comply with all federal, state, and local laws, ordinances, and regulations. The Operator’s attention is specifically drawn to 62-14-1 et. seq. NMSA (1978 Comp., 1984 Repl. Pamphlet) regarding excavating damage pipelines and underground utility lines.  
Utilities. At all times, Operator shall be responsible to provide Operator’s utilities for any and all Stations in the right-of-way.
- B. Discrimination Prohibited. The Operator shall not discriminate against any person on the basis of race, color, religion, sex, gender, gender identity, sexual orientation, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, national origin, ancestry, age, physical or mental handicap or serious medical condition, or disability as defined in the Americans with Disabilities Act of 1990, as now enacted or hereafter amended. The Contractor agrees to comply and act in accordance with all provisions of the Albuquerque Human Rights Ordinance, the New Mexico Human Rights Act, Titles VI and VII of the U.S. Civil Rights Act of 1964, as amended, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, and all federal, New Mexico and City laws and rules related to the enforcement of civil rights. Questions regarding civil rights or affirmative action compliance requirements should be directed to the City’s Office of Civil Rights.
- C. Construction and Severability. If any part of this Permit becomes invalid or unenforceable, the remainder of this Permit will remain valid and enforceable if the remainder of the Permit is reasonably capable of completion, provided that the remainder of the Permit does not materially prejudice either the City or the Operator in its respective rights and obligations contained in the valid covenants, conditions, or provision of this Permit.
- D. The notice addresses for Operator and City are as follows:

For Operator:

Attention: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_

For City:

Planning Director  
 Planning Department  
 600 2nd St. NW  
 Albuquerque, NM 87102

Copies of any notices to the City must also be given to:

City of Albuquerque  
 Real Property Division  
 P.O. Box 1293  
 Albuquerque, NM 87103

City of Albuquerque  
 Chief Administrative Officer  
 One Civic Plaza NW  
 P.O. Box 1293  
 Albuquerque, NM 87103



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- E. **Conflict of Interest.** Upon execution of this Permit, or within five (5) days following the acquisition of any interest in this Permit during the term of this Permit, Operator shall disclose in writing to City whether any City Councilor, officer or employee of City has acquired or hereafter acquires any direct, indirect, legal or beneficial interest in Operator or in any contract, lease, license, or agreement between City and Operator, or in any franchise, concession, right, or privilege of any nature granted by City to Operator in this Permit or otherwise.
- F. **Fair Dealing.** Operator covenants and warrants that the only entity interested in this Permit is named in this Permit and that no other person or firm has any interest in this Permit, and this Permit is entered into by Operator without collusion on the part of Operator with any person or firm, without fraud and in good faith. Operator also covenants and warrants that no gratuities, in the form of entertainment, gifts or otherwise, were, or during the term of this Operator, will be, offered or given by Operator or any agent or representative of Operator to any officer or employee of City with a view towards securing this Operator or for securing more favorable treatment with respect to making any determinations with respect to performing this Permit.
- G. **Audits and Inspections.** At any time during normal business hours and as often as the City may deem necessary, Operator shall make all of the Operator's records with respect to all matters covered by this Permit available to the City for examination. The Operator shall allow the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data related to all matters covered by this Agreement. The Operator understands and will comply with the City's Accountability in Government Ordinance, §2-10-1 et seq. and Inspector General Ordinance, §2-17-1 et seq. R.O.A. 1994, and also agrees to provide requested information and records and to appear as a witness in hearings for the City's Board of Ethics and Campaign Practices pursuant to Article XII, Section 9 of the Albuquerque City Charter.
- H. **Government Powers.** Subject to state and federal law, nothing in this Permit shall be construed or interpreted as limiting, relinquishing, or waiving any rights of ownership enjoyed by the City in the right of way or waiving or limiting the City's control over the management, operation or maintenance of the right of way, except as specifically provided in this Permit or as impairing or defining governmental rights or the police powers of the City.
- I. **Choice of Law, Venue.** This Permit shall be governed by and construed under and in accordance with the laws of the State of New Mexico and the City of Albuquerque. The venue for actions arising in connection with this Permit is Bernalillo County, New Mexico.
- J. **Exhibits.** All certificates, documents, exhibits, attachments, riders, and addenda, if any, referred to in this Permit, are hereby incorporated into this Permit by reference and are made part hereof as though set forth in full in this Permit to the extent they are consistent with the terms and conditions of this Permit.
- K. **Attorneys' Fees.** If either party to this Permit institutes any action or proceeding in court to enforce any provision hereof, for damage by reason of an alleged breach of any provision of this Permit, for a declaration of such party's rights or obligations hereunder, or for any other judicial remedy, each party shall be responsible for its own attorney's fees (including the reasonable fees and disbursements and charges of internal legal counsel) and litigation expenses, including, but not limited to expert witness fees, and service of process fees.
- L. **Public Document.** City is a municipal corporation under the laws of the State of New Mexico. City and Operator acknowledge that this Permit is subject to the New Mexico Inspection of Public Records Act, NMSA 1978 §§ 14-2-1 to -12 and is a "public record" within the meaning of said Act.
- M. **Representation.** Each party hereto acknowledges that it has been represented, or has had ample opportunity to obtain representation of counsel, with respect to this Permit. Accordingly, each party hereto represents to the other that it has read and understood the terms of this Permit, and the consequences of executing this Permit and that except as expressly set forth herein, no representations have been made by either party to induce the other party to execute this Permit.



**City of Albuquerque  
Planning Department**

**Shared Active Transportation Program  
Permit and Agreement**

Revised 8/9/2024

N. Approval Required. This Permit shall not become effective or binding until approved and signed by the City Planning Director or their designee.

IN WITNESS WHEREOF, the Operator has signed this Permit and Agreement as of the date indicated by the Operator's signature, and the Permit is effective after approval by the City and only upon the signature of the Director of the City Planning Department or his/her authorized designee.

\_\_\_\_\_  
Signature, Operator's Representative

\_\_\_\_\_  
Signature, City Representative

\_\_\_\_\_  
Printed Name, Operator's Representative

\_\_\_\_\_  
Printed Name, City Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature, Operator's Representative  
(additional if needed)

\_\_\_\_\_  
Printed Name, Operator's Representative

\_\_\_\_\_  
Date