

TRANSIT SERVICE AGREEMENT

This Transit Service Agreement (“Agreement”) is made and entered into as of _____, 2023 (“Effective Date”), by and between the City of Eureka (“City”), a municipal corporation, and Humboldt Transit Authority (“HTA”). City and HTA may each be referred to herein as a “Party”, or collectively as the “Parties”.

RECITALS

- A. Linc Housing Corporation, a California nonprofit public benefit corporation (“Developer”), is developing certain real property in the City of Eureka, California as an affordable housing community known as Eureka Scattered Site Project (“the Project”) and is a third-party beneficiary to this agreement.
- B. In connection with the development of the Project, Developer is applying for the Affordable Housing and Sustainable Communities (“AHSC”) program (the “AHSC Application”) through the State of California Strategic Growth Council (SGC) and the Department of Housing and Community Development (“HCD”). The application will be submitted jointly with City.
- C. The AHSC program funds land-use, housing, transportation, and land preservation projects to support infill and compact development that reduces greenhouse gas emissions by improving mobility options and increasing infill development, which decrease vehicle miles traveled and associated greenhouse gas and other emissions.
- D. The AHSC program features Eligible Capital Project types – Sustainable Infrastructure (“STI”) and Transportation-Related Amenities (“TRA”). In addition, the AHSC program permits the funding of Eligible Program Costs (“PGM”) which includes transit subsidy programs. The STI, TRA and PGM definitions can be found on pages 70 and 67 of the AHSC Round 7 FY Program Guidelines (“AHSC Guidelines”). City and HTA will have a role in the STI, TRA and PGM portions of the AHSC. The follow items will require coordination between City and HTA: STI items include microtransit vehicle purchases, purchase of microtransit vehicle charging infrastructure, ten years of transit operations, transit signal priority, and STI employment benefits and outcomes reporting. TRA includes employment benefits and outcomes reporting. PGM items include three years of free transit passes for affordable housing resident households.
- E. City and HTA have determined, with the concurrence of Developer, that purchasing two zero-emission microtransit vehicles for use throughout the City of Eureka would be an effective and expeditious method of achieving the goals of the AHSC program. This microtransit strategy is comparable to the cost of establishing a new fixed route service which was included in the last application, yet will service the new housing developments much more efficiently with a better rider experience. City will contribute \$320,000 if and when obtained from an AHSC grant from HCD (the “Transit Funds”) to HTA's Operations Budget to contribute toward the purchase of two fully electric minibuses (the “**Microtransit Vehicle(s)**”) and the “**Microtransit Vehicle Purchase**”) to support the provision of added transit service.
- F. City and HTA have determined, with the concurrence of Developer, that purchasing

microtransit vehicle charging infrastructure would be an effective and expeditious method of achieving the goals of the AHSC program. The charging infrastructure would ensure that both vehicles could be fully charged for a full day of operations. City will contribute \$150,000 if and when obtained from an AHSC grant from HCD to HTA's Operations Budget to contribute toward the purchase of the charging infrastructure (the “**ZEV Charging Infrastructure Purchase**”) to support the microtransit vehicles.

G. City and HTA have determined, with the concurrence of Developer, that funding transportation operations of the microtransit vehicles for a period of ten years would be an effective and expeditious method of achieving the goals of the AHSC program. The transit operations would help ensure the microtransit vehicles are a key component of HTA’s fleet for a full decade as well as a reliable transportation option for local residents. City will contribute \$4,024,926 if and when obtained from an AHSC grant from HCD to HTA's Operations Budget to contribute toward the operations of the microtransit vehicle operations (the “**Transit Vehicle Operations**”) for a period of ten years.

H. City and HTA have determined, with the concurrence of Developer, that purchasing six transit signal priority systems would be an effective and expeditious method of achieving the goals of the AHSC program. The transit signal priority systems would help ensure limited wait times at intersections for transit vehicles. City and HTA will coordinate the operations of the transit signal priority system (the “**Transit Signal Priority Purchase**” and the “**Transit Signal Priority System**”).

I. City and HTA have determined, with the concurrence of Developer, that funding STI employment benefits and outcomes reporting would be an effective and expeditious method of achieving the goals of the AHSC program. By tracking employment benefits and outcomes, the grant recipients can coordinate and monitor the development of the aforementioned improvements and provide the state with valuable data about jobs and related benefits associated with the AHSC investment. HTA will provide necessary data to City for employment benefits and outcomes reporting (the “**STI Benefits and Outcomes Reporting**”).

J. City and HTA have determined, with the concurrence of Developer, that funding TRA employment benefits and outcomes reporting would be an effective and expeditious method of achieving the goals of the AHSC program. By tracking employment benefits and outcomes, the grant recipients can coordinate and monitor the development of the aforementioned improvements and provide the state with valuable data about jobs and related benefits associated with the AHSC investment. HTA will provide necessary data to City for employment benefits and outcomes reporting (the “**TRA Benefits and Outcomes Reporting**”).

K. City and HTA have determined, with the concurrence of Developer, that a purchase of annual transit passes for each apartment would be an effective and expeditious method of achieving the goals of the AHSC program. The proposed transit pass purchase would grant three years of free transit passes to affordable housing residents (one annual pass per apartment, 87 total) to support increased ridership at locations served by the HTA bus routes and microtransit vehicles mentioned above. City or Developer will contribute \$156,000 if and when obtained from an AHSC grant toward the purchase of transit passes for households making up to 60% AMI (the “**Annual Transit Passes**”).

L. HTA is not an applicant for the AHSC funding, but, as set forth herein, will have obligations to complete/coordinate the **Microtransit Vehicle Purchase, ZEV Charging Infrastructure Purchase, Transit Vehicle Operations, Transit Signal Priority System, and STI Benefits and Outcomes Reporting** under its Operations Budget if Transit Funds are granted and made available for that purpose. HTA can demonstrate prior experience and provide evidence of at least two prior projects that are similar in scope and size which have been completed during the ten years preceding April 4, 2023, as follows: HTA has procured one electric bus and has created ten new ETS bus routes during the history of the ETS service. Most recently, HTA purchased one electric buses in twenty-one that are currently being used during daily operations. Additionally, HTA has recently created four new ETS bus routes in last ten years. In total, HTA operates over 17 bus routes. Lastly, HTA has maintained 110 facilities around bus stops during the 45-year history of the ETS service. In total, HTA operates over 190 bus stops.

M. HTA is not an applicant for the AHSC funding, but, as set forth herein, will have obligations to provide reporting data for **TRA Improvements and TRA Benefits and Outcomes Reporting** purposes.

N. City and HTA now wish to enter into this Agreement for the purpose of addressing the expenditure of the Transit Funds and to satisfy the requirements of the AHSC Application.

O. This agreement is null and void if the AHSC application submitted on April 4, 2023 is unsuccessful.

NOW, THEREFORE, City and HTA agree as follows:

1. Microtransit Vehicle Purchase

If the Transit Funds are delivered to HTA under the terms of this Agreement, HTA shall complete the **Microtransit Vehicle Purchase**, all in accordance with, and subject to, the terms and requirements of HTA's then current Procurement Policies and Procedures, this Agreement, the AHSC Application, and the HCD grant documents. The **Microtransit Vehicles** purchased with these funds is not for a specific vehicle. The **Microtransit Vehicles** will be assigned to the appropriate operating division as determined by HTA. It will not differ from any other **Microtransit Vehicle** in its same order.

The agreed-to amount of \$320,000 in Transit Funds is City's maximum contribution towards the **Microtransit Vehicle Purchase**. All costs for the **Microtransit Vehicle Purchase** that exceed this amount will be paid by HTA. City's obligation to provide the Transit Funds and HTA's obligation to purchase the **Microtransit Vehicles** under this Agreement is subject to City obtaining the award of Transit Funds from HCD pursuant to the AHSC Application. City shall have no obligation to provide any funds to HTA if City does not receive award of Transit Funds from HCD as part of the AHSC Application.

2. ZEV Charging Infrastructure

If the Transit Funds are delivered to HTA under the terms of this Agreement, HTA shall complete the investment in the **ZEV Charging Infrastructure**, all in accordance with, and

subject to, the terms and requirements of HTA's then current Procurement Policies and Procedures, this Agreement, the AHSC Application, and the HCD grant documents. The new **ZEV Charging Infrastructure** purchased with these funds is not for a specific charging system. The new **ZEV Charging Infrastructure** will be assigned to the appropriate operating division as determined by HTA. It will not differ from any other **ZEV Charging Infrastructure** in its same order.

The agreed-to amount of \$150,000 in Transit Funds is City's maximum contribution towards the new **ZEV Charging Infrastructure**. All costs for the **ZEV Charging Infrastructure** that exceed this amount will be paid by HTA. City's obligation to provide the Transit Funds and HTA's obligation to invest in the new **ZEV Charging Infrastructure** under this Agreement is subject to City obtaining the award of Transit Funds from HCD pursuant to the AHSC Application. City shall have no obligation to provide any funds to HTA if City does not receive award of Transit Funds from HCD as part of the AHSC Application.

3. Transit Vehicle Operations

If the Transit Funds are delivered to HTA under the terms of this Agreement, HTA shall complete the investment in the **Transit Vehicle Operations**, all in accordance with, and subject to, the terms and requirements of HTA's then current Procurement Policies and Procedures, this Agreement, the AHSC Application, and the HCD grant documents. The new **Transit Vehicle Operations** purchased with these funds is not for a specific operator. The new **Transit Vehicle Operations** will be assigned to the appropriate operating division as determined by HTA. It will not differ from any other **Transit Vehicle Operations** in its same order.

The agreed-to amount of \$4,024,926 in Transit Funds is City's maximum contribution towards the new **Transit Vehicle Operations**. All costs for the **Transit Vehicle Operations** that exceed this amount will be paid by HTA. City's obligation to provide the Transit Funds and HTA's obligation to invest in the new **Transit Vehicle Operations** under this Agreement is subject to City obtaining the award of Transit Funds from HCD pursuant to the AHSC Application. City shall have no obligation to provide any funds to HTA if City does not receive award of Transit Funds from HCD as part of the AHSC Application.

4. Transit Signal Priority Purchase

If the Transit Funds are delivered to HTA under the terms of this Agreement, HTA shall coordinate the operations of the **Transit Signal Priority System**, all in accordance with, and subject to, the terms and requirements of HTA's then current Procurement Policies and Procedures, this Agreement, the AHSC Application, and the HCD grant documents. The new **Transit Signal Priority System** purchased with these funds is not for a specific brand of transit priority signal system. It will not differ from any other **Transit Signal Priority System** in its same order.

City's obligation to provide the Transit Funds and HTA's obligation to invest in equipment for the new **Transit Signal Priority System** under this Agreement is subject to City obtaining the award of Transit Funds from HCD pursuant to the AHSC Application. City shall have no

obligation to provide any funds to HTA if City does not receive award of Transit Funds from HCD as part of the AHSC Application.

5. STI Employment Benefits and Outcomes Reporting

If the Transit Funds are delivered to HTA under the terms of this Agreement, HTA shall provide data for **STI Employment Benefits and Outcomes Reporting**, all in accordance with, and subject to, the terms and requirements of HTA's then current Procurement Policies and Procedures, this Agreement, the AHSC Application, and the HCD grant documents. The new **STI Employment Benefits and Outcome Reporting** purchased with these funds is not for a specific employee or operator. It will not differ from any other **STI Employment Benefits and Outcomes Reporting** in its same order.

HTA's obligation to provide data for **STI Employment Benefits and Outcomes Reporting** under this Agreement is subject to City obtaining the award of Transit Funds from HCD pursuant to the AHSC Application. City shall have no obligation to provide any funds to HTA if City does not receive award of Transit Funds from HCD as part of the AHSC Application.

6. TRA Employment Benefits and Outcomes Reporting

If the Transit Funds are delivered to HTA under the terms of this Agreement, HTA shall provide data for **TRA Employment Benefits and Outcomes Reporting**, all in accordance with, and subject to, the terms and requirements of HTA's then current Procurement Policies and Procedures, this Agreement, the AHSC Application, and the HCD grant documents. The new **TRA Employment Benefits and Outcome Reporting** purchased with these funds is not for a specific employee or operator. It will not differ from any other **TRA Employment Benefits and Outcomes Reporting** in its same order.

HTA's obligation to provide data for **TRA Employment Benefits and Outcomes Reporting** under this Agreement is subject to City obtaining the award of Transit Funds from HCD pursuant to the AHSC Application. City shall have no obligation to provide any funds to HTA if City does not receive award of Transit Funds from HCD as part of the AHSC Application.

7. Annual Transit Passes

If the Transit Funds are delivered to HTA under the terms of this Agreement, City or Developer shall complete the purchase of 87 **Annual Transit Passes** for households making up to 60% AMI, all in accordance with, and subject to, the terms and requirements of HTA's then current Procurement Policies and Procedures, this Agreement, the AHSC Application, and the HCD grant documents. The **Annual Transit Passes** will cover a period of three years.

The agreed-to amount of \$156,000 in Transit Funds is City or Developer's maximum contribution towards the purchase of **Annual Transit Passes**. City or Developer's obligation to provide the Transit Funds and are subject to City obtaining the award of Transit Funds from HCD pursuant to the AHSC Application. City or Developer shall have no obligation to provide any funds to HTA if City does not receive award of Transit Funds from HCD as part

of the AHSC Application.

8. Disbursement of Transit Funds

Following HTA's purchase order of the **Microtransit Vehicles, ZEV Charging Infrastructure, Transit Vehicle Operations, Transit Signal Priority System, STI Employment Benefits and Outcomes Reporting, TRA Employment Benefits and Outcomes Reporting, and Annual Transit Passes**, HTA shall submit to City all cost invoices and draw requests for Transit Funds that are associated with the purchase order, along with such supporting documentation as reasonably requested by City. City shall immediately submit such requests to HCD for reimbursement. Upon receipt of the requested Transit Funds from HCD, City will immediately deliver those funds to HTA. In the event that HTA is not ordering any of the aforementioned items in the capital year of this Agreement, then available Transit Funds shall be used to reimburse HTA for costs expended in the next year when such **Microtransit Vehicles, ZEV Charging Infrastructure, Transit Vehicle Operations, Transit Signal Priority System, STI Employment Benefits and Outcomes Reporting, TRA Employment Benefits and Outcomes Reporting, and Annual Transit Passes** are made by HTA; provided however that HTA agrees that it shall complete the purchase no later than the deadline required by HCD under the AHSC grant documents. HTA shall reasonably assist City in complying with any requirements related to the expenditure of the Transit Funds from HCD as part of the AHSC Application.

9. Indemnification

HTA shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers (collectively, "City Indemnitees") from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, costs and fees of litigation, (collectively, "Liability") of every nature arising out of or in connection with HTA's breach of this agreement or use of the Transit Funds.

City shall indemnify, defend with counsel acceptable to HTA, and hold harmless HTA and its officers, officials, employees, agents and volunteers (collectively, "HTA Indemnitees") from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, costs and fees of litigation, (collectively, "Liability") of every nature arising out of or in connection with City's breach of this agreement or use of the Transit Funds in violation of the AHSC program.

City and HTA shall indemnify, defend with counsel acceptable to Developer, and hold harmless Developer and its officers, officials, employees, agents and volunteers (collectively, "Developer Indemnitees") from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, costs and fees of litigation, (collectively, "Liability") of every nature arising out of or in connection with City and HTA's breach of this agreement or use of the Transit Funds in violation of the AHSC program.

10. Termination

Either Party, by written notice to the other Party, may terminate this Agreement, in whole or

in part, if the funding for **Microtransit Vehicles, ZEV Charging Infrastructure, Transit Vehicle Operations, Transit Signal Priority System, STI Employment Benefits and Outcomes Reporting, TRA Employment Benefits and Outcomes Reporting, and Annual Transit Passes**, is not obtained or if there is a breach of this Agreement by the other Party that is not cured within a reasonable period after the occurrence of such breach. If this Agreement is so terminated, HTA shall, subject to City's indemnification obligation set forth above, remit any uncommitted Transit Funds it has received to HCD, or such other governmental agency as directed by HCD, and HTA shall have no further liability under this Agreement.

11. Notices

Formal notices, demands, and communications between the Parties shall be sufficiently given if, and shall not be deemed given unless, dispatched by registered or certified mail, postage prepaid, return receipt request, or delivered by express delivery service, return receipt requested, or personally delivered, as follows:

City: City of Eureka
 531 K Street
 Eureka, CA 95501
 Attn: City Manager

HTA: Humboldt Transit Authority
 133 V Street Eureka, CA 95501
 Eureka, CA 95501
 Attn: General Manager

12. Miscellaneous

- A. *Counterparts.* This Agreement may be executed in any number of counterparts, all of which shall be deemed one original and complete instrument.
- B. *Time.* Time is of the essence for the performance of all obligations and the satisfaction of all conditions of this Agreement.
- C. *Covenant of Further Assurances.* City and HTA each agree to execute such other documents and perform such other acts as are consistent with this Agreement and the AHSC program and may be reasonably necessary or desirable to effectuate this Agreement.
- D. *Governing Law.* This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with, the laws of the State of California. The exclusive venue for any action arising out of, or relating to the performance of, this agreement is in the Superior Court of Humboldt County, California.
- E. *Authority.* Each party signing this Agreement has the right, power, legal capacity and authority to enter into and perform its obligations under the Agreement.
- F. *Entire Agreement.* This Agreement constitutes the complete and entire Agreement between HTA and City and supersedes any prior representations, understandings, communications,

commitments, agreements, proposals , or proposals, oral or written, regarding the subjects herein.

G. *Amendment.* This Agreement may only be amended by a writing signed by the Parties hereto.

H. *Waiver.* The waiver or any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Transit Service Agreement of the first date set forth above.

HTA

Humboldt Transit Authority

By: _____
Greg Pratt, General Manager

By: _____
Title: _____

Approved as to Form:

Office of General Counsel

CITY

City of Eureka

By: _____
Miles Slattery, City Manager

Attest:

Pamela J. Powell, City Clerk

Approved as to Form:

Autumn Luna, City Attorney