

**AMENDED
AND RESTATED JOINT POWERS AGREEMENT
CREATING THE MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY**

This Amended and Restated Joint Powers Agreement ("Agreement") is made and entered into this ____ day of _____, 2023, by and between the COUNTY OF SAN BERNARDINO, a county and body politic in the State of California (the "COUNTY") and the CITY OF BIG BEAR LAKE, a charter city in the State of California (the "City") with reference to that certain Joint Powers Agreement between the County and the City creating the Mountain Area Regional Transit Authority dated December 1, 1993, as subsequently amended. The County and the City are sometimes individually referred to as a "Party" and collectively as "Parties."

WITNESSETH:

WHEREAS, the County and the City have a mutual interest in deciding upon and implementing a public transit system to serve the City and nearby areas in the mountains of the County (the "Mountain Communities"); and

WHEREAS, the Parties wish to better coordinate transit services by creating a single umbrella agency which will provide transit services as requested by the Parties and will serve the transit needs of the Mountain Communities and other areas as required;

WHEREAS, the Parties desire to set forth herein at length the entire agreement between the Parties for the creation of a public entity under the Joint Exercise of Powers Act to replace the prior agreement for Big Bear Lake Transit Service.

NOW THEREFORE, the County and the City, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

SECTION 1. Purpose

Each Party to this Agreement has the power to own, maintain and operate a public transportation system and to establish the level of service within its respective jurisdiction. Under authority of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California commencing with Section 6500, the Parties desire, by joint exercise of their common power, to create and constitute a new public transportation entity separate and distinct from each of the Parties, to be known as "Mountain Area Regional Transit Authority/SBCo". This new entity will serve as a unifying umbrella agency to coordinate service desires of the Parties and to provide such service either directly or thorough subcontract with other operators. It is anticipated that the expertise, efficiencies, and economies resulting from the joint effort and the utilization of available assistance programs will lend impetus to the new transit entity in developing improved public transportation service throughout the Mountain Communities.

SECTION 2. Term

This Agreement shall become effective as of December 1, 1993, and shall continue in full force and effect until terminated by either Party. Any Party may withdraw from the Agreement as provided in Section 13.

SECTION 3. Authority

A. Creation of Authority

Pursuant to Section 6503.5 of the Government Code, there is hereby created a public entity to be known as "Mountain Area Regional Transit Authority/SBCo", hereinafter referred to as "Mountain Transit" or the "Authority," branded to the public as Mountain Transit ("MT"), and Mountain Transit shall be a public entity separate and apart from the City and the County.

B. Governing Board

The Authority shall be administered by a governing board of directors comprised of five (5) persons (the "Board"), each serving in their individual capacities as members of the Board, who shall receive compensation for attendance at regular and special meetings of the Board not to exceed the amount of the stipend set forth in the County of San Bernardino Code salary ordinance relating to compensation of County Boards, Commissions, and Committees for County Airports Commissions. Two (2) members shall be City Council Members of the City, appointed by the City Council. The City appointed officials shall serve at the pleasure of the appointing City Council and until their respective successor is appointed. Two (2) members shall be Members of the San Bernardino County Board of Supervisors and/or their designees, one of whom shall be the Supervisor for the County's Third Supervisorial District representing the Mountain Communities served by Mountain Transit. Members of the Board appointed by the City and members of the Board who are County Supervisors may designate, in writing, another person to represent them as their designee for particular meetings or for all meetings, and such designees shall have full voting power. One member of the Board shall be a representative at-large from the Mountain Communities and shall be selected by a majority of the other members of the Board for a term of two (2) years. The County's and the City's elected officials on the Board, and/or their designees, shall serve as long as the appointing elected official holds office. The Board shall be called the "Board of Directors of the San Bernardino County/Mountain Area Regional Transit Authority." All voting power shall reside in the Board.

C. Meetings of Governing Board

(1) Regular Meetings

The Board shall provide for its regular meetings; provided, however, that it shall hold at least one (1) regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Board, and a copy of such resolution shall be filed with each Party.

(2) Ralph M. Brown Act

All meetings of the Board including, without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with California Government Code Section 54950) .

(3) Minutes

The Clerk of the Board shall cause to be kept minutes of the regular, adjourned regular, and special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board, and to the City and the County.

(4) **Quorum**

A majority of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time; provided that the affirmative vote of at least three (3) members of the Board shall be required for the approval of any matter on which action of the Board is required.

D. Officers

The Board shall select a chair, a vice chair, and other necessary officials. The Board shall determine the terms of office for each officer of Mountain Transit. All Authority treasury functions, including but not limited to the deposit and custody of all money of the Authority from whatever sources, shall be performed and provided by Authority staff. All Authority financial and controller functions, including but not limited to the draw of warrants to pay demands against the Authority as authorized by the Board, shall be performed and provided by Authority staff. The attorney for the Authority shall be the County Counsel or the City Attorney, or such other attorney appointed by the Board. The authority shall pay the regularly approved and established fees of all officers selected by the Board..

E. Functions

The Board of the Authority shall perform the following functions:

- 1) Appoint committees;
- 2) Adopt the budget;
- 3) Appoint the Authority General Manager;
- 4) Establish policy;
- 5) Adopt rules and regulations for the conduct of business; and
- 6) Perform such other functions as are required to accomplish the purposes of this Agreement.

SECTION 4. Powers

The Authority shall have the powers common to the City and the County to own, maintain and operate a public transportation system; and in the exercise of the powers under this Agreement, Mountain Transit is authorized in its own name to:

- A) Employ agents and employees and contract for professional services;
- B) Make and enter into contracts;
- C) Acquire, convey, construct, manage, maintain and operate any buildings, works or improvements;
- D) Acquire and convey real and personal property;
- E) Incur debts, liabilities and obligations; provided however, the debts, liabilities and obligations incurred by Mountain Transit shall not be, nor shall they be deemed to be, debts, liabilities or obligations of any Party to this Agreement;
- F) Accept contributions, grants or loans from any private or public agency, or the United States or any department, instrumentality or agency thereof, for the purpose of financing the planning, acquisition, construction, maintenance or operation of transit facilities;
- G) Invest money in the treasury that is not needed for immediate necessities, as the board determines advisable, in the same manner and upon the same conditions as other local governmental entities in accordance with the California Government Code;
- H) Sue and be sued;
- I) Claim Local Transportation Funds for public and specialized transportation services on behalf of the member agencies as authorized by the Board; and

J) Do all other acts reasonable and necessary to carry out the purposes of this Agreement. Such powers are subject to the restrictions upon the manner of exercising such powers as are imposed upon the County and the City. The Authority's method of operation, level of service and financial participation shall be consistent with the most recently adopted Short Range Transit Plan. Such plan shall be adopted by the Board.

SECTION 5. Parties' Liability

Each Party to this Agreement, whether individually or collectively, does not assume, nor shall a Party be deemed to assume, liability for:

- a) Any act of Mountain Transit or any act of Mountain Transit's agents or employees;
- b) The payment of wages, benefits or other compensation to officers, agents or employees of Mountain Transit; or
- c) The payment of workers' compensation or indemnity to agents or employees of Mountain Transit for injury or illness arising out of the performance of this Agreement.

SECTION 6. Financing - Fiscal Year

A) Fiscal Year

For the purposes of this Agreement, the term "fiscal year" shall mean the twelve (12) month period from July 1st, to and including the following June 30th.

B) Annual Budget and Capital Improvement Program

The Board shall hold a public hearing in order to adopt an annual budget and consider a transit capital program. The budget shall be limited to the funds designated for transit and no City or County funds shall be used without prior approval by the respective governing bodies of the City or the County. The adoption of the annual budget shall require a four-fifths vote of the Board. Copies of the proposed annual budget shall be submitted to the governing bodies of the Parties for comment and review at least 30 days prior to the date scheduled for the public hearing and final adoption by the Board.

C) Initial Operating Monies

At the time of submitting its first proposed annual budget and proposed capital improvement program to the legislative bodies of the Parties, the Board shall also submit an estimate of such initial operating capital as may be required to sustain Mountain Transit operations, pending receipt of any revenues and its local transportation fund allocation. Any initial operating monies required shall be apportioned among the Parties as determined by the Board and shall be paid by the Parties to Mountain Transit, subject to repayment by Mountain Transit on reasonable terms to be agreed upon by the Board and the Parties.

D) Annual Financial Support

At the time of preparing Mountain Transit annual proposed operating budget and proposed capital expenditure budget, the Board shall determine the amount of financial support required from the City and the County for the ensuing fiscal year. The support required for the annual operating budget shall be equitably apportioned between the Parties hereto. San Bernardino County Transit Authority (SBCTA) shall assign the portion of its Local Transportation Fund and other funds such as Measure I utilized to finance Mountain Transit's annual budgets. The annual operating budget shall reflect and include:

- i. Funds available from Federal grants and other sources;
- ii. Transportation service requirements for capital expenditure for replacement and general system use;
- iii. Special capital costs required for equipment and facilities to provide additional or

increased service within any area served by the Mountain Transit; and.

iv. Such other factors as the Board may deem appropriate.

Following the adoption of the Mountain Transit budget, the Board shall inform the legislative body of each Party of the Board's determination of financial support required for the fiscal year and the computation of the each Party's proportional share. The legislative body of each Party shall assign the portion of its Local Transportation Fund or other fund allocation required to finance its share of the annual operating and capital budget

SECTION 7. Provision of Transit Service

On the date it initiates transportation service, Mountain Transit shall exercise the common power of the Parties by providing and maintaining a public transportation service connecting, as well as located within, the corporate limits of the Parties and the unincorporated areas served. Mountain Transit shall, to the extent feasible and within policy parameters provided for transit services, provide a standardized system of fares and a uniform system of transfers; provided, however, that changes in fares and major changes in routes shall be established by the Board only following public hearing on the proposed change, with detailed notice and supporting information provided to the governing bodies of the Parties at least thirty (30) days prior to the proposed change.

SECTION 8. Transfer of Equipment

Subject to prior approval by the Board, a Party may convey or assign its transportation properties or equipment to Mountain Transit. Reimbursement, if any, for such conveyance or assignment may be based on the valuation of an independent appraiser or by such other means of valuation as may be agreed to by Mountain Transit and the conveying Party.

SECTION 9. Employees

Should any Party request that Mountain Transit assume operation of transportation services previously operated by that Party, and the Board thereafter approves such assumption of operation, then Mountain Transit shall consider employment of public transportation service employees of that Party.

SECTION 10. By-Laws, Rules and Regulations

The Board shall adopt such by-laws as deemed necessary and may from time to time adopt such rules and regulations for the conduct of its meetings and affairs as may be required. Any by-laws, rules and regulations adopted by the governing board maybe amended at any time by a majority vote of the Board.

SECTION 11. Authority Financial Functions

The Authority shall:

- A) Receive and receipt for all money of Mountain Transit and place it in the treasury so designated to the credit of Mountain Transit;
- B) Pay when due, out of Mountain Transit money, all sums payable on outstanding Mountain Transit bonds and coupons;
- C) Pay any other sums due from Mountain Transit from its funds or any portion thereof, upon warrants of the Mountain Transit designated Controller;
- D) Invest funds in accordance with Section 4 (g) of this Agreement.
- E) Issue checks to pay demands against Mountain Transit which have been approved by Mountain Transit's General Manager or other person designated by the Board;
- F) Keep and maintain records and books of accounts on the basis of the uniform classification of accounts adopted by the State Controller: the books of accounts shall

include records of assets, liabilities and of contributions made by each Party; and
G) Cause to be made an annual audit of the accounts and records of Mountain Transit as prescribed in California Government Code Sections 6505 and 26909.

SECTION 12. General Manager - Appointment and Duties

The Board shall select and appoint a General Manager for the Authority. The duties and responsibilities of the General Manager shall be to carry out the policies and directives of the Board. In addition, the General Manager shall perform the duties and carry out the other responsibilities in furtherance of the purposes of this Agreement as the General Manager is directed by the Board. The General Manager shall serve at the pleasure of the Board.

SECTION 13. Termination - Withdrawal of Party

A Party may withdraw from this Agreement as of the first day of July of any year following twelve months' advance notice to the other Party by resolution of intent to withdraw adopted by the legislative body of that Party; provided, however, that Mountain Transit assets directly attributable to the accumulated capital contribution of the withdrawing Party shall remain with the system and in Mountain Transit's treasury for use by Mountain Transit without compensation to the withdrawing Party, until the termination of this Agreement and the distribution of assets to all Parties in winding up; and further provided that the withdrawing Party shall remain liable for and shall pay its proportional share of any indebtedness incurred while the withdrawing Party is a Party.

SECTION 14. Winding Up

If this Agreement is terminated, all property and equipment owned by Mountain Transit shall be distributed to the Parties pursuant to contractual or grant requirements that funded said property and equipment. Distribution to each Party shall be made in the same proportion as that reflected in the Parties' accumulated capital contribution accounts as shown in the Controller's books of account. Cash may be distributed in lieu of property or equipment.

If the Parties cannot agree as to the valuation of the property or to the manner of its distribution, the distribution or valuation shall be made by a neutral person appointed by the Board.

This Agreement shall not terminate until all property has been distributed in accordance with this Agreement, and the winding up and property distribution hereunder shall be effected in the manner calculated to cause the least disruption of existing public transportation service.

SECTION 15. Additional Parties

Existing or newly formed municipalities and counties may be added as parties to this Agreement upon their execution of this Agreement, following approval thereof by the Parties, and upon such terms and conditions as may be imposed by the Board.

SECTION 16. Amendments

This Agreement may be amended by written amendment unanimously approved in writing by the Parties.

SECTION 17. Successors

This Agreement shall be binding upon and shall inure to the benefit of the successors of the Parties.

SECTION 18. Severability

Should any part, term, portion or provision of this Agreement be finally decided to be in conflict with any law of the United States or of the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions shall

be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the Agreement which the intended to enter in the first instance.

SECTION 19. Termination of Prior Agreement

Not applicable.

SECTION 20. Electronic Signatures

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The Parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the Party whose name is contained therein. Each Party providing an electronic signature agrees to promptly execute and deliver to the other Party an original signed Agreement upon request.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and attested to by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

CITY OF BIG BEAR LAKE

MAYOR

ATTEST:

CITY CLERK

COUNTY OF SAN BERNARDINO

CHAIR, BOARD OF SUPERVISORS

ATTEST:

CLERK OF THE BOARD OF
SUPERVISORS

DATE: _____

APPROVED AS TO FORM:

CITY ATTORNEY

DATE: _____

APPROVED AS TO FORM:

DEPUTY COUNTY COUNSEL