

**AGREEMENT FOR THE PROVISION OF TRANSIT AND RELATED
SERVICES**

by and between

TOWN OF MAMMOTH LAKES

and

EASTERN SIERRA TRANSIT AUTHORITY

March 1, 2022

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**AN AGREEMENT BETWEEN THE TOWN OF MAMMOTH LAKES
AND THE EASTERN SIERRA TRANSIT AUTHORITY FOR THE PROVISION OF TRANSIT
AND RELATED SERVICES**

THIS Agreement, is made and entered into this _____ day of March, 2022, by and between the Town of Mammoth Lakes (hereinafter "TOWN"), a municipal corporation, and The Eastern Sierra Transit Authority (hereinafter "ESTA"), a joint powers authority formed by Inyo County, Mono County, City of Bishop and Town of Mammoth Lakes.

W I T N E S S E T H

WHEREAS, TOWN is authorized by Government Code §39732 to furnish and operate public transportation services; and

WHEREAS, ESTA is a Joint Powers Authority created pursuant to Government Code §6500 et. seq. to provide public transit services within the boundaries of its member entities; and

WHEREAS, ESTA is authorized by the Transit Authority Joint Powers Agreement (sometimes referred to herein as JPA agreement) to submit claims to the Mono County Local Transportation Commission on behalf of the Town of Mammoth Lakes in accordance with the Transportation Development Act (TDA) and its regulations, and to receive funds, and to provide transit services on behalf of the Town of Mammoth Lakes; and

WHEREAS, ESTA is authorized by the Transit Authority Joint Powers Agreement to seek and obtain funds from other sources to provide additional transit services beyond those funded through TDA; and

WHEREAS, ESTA is authorized by the Transit Authority Joint Powers Agreement to contract with its member entities to provide services above the level of service funded through TDA or other funds obtained by ESTA; and

WHEREAS, ESTA is authorized by the Transit Authority Joint Powers Agreement to contract for other goods and services; and

WHEREAS, TOWN desires to contract for, and ESTA desires to provide, services above the level of service funded through TDA or other funds obtained by ESTA; and

WHEREAS, TOWN and ESTA desire to contract to provide other services including but not limited to: the use of TOWN office and vehicle storage space by ESTA, maintenance of ESTA vehicles by TOWN, purchase of fuel by ESTA from TOWN, and use of TOWN vehicles by ESTA;

NOW, THEREFORE, in consideration of the above, TOWN and ESTA agree as follows:

AGREEMENT

Section 1: Effective Date

This Agreement shall be effective when it has been approved by the Town Council of the Town of Mammoth Lakes and the Board of Directors of the Eastern Sierra Transit Authority.

Section 2: Commencement and Duration

This agreement has an initial term of five years. It shall subsequently automatically be extended for additional five-year terms unless either party provides notice to the other at least ninety (90) days in advance of a scheduled extension. The parties will attempt to negotiate any change in terms to this agreement prior to the acceptance of a final budget presented to either the Town Council of the Town of Mammoth Lakes or the ESTA Board of Directors for a given fiscal year, so that the budget may reflect the amended terms.

Section 3: Transit Services Provided by ESTA to TOWN

ESTA agrees to provide transit services to TOWN in accordance with the following terms and conditions:

1. General Terms and Conditions

- a. Services Provided under This Agreement. In accordance with the Transit Authority Joint Powers Agreement, the purpose of this agreement is to ensure the provision of transit services in the Town of Mammoth Lakes above the level of service funded through TDA, or by funds obtained by ESTA from sources other than the TOWN.
- b. Services Funded by TDA and Other Sources. In accordance with the Transit Authority Joint Powers Agreement, ESTA will submit claims to the Mono County Local Transportation Commission as an agent of the Town of Mammoth Lakes, and receive such funds, and provide services to the TOWN with those funds. However, those services and those funds are not and will not be governed by this agreement. A portion of the services described in this section will be funded by TDA and sources other than the TOWN. Those services and those funds are likewise not and will not be governed by this agreement. ESTA will establish a process to account for services provided with these funds.
- c. Billing Rates. The billing rates for the services provided pursuant to this agreement are provided in attachment "A". These rates may be adjusted annually prior to the submission of a draft budget to both the Board of Directors of ESTA and the Town Council of the Town of Mammoth Lakes.
- d. Services Funded by This Agreement. Services funded by this agreement shall consist of those specified in Attachment "B." To the extent that farebox revenue is required under the terms and conditions of TDA for any services specifically governed by the terms of this agreement an amount in lieu of the farebox revenue shall be funded by this agreement. In addition to the

provisions of Section 10 should for any reason ESTA not be able to provide the specified service level in spite of all reasonable efforts, ESTA shall not be held liable for services not provided. Such reasons may include without limit a shortage of qualified drivers, or a shortage of available vehicles necessary to operate such services.

- e. Other Services. ESTA will make every effort to provide additional services requested by Town on an as needed basis. Such services outside of the basic service level defined in Attachment “B” shall require a minimum of one-week notice to ESTA to arrange the necessary personnel and other resources to operate the service. All such services will be subject to federal charter regulations and ESTA’s charter policy.
- f. Fuel. TOWN shall provide access to fuel for all Town of Mammoth Lakes and ESTA vehicles at the TOWN Corporation Yard, located at 299 Commerce Drive, Mammoth Lakes.
- g. Fares. Fares, if any, for services that are funded in part by Town funds and in part by TDA (e.g. paratransit service) shall be established by mutual agreement of the ESTA Board of Directors and the Town of Mammoth Lakes Council.
- h. Federal and State Requirements: ESTA shall comply with all federal and state laws, regulations and requirements which apply to the services provided hereunder.
- i. Management: ESTA shall at all times be responsible for management of the services provided by it under this agreement.
- j. Drug and Alcohol Testing. ESTA shall provide pre-employment, post-accident, just-cause, and random drug and alcohol testing of its employees in accordance with Federal Transportation Administration regulatory requirements.
- k. Telephone Information, Reservations and Dispatching. ESTA shall provide all telephone and dispatch equipment necessary for it to receive reservations, provide information and dispatch services.

2. Equipment Including Vehicles

- a. TOWN Shall Provide Vehicles. TOWN shall at no charge to ESTA provide ESTA with access to all Town owned transit vehicles listed in Attachment “D” for use in providing services hereunder. ESTA shall pursue federal and state grant opportunities for vehicle replacement to minimize the fiscal impact on the Town for the purchase of vehicles.
- b. Availability. ESTA shall store all TOWN owned equipment including Town-owned vehicles at the Town Transit Facility, 210 Commerce Drive, Mammoth, CA. 93546.
- c. Alterations. ESTA shall not install equipment or make any alterations to any TOWN-owned equipment or vehicles without prior consent of TOWN.
- d. Use. TOWN-provided vehicles shall be used only for the services provided in and for the Town of Mammoth Lakes unless otherwise agreed by the parties.

- e. Repossession. In the event of termination of this Agreement, TOWN shall have the right to take immediate possession of all TOWN-provided vehicles.
- f. Other Equipment. ESTA is responsible for providing all other materials, supplies, and/or equipment needed to perform Agreement, which are not otherwise specifically provided by TOWN.
- g. Dispossession of Equipment. ESTA may dispose of TOWN owned equipment only with the prior written consent of the TOWN. ESTA shall use any proceeds of disposed TOWN owned equipment for replacement of equipment used to serve the transportation needs of the TOWN.

3. Maintenance of Equipment

- a. Safety Inspections. TOWN and ESTA are subject to annual inspection by the Motor Carrier Unit of the California Highway Patrol (CHP) annually (Safety Compliance Report CHP-343). ESTA must attain satisfactory rating in the driver records category of this Safety Compliance Report. ESTA must expeditiously correct any deficiencies noted on driver's report. TOWN must attain satisfactory rating regarding all maintenance items. Should TOWN fail to attain a satisfactory rating, ESTA may terminate this agreement should acceptable corrective action not be taken within 30 days or upon re-inspection by CHP whichever comes first.
- b. Interior & Exterior Cleaning and Maintenance. ESTA shall maintain the exterior and interior cleanliness of all vehicles to the highest standards at all times.
- c. Maintenance Rate. ESTA shall pay the TOWN for vehicle maintenance services for vehicles owned by ESTA at the rate set forth in Attachment "D" as it may be amended from time to time.

4. Advertising and Logo Program

- a. Advertising. TOWN and ESTA may agree upon policies and procedures for accepting advertising on vehicles used in the provision of services hereunder. If such policies and procedures are adopted, ESTA shall be responsible for accepting advertising in compliance with such policies and procedures. All proceeds from advertising shall be used by ESTA to continue transportation services to the TOWN and/or ESTA's entire service area. No third-party advertising shall be accepted until and unless TOWN and ESTA have agreed upon and adopted advertising policies and procedures, which either or both parties may decline to do in their respective sole discretion.
- b. ESTA Logo. Space shall be provided on all vehicles, bus stops, shelters, and other public transit facilities for the standard ESTA logo which is consistent in design and placement with that provided on ESTA-owned vehicles.

5. Administration, Reports, Accounting, Audits and Penalties

- a. Personnel and Training. ESTA shall provide sufficient supervisory employees, drivers and dispatching personnel to adequately handle the services it is required to provide under this

agreement. ESTA shall provide ongoing training, retraining, and safety education for all personnel that conforms to applicable regulatory requirements.

- b. Reports. ESTA shall develop and maintain records and reports for use in management and administration of the service. These reports shall document passenger information, cost and revenue data, and other information needed by the TOWN and ESTA to make decisions about the transit service.
- c. Accounting Practices. ESTA shall maintain its books of account as they relate to the programs identified in this agreement consistent with Generally Accepted Accounting Principles, and in TOWN-approved format.

6. Changes to Level of Service

- a. Services. The “services” are those described in Attachment “B”. TOWN may increase, decrease, or otherwise change the service as follows:

(1) Emergency Adjustments. Either TOWN or ESTA may authorize temporary emergency adjustments in service in the event of an emergency or circumstance which requires an immediate detour or other adjustment in routing.

(2) Adjustment Notification. The party initiating the emergency adjustment shall notify the other party immediately of such occurrence. TOWN shall specify steps to be taken by ESTA to notify patrons of the change in routing and/or scheduling necessitated by such emergency adjustments, and/or modifications to the emergency adjustments made by ESTA. Should ESTA in making temporary adjustments to service incur added expenses beyond those compensated under the primary terms of Agreement, TOWN and ESTA shall negotiate a fair and equitable adjustment in compensation for service.

(3) Non-Substantial Changes in Service Level. Non-substantial changes in service shall be defined as those which increase or decrease service hours by 10% or less of the annual total hours scheduled for operation. TOWN shall make its best effort to provide thirty (30) days’ notice of its requested non-substantial changes in service levels, except for “very minor changes” as described below. ESTA shall make its best effort to provide staff and of other resource to effectuate such changes. Requests for very minor changes shall be made with one week notice whenever possible. Very minor changes will generally consist of temporary changes in routes, such as changes necessitated by special events, road closures, utility work, or charter services.

(4) Substantial Changes in Service Level. Changes that increase or decrease service hours by more than 10% of the annual total hours scheduled for operation shall be considered substantial. TOWN shall make its best effort to provide sixty (60) days’ notice of its requested substantial changes, during which TOWN and ESTA shall discuss the proposed change and the ability of ESTA to provide the requested service as otherwise provided by this Agreement. If ESTA is able to make such changes in services, the parties shall execute an amendment to this agreement reflecting the agreed-upon changes.

7. Invoices.

ESTA will establish a process to account and bill TOWN for the services provided under and funded by this agreement using the billing rates provided in Attachment "A". ESTA shall record all of TOWN's transit service hours and shall provide TOWN with monthly invoices for the transit services ESTA has provided to TOWN during the previous month. TOWN agrees to and shall pay all such invoices within thirty days of receipt.

Section 4: Maintenance Requirements for ESTA Managed Buses

ESTA shall have overall responsibility for maintaining all buses that are operated by ESTA for TOWN services, with TOWN's responsibilities being as set forth below. It shall be the responsibility of the TOWN to perform all necessary and required maintenance in a timely manner such that sufficient buses are available to ESTA to allow it to provide all services in and for the TOWN.

1. Preventive Maintenance Inspections and Service.

TOWN shall perform all preventive and demand maintenance on ESTA-managed buses in a timely manner and in compliance with all applicable regulatory requirements. ESTA may refuse to operate any vehicle which it deems unsafe or out of compliance with CHP or other statutory requirements or original equipment manufacturer's specifications.

2. Development and Performance of Schedules.

ESTA shall provide to the TOWN schedules of preventive maintenance inspections and service, annual inspections and service, and major overhaul of TOWN buses, vehicles, and equipment used by ESTA in the performance of this agreement. TOWN shall use its best efforts to comply with schedules of preventive maintenance and annual inspections and service.

3. Document Maintenance and Production.

The TOWN shall maintain all documents related to the preventive maintenance and annual inspections and service of TOWN's buses, vehicles and equipment and shall produce those documents to ESTA, the California Highway Patrol, and other entities upon ESTA's request. If requested, the TOWN shall also make its supervising mechanic available during annual inspections by the California Highway Patrol in order to respond to any questions regarding maintenance.

4. Repairs.

The Town shall repair buses, vehicles and equipment under the following terms and conditions:

- a. Necessary Repairs. ESTA may communicate directly with the TOWN's supervising mechanic to request necessary repairs. The Town shall schedule necessary repairs on ESTA's buses, vehicles and equipment in a timely manner, subject to availability of staff, equipment, and parts. Necessary repairs shall include, but not be limited to the repair or replacement of engines, wheel bearings, wheel seals, air systems, brakes, axles, rear ends, transmissions, body panels, steering mechanisms, suspensions, electrical mechanisms, tires, fuel systems and other mechanical items.

- b. Priorities. In cases where buses, vehicles or equipment fail or break down, the TOWN shall prioritize repairs in order to expedite its return to service, subject to the availability of staff, equipment, and parts.
- c. Tools and Equipment. The TOWN shall provide and maintain such tools, equipment, and facilities as may be necessary for the maintenance, repair, and servicing of all of ESTA's buses, vehicles, and equipment. ESTA agrees to loan any of its tools or equipment to the TOWN that the TOWN needs and requests in order to comply with the terms of this Agreement.
- d. Parts and Materials. The TOWN shall have the right to purchase parts and materials from vendors of its choice. In doing so, the Town shall always attempt to obtain the best available price for the best available parts and materials. All parts used on ESTA buses shall be OEM or equivalent.
- e. Specialized Work. The TOWN may, in the discretion of its supervising mechanic, cause specialized work to be performed in commercial shops specializing in that work. Specialized work may include, but shall not be limited to body repair, engine rebuilding, radiator repair, alternator rebuilding, and machining of special parts. The TOWN shall obtain a copy of the work order performed on any vehicle in a commercial shop.
- f. Major Repairs. The TOWN's supervising mechanic shall keep ESTA informed of all potential or necessary major repairs of ESTA's buses, vehicles, and equipment. Before commencing any repairs exceeding \$5,000, Town shall obtain ESTA's consent for repair.
- g. Emergency Road Service. The TOWN agrees to provide emergency road service depending upon availability of personnel and equipment to ESTA. The TOWN shall respond to calls for road service by sending a mechanic and service truck to aide disabled ESTA-owned vehicles. Decisions in this regard shall be made by the TOWN's Fleet Superintendent.
- h. Charges. For making repairs, TOWN shall charge ESTA for the TOWN's costs, including labor, parts, and fuel as described in Attachment "D". ESTA and the TOWN agree that the charges for services and fuel performed and provided respectively, pursuant to this agreement will be reviewed and subject to change annually.
- i. Invoices. The TOWN shall send monthly invoices to ESTA for all repair work performed within the prior month. ESTA agrees to pay all monthly invoices within thirty days of receipt.

Section 5: Use of TOWN Fueling Facilities by ESTA

The TOWN grants ESTA the right to use the TOWN's fueling facilities to fuel TOWN and ESTA buses, vehicles and equipment upon the following terms and conditions:

1. Use of Key Fobs.

The TOWN shall issue key fobs to ESTA for all of the buses, vehicles and equipment that are authorized to use the TOWN's fueling facilities.

2. Ownership and Misuse of Key Fobs.

The TOWN shall retain ownership of all key fobs issued to ESTA during the term of this Agreement. ESTA shall be solely responsible for the consequences of any misuse of cards issued to ESTA personnel.

3. Invoices.

The TOWN shall record all of ESTA's fuel consumption from TOWN's fueling facility and shall provide ESTA with monthly invoices for its fuel consumption. ESTA agrees to pay all invoices within thirty days of receipt. (Fuel for TOWN buses will be paid for directly by the TOWN.) TOWN shall charge ESTA the rates for fuel set forth in Attachment "D", as it may be amended from time to time.

Section 6: Use of TOWN buses, vehicles and equipment by ESTA

Generally, TOWN provided vehicles are intended to be operated to provide services to residents and visitors to the Town of Mammoth Lakes, and as back up vehicles for those services. TOWN may permit use of TOWN owned buses, vehicles and equipment for ESTA provided services outside the scope of this agreement to the extent that all services as described in Attachment "B" are being met and Town owned vehicles are not exclusively used outside of Town. The following terms and conditions shall apply to any such authorized use:

1. Emergency Needs.

In the event of mechanical failure or other unscheduled unavailability of ESTA buses, vehicles, or equipment, TOWN may authorize use of TOWN vehicles or equipment on a temporary basis in order to assure continuity of service. Such use may be authorized by the Public Works Director. ESTA shall compensate the TOWN for this use in accordance with the schedule in Attachment "E".

2. Other Services.

In the event that ESTA desires to use TOWN-owned equipment for other regular services outside the scope of this agreement, it may apply to the Town Council of the Town of Mammoth Lakes for consideration of said service. If approved the terms and conditions associated for this regular service shall be documented in an amendment to this Agreement.

3. Other Terms and Conditions.

Operation of TOWN equipment by ESTA as provided in this section shall be in accordance with all other terms and conditions which apply to operation of TOWN-owned equipment as provided by this agreement.

Section 7: Administration of Agreement

ESTA's compliance with this Agreement shall be supervised and administered by TOWN by its Public Works Director

Section 8: Permits to Operate

At its sole cost and expense, ESTA shall obtain any and all permits, licenses, certifications, or entitlements to operate as are now or may be required by any agency to enable ESTA to perform Agreement, and shall provide copies of all such documents or entitlements to TOWN when received by ESTA.

Section 9: Notice of Deficiencies

TOWN's Public Works Director may issue a Notice of Deficiencies to ESTA, specifying areas of unsatisfactory performance, and specifying what improvements are necessary to correct the deficiency or deficiencies. Such notice shall specify the provision(s) of Agreement which address the issue. ESTA shall correct or in good faith commence to correct the deficiency within a reasonable period of time specified by TOWN not to exceed 30 days unless agreed to in advance by TOWN in writing.

Section 10: Force Majeure

ESTA shall not be charged, nor shall TOWN demand from ESTA, damages because of failure in providing the services described in this Agreement due to unforeseeable causes beyond the control and without the fault or negligence of ESTA. Such causes of excusable delay may include acts of public enemies, military attack and/or other actions, fires, floods, snow storms, earthquakes, epidemic, quarantine, restrictions, strikes, freight embargoes, public road closures, but in every case the delay is excusable only for so long as, and to the extent that, the excusable delay continues.

ESTA shall be entitled to no compensation for any service, the performance of which is excused pursuant to this paragraph.

In the event that ESTA is unable to provide the services required of it under this Agreement due to any cause, ESTA shall make a reasonable attempt to so notify the public including notification to local newspapers, and, if appropriate, local radio and television stations.

Whenever ESTA has knowledge that any actual or potential force majeure may delay or prevent performance of Agreement, ESTA, on a timely basis, shall notify TOWN of the facts and, thereafter, shall report to TOWN all relevant information then known to ESTA, and shall continue to so report.

Section 11: No Conflicting Uses

ESTA shall not operate, lease or charter TOWN-owned vehicles or equipment for any purpose other than for services for the TOWN, unless specifically authorized by TOWN.

Section 12: Notice

All notices shall be made by email, or hand-delivered, addressed as follows:

TOWN: Public Works Director
Town of Mammoth Lakes
HCR 79, Box 209
Mammoth Lakes, CA 93546

ESTA: Executive Director
Eastern Sierra Transit Authority
P.O. Box 1357
Bishop, CA 93515

Service of such notices shall be deemed complete three (3) days after deposit in the US Mail or on the date hand-delivered.

Section 13: Not an Agreement of Employment

It is understood and acknowledged that this Agreement is not a contract of employment between TOWN and ESTA, or any agents, officers, or employees of ESTA. ESTA is, and shall at all times be, deemed to be an independent contractor. ESTA is not authorized to bind the TOWN to any contracts or other obligations. ESTA is not an agent or employee of the TOWN except as provided in the Joint Powers Agreement and shall at no time represent itself to be such agent or employee except as provided in the agreement. Neither ESTA nor any of its employees or subcontractors shall be entitled to any benefits accorded to TOWN employees including but not limited to Workers Compensation, disability insurance, unemployment compensation, retirement benefits, vacation, or sick leave.

Section 14: Precedence of Agreement Documents

In the event of a conflict or ambiguity arising between this Agreement and other documents executed by the parties or any term therein, the document executed later in time shall prevail over the document executed earlier in time.

Section 15: Continuity

This Agreement is binding upon each of the parties and their respective heirs, shareholders, directors, partners, executors, and successors. Should ESTA change its structure during the term of this agreement, the TOWN reserves the right to terminate this agreement and to solicit new vendors for this service.

Section 16: Assignment (ESTA)

The performance of this Agreement may not be assigned, or in any way subcontracted on a continuing basis, except upon the prior written consent of TOWN. TOWN shall not consent to any proposed

assignment or subcontracting, novation, other writing, or agreement that would have the effect of relieving ESTA or ESTA's surety of their responsibility and/or liability under Agreement.

Section 17: Indemnification and Insurance Requirements

For all terms under Sections 3 and 6 of this agreement:

ESTA hereby agrees to indemnify and holds harmless TOWN, its officers, employees, and agents from any and all liability or claim of liability, including attorney's fees, arising by reason of personal injury, death or property damage and resulting from ESTA's negligence, recklessness or willful misconduct in the performance of its duties and obligations under this agreement.

ESTA shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by ESTA, its agents, representatives, or employees. At any time following the initial five-year term of this Agreement, TOWN may require ESTA to increase the minimum insurance limits set forth below.

Minimum Limits of Insurance

ESTA shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Bonding Insurance: coverage for all ESTA employees who collect monetary payments for transit services rendered.

Verification of Coverage

ESTA shall furnish the TOWN with original endorsements effecting coverage required by this section. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the TOWN before work commences. TOWN reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

For all terms under Section 4 of this agreement:

TOWN hereby agrees to indemnify and holds harmless ESTA, its officers, employees, and agents from any and all liability or claim of liability, including attorney's fees, arising by reason of personal

injury, death or property damage to the extent resulting from TOWN's negligence, recklessness or willful misconduct in the performance of its duties and obligations under this agreement.

For all terms under Sections 5 of this agreement:

ESTA hereby indemnifies and holds harmless TOWN, its officers, employees, and agents from any and all liability or claim of liability, including attorney's fees, arising by reason of personal injury, death or property damage and resulting from ESTA's negligence, recklessness or willful misconduct in the performance of its duties and obligations under this agreement.

Section 18: Successors

This Agreement shall be binding upon, and shall inure to the parties hereto, and their respective shareholders, partners, directors, agents, personal representatives, successors-in-interest, and assigns. ESTA shall not assign, sublet, or subcontract its rights or obligations under this Agreement, or charter TOWN-owned vehicles for the use of third parties without prior written consent from TOWN.

Section 19: Counterparts

This Agreement may be executed simultaneously or in counterparts, and each of the counterparts shall be deemed to be an original, but all such counterparts shall constitute one and the same Agreement.

Section 20: Governing Law and Venue

This Agreement shall be construed and enforced pursuant to the laws of the State of California. The venue for any action to interpret or enforce this Agreement shall be the Mono County Superior Court or the federal courts of the Eastern District of California.

Section 21: Compliance with Laws

In addition to the laws, statutes, rules, and regulations specifically set forth herein, ESTA shall comply with any and all applicable laws, ordinances, statutes, codes and regulations of the federal, state, and local governments. ESTA shall also comply with rules and regulations associated with any State or federal funding which is used in whole or part to fund services provided by this agreement.

Section 22: Termination

1. TOWN may terminate this agreement in the event of a material breach by ESTA. A "material breach" for this purpose shall constitute failure of ESTA to comply with any of the material terms of Agreement or to perform its obligations called for by Agreement if the failure continues for thirty (30) days after written notice has been given to ESTA.
2. ESTA has the right to terminate Agreement in the event of a material breach by TOWN. A "material breach" for this purpose shall constitute failure of TOWN to comply with any of the material terms of

Agreement or to perform its obligations called for by Agreement if the failure continues for thirty (30) days after written notice has been given to TOWN.

3. This Agreement may also be terminated at any time upon mutual consent of both parties.

Section 23: TOWN's Remedies on Breach and Waiver

It is understood and agreed that in the event of failure by ESTA to perform services required by Agreement, in addition to all other remedies, penalties and damages provided by law, TOWN may provide such services, and deduct the cost of doing so from the amounts due, or to become due to ESTA. The costs to be deducted shall be the actual costs to TOWN to provide such services, or the costs shown on the Payment Schedule, whichever is greater.

ESTA agrees that any waiver, or any breach or violation of any term or condition of this Agreement, or any failure to enforce any term or condition of this Agreement, shall not be deemed to be a waiver of any other term or condition contained herein, or a waiver of any subsequent breach or violation of the same, or any other term or condition. The acceptance by TOWN of the performance of any work or services by ESTA shall not be deemed to be a waiver of any term or condition of this Agreement.

Section 24: Additional Terms

The validity, legality, or enforceability, in whole, or in part of any provision of Agreement, shall not affect or impair the validity, legality, or enforceability, of other provisions.

This Agreement and all exhibits, addenda, and documents incorporated by reference herein, constitute the full and complete understanding of the parties, and supersede any previous agreements or understandings, oral or written, with respect to the subject matter hereto. The Agreement may only be modified by a written instrument signed by both parties hereto.

All reports, documents or other materials developed by TOWN or any other person engaged directly or indirectly by ESTA to perform the services required hereunder shall be and remain the property of TOWN without restriction or limitation upon their use by TOWN.

Section 25: Records

1. In addition to all other records required to be produced or maintained pursuant to this Agreement, ESTA shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to TOWN for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to ESTA pursuant to Agreement.
2. ESTA shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

3. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the Town Attorney, Town Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to TOWN for inspection in TOWN's offices when such documents are available at ESTA's address indicated for receipt of notices in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed Agreement the day and year herein above written.

TOWN OF MAMMOTH LAKES,
Municipal Corporation

EASTERN SIERRA TRANSIT AUTHORITY
Joint Powers Authority

By: _____

By: _____

Town Manager

Executive Director

DRAFT

Attachment A: Billing Rates

The billing rates for the services provided pursuant to this section are provided below. The Board of Directors of ESTA may adjust these rates annually on July 1 of each year subject to written concurrence by the Town of Mammoth Lakes.

ESTA Managed Vehicles \$ 52.00/hr.

DRAFT

Attachment B: Services

Services covered by this agreement shall be as specified in the table below.

Service	Hours
Purple Line	4,015
Town Trolley	10,775
Dial-a-Ride	2,268
Lakes Basin	1,848
Trippers	152
Total	19,058

DRAFT

Attachment C: Additional Service

From time to time, ESTA may provide services to TOWN outside the normal operating services. Charges for this extra service shall be charged at the established charter rate per the ESTA Charter Policy.

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Attachment D: Town Vehicles and Maintenance Rates

The following list shall be updated regularly by the TOWN to reflect changes in the vehicle fleet.

Trolley #'s 901, 905, 906, 907, 908, 909

Shop Rates shall be reevaluated and updated by TOWN prior to July 1st of each fiscal year. The rates effective by the date signed for below shall be.

- Labor: \$108.00 per hour
- Materials and parts: actual cost, without markup
- Fuel: actual fuel cost plus ten cents per gallon

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Attachment E: ESTA use of Town Vehicles

Billing rates shall be reevaluated and updated by TOWN prior to the presentation of the draft ESTA budget for that fiscal year.

Until and unless updated by TOWN, the rates shall be:

- Trolley \$ 200.00 per day
- Bus \$ 200.00 per day

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