

BUS SHELTER PAD AND SHELTER LICENSE AGREEMENT

This Bus Shelter Pad and Shelter License Agreement (“**Agreement**”) is entered into on this ___ day of March, 2022 (the “**Effective Date**”) by and between the City of Saint Paul, through its Department of Parks & Recreation, a Minnesota municipal corporation, with an address of 25 W. 4th Street, Saint Paul, MN 55102 (“**Licensor**”) and the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota and its successors, with an address of 390 Robert Street North, Saint Paul, MN 55101 (“**Licensee**”) (each singularly “**Party**” and jointly “**Parties**”).

RECITALS

WHEREAS, Licensor owns property located at 1200 Payne Avenue, St. Paul, MN 55130 which is depicted in the attached **Exhibit A** (the “**Property**”); and

WHEREAS, Licensee operates and administers transit operations in the seven county metropolitan area as defined in Minnesota Statutes Section 473.121 Subdivision 2; and

WHEREAS, the parties are entering into this Agreement pursuant to Minnesota Statute Section 465.035; and

WHEREAS, Licensee wishes to add bus stops to certain underserved areas and to comply with site accessibility requirements; and

WHEREAS, Licensee wishes to install a bus shelter pad and shelter on the Property owned by Licensor that will be used as a bus stop upon installation; and

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants contained in this Agreement, the Parties agree as follows:

TERMS

1. **Use.** The Licensee accepts the real estate AS IS, with all faults, conditions and is not relying on any representations of Licensor. The Licensee is allowed to construct, at Licensee’s expense, a concrete pad and shelter thereon on the portion of the Property depicted in Exhibit A. The location serves as a bus stop for Licensee’s transit customers.
2. **Maintenance.** Licensee shall be responsible for maintaining the bus shelter pad and shelter; this includes but is not limited to: snow removal and pavement repair. The Licensee shall provide or arrange for any routine or non-routing cleaning, maintenance, or repairs, as determined in its sole discretion.
3. **Access.** Licensee, its agents, employees and invitees will have full access to the bus shelter pad area during the term of this Agreement.

4. **Cost.** There will be no cost for this Agreement.
5. **Term.** This Agreement and all obligations hereunder shall be effective for twenty (20) years from the time of the Effective Date, unless the Agreement is earlier terminated by the Licensee or Licensor in accordance with *Section 12* of this Agreement.
6. **Governing Law and Venue.** This Agreement is governed, construed and enforced under the laws of the State of Minnesota without regard to its conflicts of law provisions and any dispute regarding the interpretation or enforcement of this Agreement shall be venued in the District Court sitting in Ramsey County, Minnesota.
7. **Severability.** The provisions of this Agreement are to be considered as severable, and in the event that any provision is held to be invalid or unenforceable, the Parties intent that the remaining previsions will remain in full force and effect.
8. **Waiver.** Failure by a Party to enforce or exercise any right in this Agreement it will not be construed as a present or future waiver of such right.
9. **Assignability.** This Agreement may not be assigned by either Party without the other party's express written consent, which such consent shall not be unreasonably withheld.
10. **Entire Agreement.** It is understood and agreed that the entire Agreement between the Parties is contained herein, and that this Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.
11. **Amendment.** The terms of this Agreement may be changed only by mutual agreement of the Parties. Such changes shall be effective only upon the execution of written amendments signed by authorized officers of the Parties to this Agreement.
12. **Termination.** This Agreement may be terminated by either Party upon ninety (90) days written notice to the other Party. Upon termination of this Agreement the Licensee will, at its own expense, have the concrete pad removed from the Property. Licensee, at its own expense, will have the Property restored to its original condition after the concrete pad has been removed.
13. **Liability.** Without waiving any statutory immunities and specifically subject to the liability limits contained in Minnesota Statutes Chapter 466.04, Licensee agrees to indemnify, defend and hold the Licensor harmless from and on account of any and all loss, injury, death and damage, claim of damage and liability for damage to any person or any property that may arise in any manner by reason due to the location, use, or any act of Licensee or persons using the bus shelter pad or any acts or omissions of Licensee. Otherwise, each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof. Licensor's and Licensee's liability are each governed by the provisions of Minnesota Statutes Chapter 466.

14. **Insurance.** Licensee shall acquire and maintain the following coverage during the term of this Agreement:

- a. **Commercial General Liability Coverage** including blanket commercial liability coverage, personal injury liability coverage and broad form property damage liability endorsement with a combined single limit of not less than \$1,500,000 per occurrence and \$2,000,000 aggregate shall be purchased by Licensee. Such insurance shall (i) name the City of Saint Paul as additional insured; (ii) be primary with respect to City's insurance or self-insurance; (iii) no exclude explosion, collapse and underground property damage; and (iv) be written on an "Occurrence Form" policy basis;
- b. **Worker's Compensation Insurance** with no less than statutory minimum limits; and Employer's Liability Insurance minimum limits of at least \$100,000 per accident and with an all-states endorsement.
- c. Licensee will provide a current certificate of insurance for all policies prior to entering onto the property as outlined in this Agreement.

15. **Notice.** Any notice or demand which must be given or made by a Party under this Agreement shall be sent to:

Licensee: Metropolitan Council
Metro Transit
Attn: Paul Lamb
Engineering & Facilities
560 Sixth Avenue North
Minneapolis, MN 55411

With a copy to: Metropolitan Council
Attn: Real Estate Office
390 North Robert Street
Saint Paul, MN 55101

Licensor: City of Saint Paul
Attn: Department of Parks & Recreation
25 W. 4th Street, 400 CHA
Saint Paul, MN 55102

16. **Counterparts.** The Parties may sign this Agreement in counterparts, each of which constitute an original, but all of which together constitute on instrument.

17. **Electronic Signatures.** The Parties agree that the electronic signature of a Party to this Agreement shall be as valid as an original signature of such Party and shall be effective to bind such Party to this Agreement. The Parties further agree that any document (including this Agreement and any attachment or exhibits to this Agreement) containing or to which there is affixed, an electronic signature shall be deemed (i) to be "written" or "in writing", (ii) to have, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes

hereof, “electronic signature” also means a manually signed original signature that is then transmitted by an electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g. via PDF) of an original signature. Any party’s failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives. This Agreement is effective on the date this Agreement has been signed by both Parties’ authorized representatives.

CITY OF SAINT PAUL

METROPOLITAN COUNCIL

By: _____
Name: Andy Rodriguez
Title: Director

By: _____
Name: Derek Berube
Title: Lead Project Manager
Date: _____

By: _____
Name: John McCarthy
Title: Office of Financial Services

By: _____
Name: Jaime Tincher
Title: Mayor’s Office

Approved as to Form:

By: _____
Name: Sarah Sullivan
Title: Assistant City Attorney

EXHIBIT A



