

November 5, 2018

Patrick Bartlett
Fresno Budget Towing, Inc.
4066 E. Church Avenue
Fresno, California 93725

Re: Breach of the Fresno Service Patrol Agreement

Dear Mr. Bartlett:

This letter serves as Fresno Council of Governments' ("Fresno COG's") notice of material breach by Fresno Budget Towing, Inc., ("Contractor") of the Freeway Service Patrol ("FSP") Agreement entered into on June 29, 2017 ("Agreement"), and Fresno COG's demand that Contractor immediately cure this material breach.

Pursuant to the Agreement, Contractor is required to "provide equipment and operators to patrol segments of Freeway 41, 99, 168, and 180 in the Fresno metropolitan area. The Freeway Service Patrol (FSP) will clear the lanes and shoulders of disable non-exotic automobiles, small trucks, motorcycles, and small debris, and provide minor services to disabled vehicles, for a period of five years." (Agreement, Page 2, Article I - Description.) Contractor's obligations under the Agreement continue until June 30, 2022. (Agreement, Page 2, Article III - Contract Period.) A copy of the Agreement is enclosed with this letter.

City of Clovis

City of Coalinga

City of Firebaugh

City of Fowler

City of Fresno

City of Huron

City of Kerman

City of Kingsburg

City of Mendota

City of Orange Cove

City of Parlier

City of Reedley

City of San Joaquin

City of Sanger

City of Selma

County of Fresno

Contractor's recent refusal to perform under the Agreement, which was communicated to Fresno COG on October 15, 2018, constitutes a material breach by Contractor. Any Contractor's invoice for October 2018 will be withheld until Contractor resumes satisfactory performance under the Agreement. (Agreement, Page 21, Article XVI - Disputes.)

Fresno COG demands Contractor return to performing its obligations under the Agreement. Contractor must notify Fresno COG within ten (10) calendar days from the date of delivery of this letter of Contractor's intention to return to service and promptly return to providing adequate services under the Agreement.

Failure to cure this material breach will result in termination of this Agreement and Fresno COG may seek legal redress for the damages it has suffered as a result of Contractor's breach. Monetary damages may include (1) all costs to prepare and submit a new Request for Proposals for the FSP and evaluate proposals, (2) the difference in bid price for a potential new contractor over the course the remaining term of the

Agreement, and (3) any costs incurred in any future legal action based on Contractor's breach.

Fresno COG does not waive its rights pursuant to Article XIV – Termination to terminate the Agreement without cause upon thirty (30) days written notice or its rights to immediately terminate this Agreement based on Contractor's material breach. This letter is provided as courtesy as an attempt to resolve this dispute without resort to legal action.

If you have any questions about this letter, please contact me, either by email at kroberson@fresnocountyca.gov or by telephone at (559) 600-3479.

Respectfully,

DANIEL C. CEDERBORG
County Counsel



By **Kyle R. Roberson**,
Deputy County Counsel
Attorneys for
Fresno Council of Governments

Enclosure

cc: Les Beshears, Fresno Council of Governments;
Robert Phipps, Fresno Council of Governments