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**FRESNO COUNTY RURAL TRANSIT AGENCY (FCRTA)
REVISED MEETING AGENDA**

DATE: Thursday, May 27, 2021
TIME: 5:30pm, **AFTER** the Fresno Council of Governments (FCOG) Meeting
PLACE: FCOG / FCRTA Offices
Sequoia Conference Room
2035 Tulare Street, Suite 201
Fresno, CA 93721
*(Corner of Tulare and Van Ness Ave. - above Club One
Park in Underground Garage - Entrance off Tulare & Van Ness Ave.
Exit Elevator on Tulare St., Turn Left, Enter Lobby Door,
Up Elevator to Second Floor, Left to Sequoia Conference Room)*

Americans with Disabilities Act (ADA) Accommodation

The Fresno COG / FCRTA offices and restrooms are ADA accessible. Individuals with disabilities may call (559-233-4148) / FCRTA (559-233-6789) at least 3 days in advance, to request auxiliary aids and/or translation services necessary to participate in the public meeting / public hearing. If Fresno COG / FCRTA are unable to accommodate an auxiliary aid or translation request for a public hearing after receiving proper notice, the hearing will be continued on a specified date when accommodations are available.

AB 23 Requirement: In accordance with the Brown Act and AB23 the amount of stipend paid to members of the Board of Directors for attending this meeting of the Fresno County Rural Transit Agency, is \$50.00.

**THE FRESNO COUNCIL OF GOVERNMENTS AND FRESNO COUNTY RURAL TRANSIT AGENCY OFFICES
WILL NOT BE OPEN TO THE PUBLIC**

**OUT OF AN ABUNDANCE OF CAUTION REGARDING THE COVID-19 VIRUS FRESNO COG AND FCRTA
PUBLIC MEETINGS WILL BE CONDUCTED ELECTRONICALLY AND TELEPHONICALLY ONLY. ONLY
LIMITED BOARD MEMBERS WILL BE PHYSICALLY PRESENT IN THE FRESNO COG SEQUOIA ROOM,
THE FRESNO COG SEQUOIA ROOM WILL NOT BE OPEN TO THE PUBLIC.
FRESNO COG REMAINS CLOSED TO THE PUBLIC.**

Join the meeting:

<https://zoom.us/j/97689497960?pwd=NEZNS2NQV1NTRWgwTEJaRmVSZ0dhZz09>

Passcode: 863127

Or join by phone: US: +1 669 900 6833

If you wish to address the Board during the public comment portion of the agenda, click on the "Reactions" at the bottom center of your PC or Mac screen. Select the Hand icon, click the icon to "RaiseHand". Your digital hand will now be raised.

When on the phone, if you wish to address Policy Board during the public comment portion of the agenda, Press *9 to "RaiseHand" and we will select you from the meeting cue.

**If joining by phone use *6 to unmute and mute yourself. When joining the meeting all participants are automatically muted. Do NOT use the mute function on your LAN line phone or cell phone.

Those addressing Policy Board must state their first and last name and agency for the record.

To facilitate electronic access, no person shall speak until recognized by the Chair.

A JOINT POWERS AGENCY TO PROVIDE A COORDINATED TRANSIT SYSTEM FOR RURAL FRESNO COUNTY
The Cities of: Coalinga, Firebaugh, Fowler, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, Sanger, San Joaquin, Selma & Fresno County

1. ROLL CALL

Public Presentations - This portion of the meeting is reserved for persons wishing to address the FCRTA Board on items within its jurisdiction but not on this Agenda.

NOTE: The public may also comment on any Agenda item, as they are presented, prior to action by the FCRTA Board.

2. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION
Government Code Section 54956.9(d) (2) (1 Case)

3. RETURN TO OPEN SESSION

4. CONSENT ITEMS

A. Approve Executive Minutes of April 29, 2021 [ATTACHMENT]

B. Consolidated Transportation Service Agency (CTSA) Notification of Funding Availability (NOFA) Award [APPROVE]

Summary: In 2020, the FCOG re-designated the CTSA's in the following: FCRTA is now the sole designee for Rural Fresno County and administers the funding, activities, and transportation programs of all CTSA service providers in Rural Fresno County and the City of Fresno (FAX) is the sole designee for the Fresno Metropolitan Area and administers the funding, activities, and transportation programs of all CTSA service providers within the Fresno Metropolitan Area.

FCRTA and FAX released a NOFA on March 15, 2021 soliciting applications in the form of an Operation Program & Budget (OPB) from eligible applicants to provide social service transportation in two (2) service areas; Rural Fresno County and Urban- City of Fresno. FCRTA is making available up to \$413,000 and the City of Fresno (FAX) is making available up to \$1,230,666 in State Transportation LTF Article 4.5 funds to fund eligible services and activities that support social service transportation within Fresno County. The application submission deadline was April 15, 2021. A proposal was submitted by Fresno EOC on April 13th. FCRTA and FAX conducted an interview with Fresno EOC via zoom on May 11th. Staff is recommending award of the CTSA NOFA services to FEOC. FCRTA will return to the Board with a proposed a services agreement.

Action: Staff recommends Board approval of the CTSA NOFA award to FEOC.

C. Consolidated Transportation Services Agency (CTSA) Operations Program & Budget FY 2021-22 [INFORMATION]

Summary: The Consolidated Transportation Service Agency's (CTSA) Operations Program and Budget (OPB) for 2021-22 is available on FCRTA's website at: www.ruraltransit.org. The document is designed to provide an overview of how and in what manner the CTSA will provide social service transportation throughout Fresno County over the next fiscal year. The OPB consists of an urban component and a rural component. Sole-designee for the urban CTSA is the City of Fresno/FAX and the sole-designees for the rural CTSA is the Fresno County Rural Transit Agency (FCRTA). For FY 2021-22 the rural LTF pass through totals \$200,000 for FCRTA to provide social service transportation and meal delivery in the rural areas. The 30-day public review process has been initiated by SSTAC on May 18, 2021 with a proposed adoption of June 24, 2021.

Action: Information only. Board may provide additional direction at its discretion.

D. 2022-2026 Short Range Transit Plan for the Rural Fresno County Area [INFORMATION]

Summary: The Short Range Transit Plan (SRTP) for the rural Fresno County area has been developed by the Fresno Council of Governments (Fresno COG), and updated by FCRTA in cooperation with the Cities of Coalinga, Firebaugh, Fowler, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, Sanger, San Joaquin, Selma and County of Fresno. The SRTP for the rural Fresno County area provides a five (5) year action-oriented program to implement the Public Transportation Element of the Regional transportation Plan (2018). The SRTP is also consistent with the recently adopted Fresno County Regional Long-Range Transit Plan (LRTP) 2019-2050. The 30-day public review process has been initiated by SSTAC on May 18, 2021 with a proposed adoption of June 24, 2021 following a public hearing. The document is available for your review on the Fresno COG website www.fresnocog.org and the FCRTA website www.ruraltransit.org.

Action: Information only. Board may provide additional direction at its discretion.

E. Federal Transit Administration (FTA) Section 5311 Application 2020-21 [APPROVE]

Summary: The 5311 application to Caltrans for operating assistance was submitted on April 30, 2021 via the electronic "Black Cat" system. This funding apportionment is used by FCRTA for the operation of all subcontracted transit services in the annual budget. The application is for \$1,733,707.

Action: Staff recommends Board approval of the 2020-21 FTA 5311 operating assistance application to Caltrans and adoption of Board Resolution No. 2021-07.

F. Federal Transit Administration (FTA) Section 5311 Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) Application 2020-21 [APPROVE]

Summary: The 5311 CRRSAA application to Caltrans for operating assistance was submitted on April 30, 2021 via the electronic "Black Cat" system. This funding apportionment will be used by FCRTA for the operation of all subcontracted transit services in the annual budget over a four (4) year period. The application is for \$4,583,490.

Action: Staff recommends Board approval of the 2020-21 FTA 5311 CRRSAA application to Caltrans and adoption of Board Resolution No. 2021-08.

G. Affordable Housing and Sustainable Communities (AHSC) Application [APPROVE]

Summary: The Affordable Housing and Sustainable Communities program (AHSC) is administered by the Strategic Growth Council and implemented by the Department of Housing and Community Development (HCD), the AHSC Program funds land-use, housing, transportation, and land preservation projects to support infill and compact development that reduce greenhouse gas emissions. FCRTA in partnership with the City of Parlier as the lead applicant is submitting an application that includes a housing development that will be located in the City of Parlier off of Tuolumne Street, two (2) electric buses for the two main routes serving Parlier, new bus stop in front of the housing development and charging station.

Action: Staff recommends Board approval of Resolution of No. 2021-09 authorizing the submission of the Affordable Housing and Sustainable Communities application.

H. FCOG/FCRTA Contract Negotiations for FTA 5339 Grant [APPROVE]

Summary: FCRTA plans to contract with Fresno COG, which is the direct grant recipient of Federal Transit Administration (FTA) funds pursuant to an FTA 5339 grant, to build a bus maintenance facility. County Counsel has advised COG and FCRTA staff that they should adopt a waiver allowing County Counsel's office to appoint separate, independent attorneys to represent each respective board during the contract negotiation process to avoid any potential conflict of interest. The proposed waiver is attached to this agenda.

Action: Staff recommends that the Board adopt County Counsel's proposed waiver for independent counsel.

I. **FTA Section 5339 – Bus and Bus Facilities Projects [APPROVE]**

Summary: The Grants for Buses and Bus Facilities program (49 U.S.C. 5339) makes federal resources available to states and designated recipients to replace, rehabilitate and purchase buses and related equipment, and to construct bus-related facilities including technological changes or innovations to modify low- or no-emission vehicles or facilities. Funding is provided through formula allocations and competitive grants.

Fresno COG will receive \$5,145,281 in FTA Section 5339 funding for Fresno County Rural Transit Agency to construct a new, state-of-the-art bus maintenance and operations facility. FCRTA is proposing to construct the facility on 7.5 acres of raw agency-owned land in Selma. The facility will be constructed in three phases and include: a maintenance shop equipped to service both natural gas and electric transit buses; a maintenance shop devoted to light-duty vehicles and vans, and; an office and training facility for technician training in advanced, transit-vehicle technology. The site will be equipped with: 10, level-three, electric vehicle chargers to serve electric transit buses; 10, level-two chargers to serve electric transit vans, and; a public-access, fast-fill, CNG station capable of serving both transit buses and over-the-road Class 8 trucks. The site will have approximately 1.3 MW of on-site solar power and 500 kWh of battery storage to support the electric vehicle charging without creating strain on the electric grid.

Action: Staff and TTC/PAC request the Board authorize the FCRTA General Manager to enter into a contract with FCOG for \$5,145,281 to construct a new bus maintenance and operations facility.

5. OTHER BUSINESS

A. **Items from staff.**

B. **Items from members.**

6. ADJOURNMENT

FRESNO COUNTY RURAL TRANSIT AGENCY (FCRTA)

Executive Minutes

ITEM 4A

Thursday, April 29, 2021 at 5:30 P.M after COG Policy Board Meeting
COG Sequoia Conference Room
2035 Tulare St., Suite 201, Fresno, CA

Members Attending:

Mayor Ron Ramsey, City of Coalinga
Mayor Alfred Valdez, City of Firebaugh
Mayor David Cardenas, City of Fowler
Mayor Rey Leon, City of Huron
Mayor Gary Yep, City of Kerman
Councilmember Michelle Roman, City of Kingsburg
Mayor Rolando Castro, City of Mendota
Mayor Victor Lopez, City of Orange Cove
Mayor Pro Tem Trinidad Pimentel, City of Parlier
Mayor Mary Fast, City of Reedley
Mayor Eli Ontiveros, City of Sanger
Mayor Julia Hernandez, City of San Joaquin
Mayor Scott Robertson, City of Selma

Moses Stites, General Manager
Janelle Del Campo, Operations Manager
Bryan Rome, County Counsel
Jeaneen Cervantes, FCOG

Absent:

Supervisor Sal Quintero, Fresno County

1. **ROLL CALL** — Meeting called to order 8:00 p.m
Public Presentations - This portion of the meeting is reserved for persons wishing to address the FCRTA Board on items within its jurisdiction but not on this Agenda.

Kevin Hall provided public comment regarding the Measure C program and the FCOG board meeting which was held before the FCRTA board meeting.

NOTE: The public may also comment on any Agenda item, as they are presented, prior to action by the FCRTA Board.

2. **CONSENT ITEMS**
 - A. **Approve Executive Minutes of March 25, 2021 [ATTACHMENT]**
 - B. **FCRTA Fiscal Year 2021-22 Draft Budget [INITIATION]**
 - C. **FY 2021 Low or No Emission Bus Program Application [APPROVE]**
 - D. **Low Carbon Transit Operations Program Application [APPROVE]**
 - E. **New Tech Application Measure C New Technology Application (INFORMATION)**
 - F. **Consolidated Transportation Service Agency (CTSA) Notification of Funding Availability (NOFA) [INFORMATION]**
 - G. **National Rural Transit Assistance Program Community Rides Grant Program [APPROVE]**
 - H. **Unmet Transit Needs-Leadership Counsel Letter [INFORMATION]**

A motion was made by Mayor Robertson (Selma) and second by Mayor Lopez (Orange Cove).
A vote was called, and motion carried.

3. **OTHER ITEMS**

A. **Items from Staff**

1. **Affordable Housing Sustainable Communities Application.**

FCRTA is currently working with two (2) cities, the City of Parlier and City of Sanger, on Affordable Housing Sustainable Communities Grant applications. We were recently notified the Affordable Housing Sustainable Communities Project with the City of Coalinga was awarded funding. The Coalinga project includes 2 –30 foot electric buses that will be incorporated in service.

2. **Coalinga Signage for Vaccines**

I have been working with Mayor Ramsey (Coalinga) and Victoria King with Harvard Project which is geared towards farmworkers both in Urban and Rural Areas. We have been very successful in providing free transportation for COVID testing and vaccination sites.

City of Coalinga posted a sign regarding free transportation for COVID testing. FCRTA will continue to work with the City of Coalinga and other cities to provide free transportation.

Moses thanked Mayor Castro (Mendota) as well as Mayor Cardenas (Fowler) as FCRTA was very fortunate to get funding through the Measure C New Tech Grant for five (5) electric buses and forty (40) ultra-violet disinfectant that we will using to clean the vehicles.

B. **Items from members**

Mayor Cardenas (Fowler) and Mayor Ontiveros thanked Moses Stites for his performance for being so diligent not just for one city but for all of Fresno County.

4. **ADJOURNMENT @ 8:17 p.m**

A motion was made by Mayor Yep (Kerman) and second by Mayor Robertson (Selma). A vote was called, and motion carried.

Respectfully submitted,



Moses Stites
General Manager

BEFORE THE FRESNO COUNTY RURAL TRANSIT AGENCY
RESOLUTION NO. 2021-07

In the matter of:
Federal Transit
Administration Grant

RESOLUTION SUPPORTING CLAIM AND
SUBSEQUENT ACTIONS TO RECEIVE
FY 2020-21 FUNDS FTA SECTION 5311 FUNDS

WHEREAS, Title 21 of the California Administrative Code, Section 1666 requires that the Fresno Council of Governments (FCOG), as the Regional Transportation Planning Agency (RTPA) for Fresno County to plan and program projects of local significance, so applicants, may reference their Applications in a "Program of Projects" (POP) for submittal through the State of California, Department of Transportation (Caltrans) to the Federal Transit Administration (FTA) Section 5311 program; and

WHEREAS, the FCRTA is an eligible applicant of such funds; and

WHEREAS, FCRTA has participated in the ongoing rural public transportation process with the FCOG; and

WHEREAS, the FCRTA does approve the contents and intent of an "Operating Assistance" Application for the Section 5311 funds for 2020-21, for submittal to the FCOG for their action; and

WHEREAS, the FCOG, later this year will adopt the 2021 Federal Transportation Improvement Program (FTIP) to include FCRTA's 2020-21 FTA Section 5311 Operating Grant Application; with reference in the "Program of Projects" (POP); and

WHEREAS, the FCOG shall transmit Certification and Assurance of the recommended Application directly to the Caltrans District 06 Office by their stipulated deadline; and

WHEREAS, the Application Process requires that the FCRTA Board of Directors affirm by Resolution its policy (as contained in the Agency's official and legal Joint Powers Agreement) to seek, support and enter into grant agreements or contracts for and in behalf of its Member Agencies, and enter into the necessary FTA Section 5311 Assurances to be the recipient of said funds for the purposes expressed in its submitted Grant Application; and

WHEREAS, the FCRTA Board of Directors does hereby authorize the General Manager to execute any and all said Agreements and Contracts pertaining to the aforementioned Grant Program.

NOW, THEREFORE, BE IT RESOLVED, that the Fresno County Rural Transit Agency does affirm its intent to be the sole recipient and contracting authority for its 2020-21 FTA Section 5311 funds in the amount of \$1,733,707, thus not requiring each Member Agency's policy board to act individually in the matter.

THE FOREGOING RESOLUTION was passed and adopted by the Fresno County Rural Transit Agency this 27th day of May, 2021.

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Signed _____
David Cardenas, Chairman

I hereby certify that the foregoing is a true copy of a resolution of the Fresno County Rural Transit Agency duly adopted at a meeting thereof held on the 27th day of May, 2021.

Signed _____
Moses Stites, General Manager

BEFORE THE FRESNO COUNTY RURAL TRANSIT AGENCY
RESOLUTION NO. 2021-08

In the matter of:
Federal Transit
Administration Grant

RESOLUTION SUPPORTING CLAIM AND
SUBSEQUENT ACTIONS TO RECEIVE
FY 2020-21 FUNDS FTA SECTION 5311 CRRSAA
FUNDS

WHEREAS, Title 21 of the California Administrative Code, Section 1666 requires that the Fresno Council of Governments (FCOG), as the Regional Transportation Planning Agency (RTPA) for Fresno County to plan and program projects of local significance, so applicants, may reference their Applications in a "Program of Projects" (POP) for submittal through the State of California, Department of Transportation (Caltrans) to the Federal Transit Administration (FTA) Section 5311 program; and

WHEREAS, the FCRTA is an eligible applicant of such funds; and

WHEREAS, FCRTA has participated in the ongoing rural public transportation process with the FCOG; and

WHEREAS, the FCRTA does approve the contents and intent of an "Operating Assistance" Application for the Section 5311 Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) funds for 2020-21, for submittal to the FCOG for their action; and

WHEREAS, the FCOG, later this year will adopt the 2021 Federal Transportation Improvement Program (FTIP) to include FCRTA's 2020-21 FTA Section 5311 CRRSAA Operating Grant Application; with reference in the "Program of Projects" (POP); and

WHEREAS, the FCOG shall transmit Certification and Assurance of the recommended Application directly to the Caltrans District 06 Office by their stipulated deadline; and

WHEREAS, the Application Process requires that the FCRTA Board of Directors affirm by Resolution it's policy (as contained in the Agency's official and legal Joint Powers Agreement) to seek, support and enter into grant agreements or contracts for and in behalf of its Member Agencies, and enter into the necessary FTA Section 5311 CRRSAA Assurances to be the recipient of said funds for the purposes expressed in its submitted Grant Application; and

WHEREAS, the FCRTA Board of Directors does hereby authorize the General Manager to execute any and all said Agreements and Contracts pertaining to the aforementioned Grant Program.

NOW, THEREFORE, BE IT RESOLVED, that the Fresno County Rural Transit Agency does affirm its intent to be the sole recipient and contracting authority for its 2020-21 FTA Section 5311CRRSAA funds in the amount of \$4,583,490, thus not requiring each Member Agency's policy board to act individually in the matter.

THE FOREGOING RESOLUTION was passed and adopted by the Fresno County Rural Transit Agency this 27th day of May, 2021.

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Signed _____
David Cardenas, Chairman

I hereby certify that the foregoing is a true copy of a resolution of the Fresno County Rural Transit Agency duly adopted at a meeting thereof held on the 27th day of May, 2021.

Signed _____
Moses Stites, General Manager

BEFORE THE
FRESNO COUNTY RURAL TRANSIT AGENCY
RESOLUTION NO. 2021-09

In the matter of: RESOLUTION AUTHORIZING THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM APPLICATION

WHEREAS, The State of California, the Strategic Growth Council (SGC) and the Department of Housing and Community Development (Department) has issued a Notice of Funding Availability dated February 26, 2021 (NOFA), under the Affordable Housing and Sustainable Communities (AHSC) Program established under Division 44, Part 1 of the Public Resources Code commencing with Section 75200.

WHEREAS, the Fresno County Rural Transit Agency (Co-Applicant) desires to apply for AHSC Program funds and submit the Application Package released by the Department for the AHSC Program.

WHEREAS, The SGC is authorized to approve funding allocations for the AHSC Program, subject to the terms and conditions of the NOFA, Program Guidelines, Application Package, and Standard Agreement. The Department is authorized to administer the approved funding allocations of the AHSC Program.

NOW THEREFORE, IT IS RESOLVED THAT:

1. Applicant is hereby authorized and directed to apply for and submit to the Department the AHSC Program Application as detailed in the NOFA dated February 26, 2021, for Round 6 in a total amount not to exceed \$30,000,000.00 of which \$20,000,000.00 is requested as a loan for an Affordable Housing Development (AHD) ("AHSC Loan") and \$10,000,000.00 is requested for a grant for Housing-Related Infrastructure (HRI), Sustainable Transportation Infrastructure (STI), Transit-Related Amenities (TRA) or Program (PGM) activities ("AHSC Grant") as defined the AHSC Program Guidelines adopted by SGC on February 24, 2021. If the application is approved, the Applicant is hereby authorized and directed to enter into, execute, and deliver a State of California Standard Agreement (Standard Agreement) in a total amount not to exceed \$30,000,000.00 (\$20,000,000.00 for the AHSC Loan and \$10,000,000.00 for the AHSC Grant), and any and all other documents required or deemed necessary or appropriate to secure the AHSC Program funds from the Department, and all amendments thereto (collectively, the "AHSC Documents").
2. The housing development will be located in the City of Parlier off of Tuolumne Street, the Transit improvements will be electric buses for the two main routes serving Parlier, new bus stop in front of the housing development and charging port
3. Applicant shall be subject to the terms and conditions as specified in the Standard Agreement. Funds are to be used for allowable capital asset project expenditures to be identified in Exhibit A of the Standard Agreement. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application are enforceable through the Standard Agreement. Applicant hereby agrees to use the funds for eligible capital asset(s) in the manner presented in the application as approved by the Department and in accordance with the NOFA and Program Guidelines and Application Package.
4. The General Manager is authorized to execute in the name of Co-Applicant the AHSC Program Application Package and the AHSC Program Documents as required by the Department for participation in the AHSC Program.

THE FOREGOING RESOLUTION was passed and adopted by the Fresno County Rural Transit Agency this 27th day of May, 2021.

AYES:
NOES:
ABSTAIN:
ABSENT:

Signed: _____
David Cardenas, Chairman

I hereby certify that the foregoing is a true copy of a resolution of the Fresno County Rural Transit Agency duly adopted at a meeting thereof held on the 27th day of May, 2021.

Signed: _____
Moses Stites, General Manager

Conflict Waiver:**Representation of the FCRTA and FCOG regarding contract
for administration of funding grant**

It has been proposed that the Fresno County Rural Transit Agency (FCRTA) enter into a contract with the Fresno Council of Governments (FCOG) to administer a grant of funding from the Federal Transit Administration.

As you know, the Office of Fresno County Counsel provides legal services to FCRTA, and also has been asked to represent FCOG with regard to the drafting and review of said contract. One of our office's deputy county counsels already provides legal representation to the FCRTA in all matters, pursuant to a legal services contract between the FCRTA and the County of Fresno, and would represent it in this contract negotiation as well. Another deputy county counsel will be assigned to assist FCOG in the drafting and review of the contract. Accordingly, we are required to inform you regarding the proposal that our Office provide such "dual representation" in this particular instance, and to obtain your informed written consent.

RULES OF PROFESSIONAL CONDUCT

Rule 1.7 of the California Rules of Professional Conduct provides, in pertinent part:

- (a) A lawyer shall not, without informed written consent from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.
- (b) A lawyer shall not, without informed written consent from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client, a former client or a third person, or by the lawyer's own interests.
- (c) Even when a significant risk requiring a lawyer to comply with paragraph (b) is not present, a lawyer shall not represent a client without written disclosure of the relationship to the client and compliance with paragraph (d) where:
 - (1) the lawyer has, or knows that another lawyer in the lawyer's firm has, a legal, business, financial, professional, or personal relationship with or responsibility to a party or witness in the same matter; or
 - (2) the lawyer knows or reasonably should know that another party's lawyer is a spouse, parent, child, or sibling of the lawyer, lives with the lawyer, is a client of the lawyer or another lawyer in the lawyer's firm,* or has an intimate personal relationship with the lawyer.
- (d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), and (c), and:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law; and
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

CONSEQUENCES OF THE REPRESENTATION

We are obliged, under the rule cited above, to inform you of any actual or reasonably foreseeable adverse effects of this representation. It is possible that conflicts between the FCOG and FCRTA may develop into disputes. This scenario could have potentially problematic results in regard to our representation of the FCRTA, specific examples of which are:

- Someone may argue that we would be tempted to favor the interests of one client over the other.
- Our exercise of independent judgment to the FCRTA may be impaired or clouded by our pre-existing relationship with FCOG.
- We may not be able to present the appropriate position, claims or defenses for one client in order to avoid taking adverse positions to the other client.
- We may be restricted from forcefully advocating a client's position for fear of alienating the other client.
- We may be forced to withdraw from representing either or both clients because of disputes or further conflicts of interest which could increase either or both clients' attorney's fees and costs.
- There may be an appearance of impropriety in our representation of both clients simultaneously.

Our office believes that we can adequately mitigate any risks of these consequences, especially since this is for such a discrete task. 1) We will have two different attorneys in our office represent each side of the contract; 2) neither attorney will have access to the other's files or documents as regards this contract; and 3) the two attorneys will not discuss the matter with each other, and 4) each attorney will report to different superiors with any issues that arise. Moreover, this is simply a contract for the administration of grant funding and the parties have a preexisting governmental relationship, with a County Supervisor and thirteen mayors also serving as part of the membership of each party's governing board. Under these circumstances, the parties do not appear to be adverse with respect to this transaction. As regards reviewing the subject contract, the attorney representing FCRTA will report to Chief Deputy Brian Melikian, and the attorney representing the FCOG will report to County Counsel Dan Cederborg.

YOUR CONSENT

If you wish to have our office to represent the FCRTA in this matter, we will need to have the FCRTA Board authorize you to sign this consent letter. It is understood that this consent will not prevent County Counsel from representing the FCRTA now or in the future, and will not waive any protection that you may have with regard to attorney-client communications with us in this matter. Those communications will remain confidential and will not be disclosed to any third party without your consent. The files will be kept separate and there will be no communication regarding the respective representations except as among those persons solely working for that entity.

If there is any material change in the circumstances described above, or we become aware of new information that requires a new consent from the parties, you will be notified of that fact immediately, and in such event our continued representation will be subject to the informed written consent of both involved parties in connection therewith.

Your execution of this consent letter will constitute an acknowledgment of full disclosure in compliance with the requirements of Section 1.7 of the California Rules of Professional Conduct previously quoted above.

ACCEPTED AND RECOMMENDED FOR APPROVAL



Moses Stites, General Manager
Fresno County Rural Transit Agency

ACCEPTED AND APPROVED

David Cardenas, Chairman of the Board
Fresno County Rural Transit Agency