

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 funding program for local Access Providers for on-demand and demand response wheelchair accessible vehicle (WAV) transportation services

As you know, the Office of Fresno County Counsel provides legal services to FCOG, and also has been asked to represent FCRTA 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 FCRTA and FCOG 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, except at an arm's length with permission from the clients, 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

Michelle Roman, Chairwoman of the Board
Fresno County Rural Transit Agency

FRESNO COUNCIL OF GOVERNMENTS

Contract for Demand Response Wheelchair Accessible Vehicle Service within Fresno County through the Transportation Network Company Access for All Program

This AGREEMENT, made and entered into this 29th day of September, 2022 (hereinafter referred to as "Execution Date") by and between the FRESNO COUNCIL OF GOVERNMENTS, 2035 Tulare St., Suite 201, Fresno, California 93721, a joint powers Public Agency (hereafter referred to as "FCOG"), and Fresno County Rural Transit Agency, a California public transit agency (hereafter referred to as "CONTRACTOR"). FCOG and CONTRACTOR are each a "Party" to this Agreement and collectively are the "Parties" to this Agreement.

WITNESSETH:

WHEREAS, pursuant to the joint powers agreement of September 24, 1969 creating the FCOG and the amendments thereto, FCOG is authorized and empowered to employ consultants and specialists in the performance of its duties and functions; and

WHEREAS, FCOG is a Regional Transportation Planning Agency and a Metropolitan Planning Organization pursuant to State and Federal designation; and

WHEREAS, Senate Bill 1376 (2018) designated the California Public Utilities Commission (CPUC) as the administrative agency for the Access for All Program; and

WHEREAS, FCOG serves as the Local Access Fund Administrator for the Transportation Network Company Access for All Program to administer a funding program for local Access Providers for on-demand and demand response wheelchair accessible vehicle (WAV) transportation services; and

WHEREAS, FCOG released a call for projects for Access Providers in April 2022; and

WHEREAS, a three-person review panel made up of one representative from each of the following agencies: Fresno Area Express, City of Clovis Transit, and Fresno Council of Governments, evaluated the two proposals received and unanimously recommended award of the contract to Fresno County Rural Transit Agency (FCRTA); and

WHEREAS, CONTRACTOR represents to FCOG that it is an agency composed of highly trained professionals and is fully qualified to operate the services described above and is willing to perform such services pursuant to the terms and conditions of this contract; and

WHEREAS, the parties have negotiated upon the terms pursuant to which CONTRACTOR will provide such services and have reduced such terms to writing.

NOW, THEREFORE, it is agreed by FCOG and CONTRACTOR as follows:

I. CONTRACTOR'S OBLIGATIONS

- A. CONTRACTOR shall expand its Rural Transit Dial-a-Ride Transit Wheelchair Accessible Vehicle service to serve the general public disabled population by purchasing three (3) wheelchair accessible vehicles, including related equipment and procurement costs (herein collectively referred to as PROJECT) to be used to provide demand response wheelchair accessible vehicle services within Fresno County unincorporated communities between 8:00 a.m. and 5:00 p.m. Monday through Friday.
- B. CONTRACTOR shall take ride requests by phone. CONTRACTOR shall use the phone number (855) 612-5184 to take ride requests. Ride requests should be taken with 24-hour advance notice. CONTRACTOR shall provide confirmation of scheduled pick-up time.

- C. CONTRACTOR shall adhere to all reporting requirements as described in Section XV, herein.

II. **FCOG's OBLIGATIONS**

- A. FCOG shall pay CONTRACTOR quarterly, upon receipt of a valid invoice and reporting, as described in Section III, herein. Invoice and reporting should be sent by email to FCOG within 30 days of the end of the quarter for which payment is requested. Payment shall be made to CONTRACTOR as promptly as fiscal procedures will permit, generally within thirty (30) days receipt of a properly submitted quarterly invoice and reporting.
- B. Disbursements shall be made to CONTRACTOR based on services rendered and costs incurred to date, itemized in quarterly invoice. Eligible expenses include those listed in Attachment A, Eligible WAV Expenses.
- C. FCOG shall submit the required quarterly reports to the California Public Utilities Commission regarding CONTRACTOR's progress.

III. **FISCAL PROVISIONS**

- A. **Basis of payment:** The basis of payment for the services provided under this Agreement shall be reimbursement of the actual allowable costs. FCOG will reimburse CONTRACTOR for actual allowable costs, after the effective date of this Agreement in accordance with this section. Not more than once a month, CONTRACTOR may submit to FCOG signed payment request for allowable cost under this Agreement.
- C. **Total Reimbursement:** Notwithstanding any other provision in this Agreement, total reimbursement shall be limited by an amount not to exceed the sum of \$189,072.
- D. **Payments:** FCOG shall make payments to CONTRACTOR upon receipt and approval by FCOG of CONTRACTOR's monthly invoices for eligible expenses as set forth in Attachment B (Eligible WAV Expenses). Payment to CONTRACTOR shall be based upon FCOG's evaluation of eligibility.
- E. **Invoices:** CONTRACTOR shall submit to FCOG each invoice with adequate supporting documentation of cost incurred. The invoice shall specify: (1) the contract amount, (2) the total cost incurred for the current period, broken down by federal participating cost and local match if appropriate (3) the total amount billed to-date for the project, broken down by federal participating cost and local match if appropriate, (4) the contract balance.
- F. **Payment:** Within 30 days of receipt of a proper invoice, FCOG shall determine whether CONTRACTOR has adequately performed to the satisfaction of FCOG the item(s) for which CONTRACTOR seeks payment, and shall remit payment thereof to CONTRACTOR.
- G. **Disputes.**
 - 1) If FCOG determines that CONTRACTOR has not adequately performed any such task or services, FCOG shall inform CONTRACTOR of those acts in writing which are necessary for satisfactory completion of the item(s). CONTRACTOR shall undertake any and all work to satisfactorily complete the item(s) at no additional charge to FCOG.
 - 2) In the event there is a good faith dispute over an alleged error or omission by CONTRACTOR, FCOG shall have the right to withhold payment of CONTRACTOR's reimbursement in the disputed amount.

3) FCOG and CONTRACTOR shall endeavor to resolve any dispute informally between them. Any controversy or claim arising out of this Agreement, or the breach thereof, shall be settled by arbitration of the dispute before an independent arbitrator. The Parties mutually select an independent arbitrator or panel of arbitrators from Judicial Arbitration and Mediation Services, Inc. ("JAMS"), or another entity mutually agreed to in writing by the Parties. In the event a panel of arbitrators is selected, each Party shall select one member, and shall mutually agree on a third member of the panel. Any arbitration shall occur in Fresno County, California.

IV. TERMINATION

- A. Either Party may terminate this Agreement for convenience with 60 days written notice to the other Party.
- B. FCOG may terminate this Agreement upon a finding that CONTRACTOR has not made satisfactory progress toward procuring the PROJECT equipment.
- C. Breach of Contract: FCOG may immediately suspend or terminate this Agreement in whole or in part, where in the determination of FCOG there is:
 - 1. an illegal or improper use of funds;
 - 2. a failure to comply with any term of this Agreement;
 - 3. a substantially incorrect documentation submitted to FCOG;
 - 4. improperly performed services under this Agreement.

In no event shall any payment by FCOG constitute a waiver by FCOG of any breach of this Agreement or any default which may then exist on the part of CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to FCOG with respect to the breach or default.

- D. Non-Allocation of Funds: The terms of this Agreement, and the services to be provided hereunder, are contingent on the approval of funds by the appropriating government agency. CONTRACTOR services and reimbursements beyond June 30, 2023, are subject to the inclusion and funding agency approval of this project in the FCOG FY23-24 Overall Work Program. Should sufficient funds not be allocated, the services to be provided hereunder may be modified, or this Agreement terminated at any time by FCOG's giving CONTRACTOR thirty (30) days advance written notice.
- E. Should an FTA audit disallow a component of PROJECT for reimbursement that FCOG paid CONTRACTOR, CONTRACTOR may be subject to reimbursement to FCOG for monies paid or disallowed component paid by FCOG.

V. INDEPENDENT CONTRACTOR

- A. In performance of the work, duties, and obligations assumed by CONTRACTOR to be provided under this Agreement, it is mutually expressly understood and agreed that CONTRACTOR, including any and all of CONTRACTOR's officers, agents, and employees will at all times be acting and performing as an independent contracting firm, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of FCOG. Furthermore, FCOG shall have no right to control or supervise or direct the manner or method by which CONTRACTOR shall perform its work and function. However, FCOG shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions thereof. CONTRACTOR and FCOG shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.
- B. Because of its status as an independent contracting firm, CONTRACTOR shall have

absolutely no right to employment rights and benefits available to FCOG employees. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save FCOG harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security, withholding, and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to FCOG or to this Agreement.

VI. ASSIGNMENT

- A. CONTRACTOR shall not assign or subcontract its duties under this Agreement without the prior express written consent of FCOG. No such consent shall be construed as making FCOG a party to such subcontract, or subjecting FCOG to liability of any kind to any subcontractor.
- B. No subcontract whether existing or later entered into as set forth herein, under any circumstances shall relieve CONTRACTOR of its liability and obligation under this contract, and all transactions with FCOG must be through CONTRACTOR.

VII. BINDING NATURE OF AGREEMENT; MODIFICATION

The parties agree that all of the terms of this Agreement and its Exhibits shall be binding upon them and that together these terms constitute the entire Agreement of the parties with respect to the subject matter hereof. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the parties. This Agreement shall be binding upon FCOG, CONTRACTOR, and their successors in interest, legal representatives, executors, administrators, and assigns with respect to all covenants as set forth herein.

VIII. INDEMNITY

CONTRACTOR agrees to indemnify, save, hold harmless, and at FCOG's request, defend the FCOG, its boards, committees, representatives, officers, agents, and employees from and against any and all costs and expenses (including reasonable attorney's fees and litigation costs), damages, liabilities, claims, and losses (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death, and property damage) occurring or resulting to FCOG to the extent they are caused from any negligent, recklessness or willful misconduct of CONTRACTOR, its officers, agents, subcontractors, or employees in their performance of this Agreement, and from any and all costs and expenses (including reasonable attorney's fees and litigation costs), damages, liabilities, claims, and losses (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death and property damage), occurring or resulting to any person, firm, corporation, or entity who may be injured or damaged to the extent such injury or damage arises from any negligent acts, errors or omissions of CONTRACTOR, its officers, agents, subcontractors, or employees in their performance of this Agreement.

IX. INSURANCE

Without limiting FCOG's right to obtain indemnification from CONTRACTOR or any third Parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement:

- A. Comprehensive general liability insurance with coverage of not less than \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

Comprehensive general liability insurance policies shall name the FCOG, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned.

Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by FCOG, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under the CONTRACTOR'S policies herein.

- B. Comprehensive automobile liability insurance with limits for bodily injury of not less than \$25,000 per person, \$250,000 per accident and for property damages of not less than \$50,000, or such coverage with a combined single limit of \$250,000.

- C. Workers compensation insurance as required by law.

CONTRACTOR shall not cancel or change any insurance policy required by this section IX without a minimum of thirty (30) days advance, written notice given to FCOG.

CONTRACTOR shall provide certification of all said insurance to FCOG within twenty-one (21) days of the date of the execution of this Agreement.

Such certification shall show to FCOG's sole satisfaction that such insurance coverages have been obtained and are in full force; that FCOG, its officers, agents, and employees will not be responsible for any premiums on the policies; that as and if required such insurance names FCOG, its officers, agents, and employees, individually and collectively, as additional insured (comprehensive general liability only), but only insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by FCOG, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under the CONTRACTOR's policies herein; and that this insurance shall not be canceled or changed without a minimum of thirty (30) days advance, written notice given to FCOG.

In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, FCOG may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

X. CONFLICT OF INTEREST

CONTRACTOR covenants that it has no interest, and will not have any interest, direct or indirect, which would conflict in any manner with the performances of the services required hereunder.

XI. EFFECTIVE DATE, TERM

This Agreement shall become effective as of the Execution Date and shall remain in full force and effect through June 30, 2023, unless sooner terminated or unless its term is

extended. There will be five one-year extension options. Each extension will be made in writing and have its own maximum annual compensation amount.

XII. NOTICES

Any and all notices between FCOG and CONTRACTOR provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the parties, or in lieu of such personal service, when deposited in the United States Mail, postage prepaid, addressed to such Party, at such addresses set forth below:

FCOG

Tony Boren, Executive Director
Fresno Council of Governments
2035 Tulare, Suite 201
Fresno, CA 93721

CONTRACTOR

Moses Stites, General Manager
Fresno County Rural Transit Agency
2035 Tulare, Suite 201
Fresno, CA 93721

XI. VENUE; GOVERNING LAW

Venue for any claim or action arising under this Agreement shall only be in Fresno County, California. This Agreement shall be governed in all respects by the laws of the State of California.

XIV. COMPLIANCE WITH LAWS

In addition to legal requirements spelled out in other sections of this Agreement, CONTRACTOR shall comply with all current Federal, State, and local laws, ordinances, and regulations applicable in carrying out its obligations under this Agreement.

XV. REPORTING AND AUDITING

CONTRACTOR shall submit quarterly reports within 30 days of the end of each quarter. The term of this contract spans four quarters. Quarter 1 spans from July 1, 2022 to September 30, 2022, quarter 2 spans from October 1, 2022 to December 31, 2022, quarter 3 spans from January 1, 2023 to March 31, 2023, and quarter 4 spans from April 1, 2023 to June 30, 2023. The reports shall include:

- A. Number of unique wheelchair accessible vehicles (WAVs) in operation. This information should be provided in an Excel document supplied to the CONTRACTOR by FCOG. The number of unique wheelchair accessible vehicles in operation shall be provided by quarter and aggregated by hour of the day and day of the week. "In operation" is defined when a WAV: (a) is available to receive a trip request in that quarter/hour/day or (b) has accepted a trip request in that quarter/hour/day.
- B. Number and percentage of WAV trips completed, not accepted, cancelled by passenger, cancelled due to passenger no-show, and cancelled by driver. This information should be provided in an Excel document supplied to the CONTRACTOR by FCOG. The number and percentage of WAV trips completed, not accepted, cancelled by passenger, cancelled due to passenger no-show, and cancelled by driver shall be provided by quarter and aggregated by hour of the day and day of the week.
- C. Completed WAV trip request response times. "Completed WAV trip" is defined as a WAV trip request that results in a passenger being dropped-off at the requested location. This information should be provided in an Excel document supplied to the CONTRACTOR by FCOG. The completed WAV trip request response times

shall be provided in deciles, as well as broken out by Period A (time elapsed from when a trip is requested until the trip is accepted) and B (time elapsed from when a trip is accepted until the vehicle arrives). Response time is the elapsed time between when a trip is requested and when the passenger is picked-up (Period A plus Period B). The Access Provider shall provide WAV trip response times in deciles, as well as Periods A and B in deciles, by quarter.

- D. Trip completion rate. CONTRACTOR shall provide FCOG the percentage of completed WAV trip requests in an Excel document supplied to the CONTRACTOR by FCOG. Trip completion rate is calculated by dividing total trips completed by total requested unique trips, multiplied by 100.
- E. Evidence of outreach. CONTRACTOR shall provide proof of their effort to publicize and promote available WAV services to disability communities, how the partnership promoted WAV services, and marketing or promotional materials of those activities. This information can be provided in the form of an Excel spreadsheet or a PDF.
- F. Certification of driver training. CONTRACTOR shall provide certification that all WAV drivers operating on its platform have completed driver training on transporting peoples with disabilities within the past three years, including sensitivity training, passenger assistance techniques, accessibility equipment use, door-to-door service, and safety procedures. This certification shall be provided in the form of a PDF.
- G. Report of WAV driver training programs. CONTRACTOR shall provide list of driver training programs completed and number of WAV drivers that completed each training in that quarter. The report of WAV driver training programs shall be submitted in an Excel spreadsheet.
- H. Certification of inspection. CONTRACTOR shall submit a certification in the form of a PDF that all WAVs operating on its platform have been inspected and approved to conform with the ADA Accessibility Guidelines for Transportation Vehicles within the past year. Title 49 Code of Federal Regulations, Chapter 38, Subpart B available at Electronic Code of Federal Regulations (eCFR).
- I. Number of complaints. CONTRACTOR shall provide the number of complaints received related to WAV driver or WAV services, categorized as follows: securement issues, driving training, vehicle safety and comfort, Service animal issue, stranded passenger, and others. This information shall be submitted in the form of an Excel spreadsheet provided to the CONTRACTOR by FCOG.
- J. Funds expended. CONTRACTOR shall submit an Excel spreadsheet listing funds expended during the quarter, categorized by the types of costs listed in Attachment A: Eligible WAV Expenses.
- K. Safety protocol declaration form. CONTRACTOR shall certify under penalty of perjury to comply with safety protocols as listed in PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ACCESS FOR ALL SAFETY PROTOCOL DECLARATION FORM.

FCOG shall have access to any books, records, and documents of CONTRACTOR that are pertinent to this Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

CONTRACTOR shall furnish FCOG with any additional reports or data that may be required by CPUC.

XVI. CONTRACTOR'S LEGAL AUTHORITY

Each individual executing or attesting this Agreement on behalf of CONTRACTOR hereby covenants, warrants, and represents: (1) that he or she is duly authorized to execute or attest and deliver this Agreement in accordance with a duly adopted resolution of the agencies board of directors and in accordance with such agencies charter and bylaws; (2) that this Agreement is binding upon such agency; and (3) that CONTRACTOR is a duly organized and legally existing entity in good standing in the State of California.

XVII. DRUG FREE WORK PLACE

CONTRACTOR shall certify compliance with Government Code Section 8355 pertaining to providing a drug-free workplace per Attachment B - "Drug Free Workplace Certification".

XVIII. SEVERABILITY

In the event any provisions of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the Parties will use their best efforts to meet and confer to determine how to mutually amend such provisions with valid and enforceable provisions, and the remaining provisions of this Agreement will nevertheless continue in full force and effect without being impaired or invalidated in any way.

XIX. HEADINGS; CONSTRUCTION; STATUTORY REFERENCES

The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. This Agreement is the product of negotiation between both Parties, each one of which is represented by counsel. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party. Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in interpreting this Agreement. All references in this Agreement to particular statutes, regulations, ordinances or resolutions of the United States, the State of California, or the County of Fresno shall be deemed to include the same statute, regulation, ordinance or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

XX. INTEGRATED AGREEMENT

This Agreement, including Attachments A and B, attached hereto and incorporated herein by this reference, represents the full and complete understanding of the Parties with respect to the subject matter hereof, and all preliminary negotiations and oral or written agreements with respect thereto are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof.

XXI. SUBCONTRACTING

A. FCOG Approval of Subagreements. FCOG shall approve in writing all proposed Subagreements, Memorandums of Understanding (MOU), or similar documents relating to the performance of the Contract prior to implementation. CONTRACTOR agrees that it will not enter into any Subagreements unless the same are approved in writing by FCOG. Any proposed amendments or modifications to such Subagreements must be approved by FCOG prior to implementation. No such subagreement approval shall be construed as making the Fresno COG a party to such subagreement, or subjecting the Fresno COG

to liability of any kind to any subconsultant.

- B. No subagreement whether existing or later entered into as set forth herein, under any circumstances shall relieve the CONTRACTOR of his/her liability and obligation under this contract, and all transactions with the Fresno COG must be through the CONTRACTOR. Subcontractors may not be changed by CONTRACTOR without the prior express written approval of Fresno COG.
- C. CONTRACTOR represents and covenants by entering into this agreement that it is the prime contractor in this agreement, and that it is responsible for all acts or omissions of its said subcontractors.

XXII. NON-DISCRIMINATION

- A. During the performance of this agreement, CONTRACTOR and its subcontractors shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave. CONTRACTOR and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONTRACTOR and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. CONTRACTOR and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- B. CONTRACTOR shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under this contract.

(Signature page follows.)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date and year first above written.

FRESNO COUNCIL OF GOVERNMENTS

FRESNO COUNTY RURAL TRANSIT AGENCY

By _____
TONY BOREN, Executive Director

By _____
MOSES STITES, General Manager

APPROVED AS TO LEGAL FORM ON BEHALF OF FCOG:

APPROVED AS TO LEGAL FORM ON BEHALF OF FCRTA:

By  _____
ALISON SAMARIN, Deputy County Counsel

By  _____
BRYAN D. ROME, Deputy County Counsel

E-Signed by
Bryan D. Rome
August 29, 2022

Attachment A: Eligible WAV Expenses

Eligible WAV Expenses Adopted in D.20-03-007
Vehicle Costs
Lease/Rental/Purchase Costs
Rental Subsidies for Driver
Inspections
Maintenance, Service, & Warranty
Fuel Cost
Cleaning Supplies/Services
Other (Describe)
Partnership Costs
Transportation Service Partner Fees/Incentives and/or Management Fees
Vehicle Subsidies
Consultants/Legal
Other (Describe)
Marketplace Costs
Recruiting
Driver Onboarding
Training Costs
Driver Incentives
Promo Codes for WAV
Other (Describe)
Operational Costs
Marketing Costs
Technology Investments/Engineering Costs/Enhancements
Community Partnership/Engagement Costs
Rental Management
Pilot Management
Wages, Salaries, and Benefits (non-maintenance personnel)
Other (Describe)
Other (Describe)


STATE OF CALIFORNIA

DRUG-FREE WORKPLACE CERTIFICATION

STD. 21 (Rev. 10/2019)

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized legally to bind the contractor or grant recipient to the certification described below. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

CONTRACTOR/BIDDER FIRM NAME	FEDERAL ID NUMBER
BY (Authorized Signature) 	DATE EXECUTED
PRINTED NAME AND TITLE OF PERSON SIGNING	TELEPHONE NUMBER (Include Area Code) ()
TITLE	
CONTRACTOR/BIDDER FIRMS MAILING ADDRESS	

The contractor or grant recipient named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
 - (a) The dangers of drug abuse in the workplace,
 - (b) The person's or organization's policy of maintaining a drug-free workplace,
 - (c) Any available counseling, rehabilitation and employee assistance programs, and
 - (d) Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c), that every employee who works on the proposed contract or grant:
 - (a) Will receive a copy of the company's drug-free workplace policy statement, and
 - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.
4. At the election of the contractor or grantee, from and after the "Date Executed" and until _____^(DATE) (NOT TO EXCEED 36 MONTHS), the state will regard this certificate as valid for all contracts or grants entered into between the contractor or grantee and this state agency without requiring the contractor or grantee to provide a new and individual certificate for each contract or grant. If the contractor or grantee elects to fill in the blank date, then the terms and conditions of this certificate shall have the same force, meaning, effect and enforceability as if a certificate were separately, specifically, and individually provided for each contract or grant between the contractor or grantee and this state agency.

AMENDMENT IV TO THE LEASE AGREEMENT BETWEEN
THE FRESNO COUNTY RURAL TRANSIT AGENCY
AND
DANIEL SERIMIAN

This Amendment IV to Agreement (“Amendment IV”) amends that certain lease agreement entered into on August 20, 2018 (hereinafter referred to as “Agreement”), between the FRESNO COUNTY RURAL TRANSIT AGENCY (herein after referred to as “TENANT”) and DANIEL SERIMIAN, (herein after referred to as “LANDLORD”), whereby LANDLORD agreed to lease the real property located at 1870 Dockery Avenue, Selma CA 93662 (herein after referred to as PROPERTY) to TENANT. LANDLORD and TENANT may be referred to herein collectively as the “Parties” or individually as a “Party.”

Whereas, the Parties entered into an Amendment I to the Agreement (“Amendment I”) on July 17th, 2019, extending the term of the lease by one year; and

Whereas the Parties entered into an Amendment II to the Agreement (“Amendment II”) on June 13th, 2020, extending the term of the lease by one additional year; and

Whereas the Parties entered into an Amendment III to the Agreement (“Amendment III”) on June 4th, 2021, extending the term of the lease by one additional year; and

Whereas, the Parties wish to extend the term of the lease to December 31, 2023 and agree to an increased monthly rental amount of Five Thousand Dollars (\$5,750.00); and

Whereas, an amendment to the Agreement is necessary to extend the lease into the next fiscal year.

NOW THEREFORE, in consideration for their mutual promises, TENANT and LANDLORD agree to amend the Agreement as follows:

1. That existing Section 2.TERM AND RENT; shall be deleted in its entirety and replaced with the following:

Landlord leases to Tenant the above Property for a term commencing August 20, 2022, and terminating at the end of December 31, 2023 (hereinafter referred to as “Lease Term”), or sooner as provided herein at the monthly rental amount of Five Thousand Dollars (\$5,750.00), payable each month for that month’s rental installment payment, with the total amount of Ninety-Four Thousand, Forty, and 32/100 Dollars (\$94,040.32) rent to be paid over this Lease Term. Each monthly rental installment payment shall be due on the twentieth (20th) day of each calendar month during the Lease Term. Notwithstanding the foregoing sentence, the final monthly rental installment shall be due on December 31, 2023, and shall include, unless earlier terminated as provided herein, the prorated monthly rental amount for the period December 21, 2023 through December 31, 2023 (inclusive), and shall not exceed Two-Thousand, Forty, and 32/100 Dollars (\$2,040.32). All rental payments shall be made to Landlord, Daniel Serimian, at the address identified in Section 15 of this Lease or at such other place designated by written notice form Landlord to Tenant.

2. This Amendment IV to Agreement shall become effective on June 30, 2022 ("Effective Date").
3. Upon the Effective Date, the Agreement, Amendment I, Amendment II, Amendment III, and this Amendment IV shall together constitute the Agreement.
4. Unless expressly modified by the terms of this Amendment IV, all terms of the Agreement remain in full force and effect.
5. Each Party represents and warrants to the other Party that such Party is duly authorized and empowered to execute, enter into, and perform its obligations set forth in this Amendment IV, and that the individual signing this Amendment IV on behalf of such Party has been duly authorized to execute this Amendment IV on behalf of such Party, and will, by signing this Amendment IV on such Party's behalf, legally bind such Party to the terms, covenants, and conditions of this Amendment IV. Each Party further represents and warrants to the other Party that no other person or entity is required to give its approval or consent to this Amendment IV in order for such Party to authorize, enter into, and perform its obligations under this Amendment IV, or that if such approval or consent to this Amendment IV is required, that such approval or consent has been obtained.

IN WITNESS WHEREOF, the parties hereto have executed this document the ____ day of _____, 2022.

FRESNO COUNTY RURAL TRANSIT AGENCY, Tenant

By _____
MOSES STITES, General Manager

Landlord

By _____
DANIEL SERIMIAN, Property Owner

APPROVED AS TO LEGAL FORM ON BEHALF OF FCRTA:
DANIEL C. CEDERBORG, County Counsel

E-Signed by
Bryan D. Rome
August 15, 2022
By Bryan D. Rome
BRYAN ROME, Deputy County Counsel

RESOLUTION # 2022-15

**AUTHORIZATION FOR THE FCRTA FRESNO COUNTY TRANSIT FEASIBILITY STUDY
TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION'S
SUSTAINABLE TRANSPORTATION PLANNING GRANT PROGRAM**

WHEREAS, the FCRTA is an eligible project applicant and may receive funding from the California Department Of Transportation's (Caltrans) Sustainable Transportation Planning Grant Program; and

WHEREAS, the FCRTA wishes to apply for Sustainable Transportation Planning Grant funding to conduct a transit feasibility study to evaluate the physical/financial feasibility of developing a light rail, bus rapid transit (BRT), or monorail that utilizes existing medians/shoulders along Golden State Boulevard to connect Southwest Fresno with the cities of Malaga, Fowler, Selma, and Kingsburg, with extensions to southwest and downtown Fresno, Sanger, Parlier, Orange Cove, and Reedley and connections to the High Speed Rail station in downtown Fresno; and

WHEREAS, the FCRTA is preparing an Application for Sustainable Transportation Planning Grant funding, in the amount of \$274,299 for the new transit feasibility study; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the FCRTA that the fund recipient agrees to comply with all conditions and requirements set forth in the Sustainable Transportation Planning Grant requirements and any applicable statutes, regulations and guidelines for all Sustainable Transportation Planning Grant funded projects.

NOW THEREFORE, BE IT FURTHER RESOLVED that the General Manager, be authorized to make financial decisions, authorize the submittal of the application, and enter into an agreement with Caltrans.

AGENCY BOARD DESIGNEE: MOSES STITES, GENERAL MANAGER

Passed and approved this 29th day of September, 2022.

AYES:

NOES:

ABSTAIN:

ABSENT:

Signed _____
Michelle Roman, Chairperson

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 29th day of September, 2022.

Signed _____
Moses Stites, General Manager



September 13 2022

Dear Moses:

We are pleased to inform you that last night the Board of Directors of the League of Women Voters of Fresno voted to contribute \$12,000 to your innovative electrification project. You might be interested to learn that these funds were donated to the League by two of our members. We would like the money to be used as a 50% subsidy for riders.

It is gratifying to know that we are a partner in such an excellent environmentally-sensitive undertaking. Please keep us posted on the implementation and progress.

With best wishes from our Board,

Francine Farber

Kay Bertken

Francine Farber

Kay Bertken

Co-Presidents

AUTHORIZATION FOR THE FCRTA GRANT APPLICATION TO THE TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM OF THE CALIFORNIA STATE TRANSPORTATION AGENCY (CalSTA) AND AUTHORIZATION FOR THE GENERAL MANAGER TO ENTER INTO A GRANT AGREEMENT AND ANY AMENDMENTS

WHEREAS, the FCRTA is an eligible project applicant and may receive funding from the 2022 Transit and Intercity Rail Capital Program; and

WHEREAS, the California State Transportation Agency, herein referred to as "CalSTA," has issued a Notice of Funding Availability (NOFA) for the 2022 Transit and Intercity Rail Capital Program (TIRCP), created by Senate Bill (SB) 862 (Chapter 36, Statutes of 2014) and modified by SB 9 (Chapter 710, Statutes of 2015) to provide grants from the Greenhouse Gas Reduction Fund (GGRF) to fund transformative capital improvements that will modernize California's intercity, commuter, and urban rail systems, and bus and ferry transit systems, to significantly reduce emissions of greenhouse gases, vehicle miles traveled, and congestion; and

WHEREAS, the legislation of these bills is codified in Sections 75220 through 75225 of the Public Resources Code (PRC). Assembly Bill (AB) 398 (Chapter 135, Statutes of 2017) extended the Cap-and-Trade Program that supports the TIRCP from 2020 to 2030. SB 1 (Chapter 5, Statutes of 2017) continued to provide a historic funding increase for transportation with funds directed to the TIRCP from the Public Transportation Account for new programming in this cycle. Pursuant to the statute, CalSTA is authorized to approve funding allocations for the program, subject to the terms and condition of the NOFA and program application forms.

WHEREAS, the FCRTA wishes to delegate authorization to execute these documents and any amendments thereto to the General Manager; and

WHEREAS, the FCRTA has prepared an Application in the amount of \$6,862,025 for the grant project of a resiliency hub with charging stations and solar energy; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the FCRTA that the fund recipient agrees to comply with all conditions and requirements set forth in the TIRCP Grant Application document and any applicable statutes, regulations and guidelines for all funded projects.

NOW THEREFORE, BE IT FURTHER RESOLVED that the General Manager, be authorized to make financial decisions, authorize the submittal of the application to CalSTA, and implement the FCRTA TIRCP resiliency hub project.

AGENCY BOARD DESIGNEE: MOSES STITES, GENERAL MANAGER

Passed and approved this 29th day of September, 2022.

AYES:

NOES:

ABSTAIN:

ABSENT:

Signed _____
Michelle Roman, Chairperson

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 29th day of September, 2022.

Signed _____
Moses Stites, General Manager