

Tulare County Regional Transit Agency
AGENDA
May 15, 2023
6:00 pm
Tulare County Regional Transit Agency
210 N. Church Street, Suite B
Visalia, CA 93291

NOTE: This meeting will allow the public to participate in the meeting via Zoom using the following link:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB361

Zoom Meeting | Direct Link: <https://bit.ly/2Zt4BQY>

Toll Free Call in: (888) 475-4499 | **Meeting ID:** 744 710 0343 | **Passcode:** 82243742

Call in only instructions: Enter your meeting ID followed by #, Enter # for participant ID, Enter the passcode followed by #.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, including auxiliary aids, translation requests, or other accommodations, or to be able to access this agenda and documents in the agenda packet, please contact the Tulare County Association of Governments ("TCAG") office at 559-623-0450 at least 3 days prior to the meeting. Any staff reports and supporting materials provided to the Board after the distribution of the agenda packet are available for public inspection at the TCAG office.

- I. CALL TO ORDER, WELCOME, AND ROLL CALL**
- II. PLEDGE OF ALLEGIANCE**
- III. PUBLIC COMMENT**

NOTICE TO THE PUBLIC
PUBLIC COMMENT PERIOD

At this time, members of the public may comment on any item of interest to the public and within the subject matter jurisdiction of TCRTA but not appearing on this agenda. Under state law, matters presented under this item cannot be discussed or acted upon by the Board at this time. For items appearing on the agenda, the public is invited to make comments at the time the item comes up for Board consideration. Any person addressing the Board will be limited to a maximum of three (3) minutes so that all interested parties have an opportunity to speak with a total of fifteen (15) minutes allotted for the Public Comment Period. Speakers are requested to state their name(s) and address(es) for the record.

IV. REPORTS:

This is the time for all committee reports; executive committee reports; and staff informational items:

- A. Executive Committee (April 28, 2023)
- B. Ad Hoc - Sustainability Committee
- C. Ad Hoc – Executive Director Search Committee
- D. Safety Committee (May 3, 2023)

V. PRESENTATIONS:

- A. None

VI. INFORMATIONAL ITEMS:

- A. TCRTA Staff Roles & Presentations (handout for Board)
- B. Transit Center Development Updates (Exeter, Farmersville, Lindsay) - None

VII. CONSENT CALENDAR ITEMS:

All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar. All items removed from the Consent Calendar for further discussion will be heard at the end of Action and Information Items.

Request Approval of the Consent Calendar Item VII-A.

- A. Approve minutes of April 21, 2023 (Pages 01-04)

VIII. DISCUSSION / ACTION ITEMS:

- A. Action: Approve Professional Services Agreement with Susan Hafner, Multimodal Solutions, for Interim Support Services (Pages 05-22)
- B. Discussion: City of Porterville - Notice of Withdrawal (Pages 23-25)
- C. Discussion: Board of Directors Meeting Schedule (Page 27)

IX. OTHER BUSINESS:

- A. Director's Report
- B. Request from Board Members for Future Agenda Items

X. CLOSED SESSION ITEMS:

It is the intention of the Board of Directors to meet in closed session concerning:

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant Exposure to Litigation (Government Code Section 54956.9(d)(2))
Number of Potential Cases: 1

XI. ADJOURN:

The next regularly scheduled Tulare County Regional Transit Agency (TCRTA) Board meeting will be **June 14, 2023, and will take place at 6:00 pm** at the Tulare County Regional Transit Agency (TCRTA), 210 N. Church Street, Suite B, Sequoia Conference Room, Visalia, CA 93291.

TULARE COUNTY REGIONAL TRANSIT AGENCY

<u>BOARD OF DIRECTORS</u>	<u>ALTERNATE</u>	<u>AGENCY</u>
Kuldip Thusu	Maribel Reynosa	City of Dinuba
Vicki Riddle	Frankie Alves	City of Exeter
Greg Gomez – Vice Chair	Armando Hinojosa	City of Farmersville
Hipolito Cerros	Rosaena Sanchez	City of Lindsay
Donald Weyhrauch	Raymond Beltran	City of Porterville
Jose Sigala – Chair	Terry Sayre	City of Tulare
Rudy Mendoza	Jose Martinez	City of Woodlake
Eddie Valero	Amy Shuklian	County of Tulare
Wendi Correa	Vacant	Tule River Tribe of California

EX OFFICIO MEMBERS

Georgina Landecho, CalVans
Kellie Carrillo, TCAG Public Transit Representative

TCRTA STAFF

Albert Barragan, TCRTA Interim Executive Director
Angela Rose, TCRTA EH Finance Manager
Jennie Miller, TCRTA Transit Manager
Teresa Ortega, TCRTA Transit Analyst
Clayton Landis, TCRTA Transit Analyst
Olivia Forte, TCRTA Transit Analyst
*Thomas Degn, County Counsel
*Leslie Davis, TCAG Finance Director (TCAG)
*Servando Quintanilla Jr., TCAG Analyst I (TCAG)
*TCRTA is receiving support from the Tulare County Association of Governments and County of Tulare

TCRTA
210 N. Church Street, Suite B
Visalia, CA 93291
Phone: (559) 623-0450
Fax: (559) 733-6720
www.tularecoq.org

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**Tulare County Regional Transit Agency
Board Meeting Minutes
April 21, 2023, 4:00 p.m.**

Members Present: Thusu, Riddle, Gomez, Weyhrauch, Sigala, Mendoza & Valero

Members Absent: Cerros, & Correa

Alternates:

Ex Officio Present:

Staff Present: Rich Tree, Albert Barragan, Teresa Ortega, Jennie Miller, Olivia Forte, Leslie Davis, Servando Quintanilla, and Maria Garza

Counsel Present: Thomas Degn

*Board member attended online due to emergency or just cause.

I. CALL TO ORDER:

Chair Sigala called the meeting to order at 4:02 p.m.

II. PLEDGE OF ALLEGIANCE

Led by Chair Sigala.

III. PUBLIC COMMENT:

None

IV. REPORTS:

This is the time for all committee reports; executive committee reports; and staff informational items:

A. Executive Committee

Chair Sigala reported that the Executive Committee had met and would discuss recommendations on how to go about filling the vacant Executive Director position.

B. Ad Hoc – Sustainability Committee

Chair Sigala gave a report on the Sustainability Committee and noted that staff and members had the opportunity to review budgets and stated that the committee had a plan of action to have short-term, midterm and long-term goals to keep the agency on a stable fiscal level and noted that TCRTA is seeking to fill the Finance Manager position with an extra help staff person.

V. PRESENTATIONS:

A. Employee Recognition – Emergency Transportation

Ms. Forte gave a report on TCRTA emergency evacuation services for Tulare County residents who needed transportation to be relocated to shelters due to emergencies. TCRTA recognized the following employees for their services Claudia Guzman, Darla Echevarria, David Archer, Eric Bledsoe, Juan Rubio, Kira Chavez, Teresa Dias, Tim Gibson, and Vanessa White.

VI. INFORMATIONAL ITEMS:

A. None

VII. CONSENT CALENDAR ITEMS:

A. Approve minutes March 29, 2023

Upon motion by Member Mendoza and seconded by Member Riddle the Tulare County Regional Transit Agency unanimously approved Item A

VIII. DISCUSSION / ACTION ITEMS:

A. Revenue Status and Financial Statement as of March 31, 2023

Ms. Davis reported on the Local Transportation Funding (LTF) pending for the fiscal year 22/23, with a claim value not to exceed \$3,162K and was expected within the next 30 days; as was 5307 funding in the amount of \$2,158K for Cities of Porterville and Tulare.

Upon motion by Member Gomez and seconded by Member Thusu the Tulare County Regional Transit Agency unanimously approved Items A as presented.

B. Approve Special Transportation for Senior Day in the Park

Ms. Forte discussed that Community Services and Employment Training (CSET), and the Kings/Tulare Area Agency on Aging (K/TAAA) are hosting the 51st Annual Senior Day in the Park at Mooney Grove Park in Visalia on Friday, May 5th, 2023. CSET and K/TAAA celebrate and invite the senior community across Tulare and Kings Counties to participate in a lineup of events and activities. In the past, TCaT assisted with bringing some of the seniors to and from the location on Senior Day. This year, CSET and K/TAAA had requested the service of two buses to transport seniors from designated locations in Tulare County to and from Mooney Grove Park on the day of the event. These buses would perform a single pick-up for the beginning of the event and a single drop-off for the end of the event in two designated areas of the county: 1) Lindsay and Porterville and 2) Cutler and Earlimart. CSET and K/TAAA have emphasized the necessity of this request as approximately 60 of their attendees are expected to require accessible transportation services that may be difficult to otherwise accommodate. An estimated 60 seniors would be provided service to the 51st Annual Senior Day in the Park. The cost to provide service would be approximately \$230.

Upon motion by Member Weyhrauch and seconded by Member Valero the Tulare County Regional Transit Agency unanimously approved Items B as presented.

C. Professional Services Agreement for Interim Director

Mr. Tree discussed that at the meeting of April 10, 2023, the Executive Committee discussed options to fill the vacancy of the Executive Director in the interim. Staff also presented a draft sole source policy for professional services which will allow the Agency to expedite an agreement due to the urgency of the matter and the excessive learning curve of someone fulfilling the position. Staff presented consideration to seek a professional services agreement with existing member agencies, the County of Tulare, and transit consultants who are familiar with the Agency.

Chair Sigala discussed that the Board was opting for a hybrid approach – appointing Albert Barragan, Transit Manager, as the Interim Executive Director, and tabling the selection of a consultant (to provide support services) to the Executive Committee.

Upon motion by Member Thusu and seconded by Member Mendoza the Tulare County Regional Transit Agency unanimously approved Items C as presented.

D. Action: Adoption of a Resolution Approving Position Classification and Compensation for TCRTA Extra Help and Interim Positions

Item VII-A

Mr. Tree discussed meeting the growing needs of TCRTA and in alignment with the proposed Annual Budget, staff determined that additional administrative positions are required to own, operate, and administer the transit services for its Member Agencies. The proposed allocation of positions and compensation for TCRTA are as follows: 1. Approve the hiring of an Extra Help Fiscal Manager to fill the existing approved Fiscal Manager position at step 5 rate. 2. Approve the hiring of an Extra Help Staff Analyst I funded from the existing approved Fiscal Manager position at a step 2 rate. Savings are realized from the vacancy of the position. With the potential to become a permanent promotional position to be brought back to the board later and approve the hiring of an Interim Finance Director for up to a maximum of 15 hours per week to expire December 31, 2023 or until the Fiscal Manager position is filled, whichever comes first. Savings are realized from the vacancy of the Fiscal Manager position. The hourly rate of pay will be equal to the current rate of pay of the recommended employee, Leslie Davis, who is currently serving as the Interim Finance Director in the absence of the TCRTA Fiscal Manager. The action was pending approval of the Tulare County CAO and in coordination with Tulare County Human Resources.

Upon motion by Member Gomez and seconded by Member Riddle the Tulare County Regional Transit Agency unanimously approved Items D as presented.

E. Action: Policies and Procedures for Cash Advance Repayment to Member Agencies Prior to December 31, 2027

Ms. Davis gave a report on the requests for cash advance reimbursements are being made by Member Agencies prior to the December 31, 2027, agreed upon repayment date and in order to effectively and fairly make distributions prior to December 31, 2027, policies and procedures with criteria must be set forth. The proportional amount for the five member agencies is City of Porterville \$1,600,000 32% County of Tulare \$1,500,000 30% City of Tulare \$1,500,000 30% City of Dinuba \$350,000 7% City of Woodlake \$50,000 1% Total \$5,000,000 The proposed Cash Advance and Repayment Agreement would advance up to \$5,000,000 to the TCRTA to assist with cash flow needs. Repayment of borrowed funds, plus accrued annual interest, would be remitted when there is sufficient cash balance in the TCRTA fund to cover regular cash flow needs, but no later than December 31, 2027. Upon request from the Board this action item would be tabled for a later date.

F. Approve Amendment No. 2 to the 2022-2023 Budget and Capital Improvement Program

Ms. Davis discussed the County of Tulare and the City of Dinuba had presented estimated costs and/or invoices in the amount of \$582,651.60 and \$260,000.00 respectively. The expenses presented for payment were not included in the approved budget for FY 22/23 nor included in Amendment no. 1. Conversely, the revenues to cover said expenses were not included in the FY 22/23 budget.

Upon motion by Member Mendoza and seconded by Member Riddle the Tulare County Regional Transit Agency unanimously approved Items F as presented.

G. Action: Adoption of a Resolution Approving 5% Out of Class Pay for TCRTA Employees Performing Duties Outside of Current Assigned Job Class

Mr. Tree stated to meet the changing environment of TCRTA and in alignment with the proposed Annual Budget, staff determined that an additional 5% out of class pay may be instituted to cover the absence of the Executive Director and Finance Manager. Mr. Tree stated that the TCRTA Executive Director would be Albert Barragan, TCRTA Transit Manager Jennie Miller, TCRTA Transit Coordinator extra help new hire, TCRTA Transit Analyst Teresa Ortega, TCRTA Transit Analyst Clay Landis, TCRTA Transit Analyst Olivia Forte.

Upon motion by Member Mendoza and seconded by Member Thusu the Tulare County Regional Transit Agency unanimously approved Items G as presented.

IX. OTHER BUSINESS:

A. Director's Report

Mr. Tree discussed the benefits of attending the Calact conference and all the exciting things happening at TCRTA, the City of Visalia had approved an action to participate in the regional on demand program. Mr. Tree noted that he would like to thank all the TCRTA staff for their hard work and thank the TCRTA Board for their support throughout Mr. Tree's time as Director and thanked all of the contractors for TCRTA.

B. Request from Board Members for Future Agenda Items

Member Riddle stated that she would like to see TCRTA meeting times changed to coincide with TCAG Board meetings. Member Valero would like to discuss Senior citizens fair for TCRTA. Member Thusu wanted to address drawdowns and software to help with finance topics. Member Weyhrauch wanted to see a future agenda item on Porterville's participation in the JPA.

X. ADJOURN

The meeting adjourned at 7:53 p.m. Chair Sigala confirmed the next scheduled meeting of the Tulare County Regional Transit Agency (TCRTA) Board of Directors will be held on **May 15, 2023 and will take place at 6:00 p.m.** at the Tulare County Regional Transit Agency (TCRTA), 210 N. Church Street, Suite B, Sequoia Conference Room, Visalia, CA 93291.

Tulare County Regional Transit Agency

AGENDA ITEM VIII-A

May 15, 2023

Prepared by Jennie Miller, Transit Manager

SUBJECT:

ACTION: Adoption of Resolution: Approving the Professional Services Agreement with Susan Hafner, Multimodal Solutions, for Interim Support Services.

BACKGROUND:

The Executive Director position became vacant effective April 21, 2023. Therefore, the Agency and the interim Executive Director need the support of a transit consultant to lead and coordinate its transit services, provide supervision and guidance for staff, and assist with Board of Directors meetings, until a permanent Executive Director can be hired.

The estimated time to complete the Executive Director recruitment is four to six months.

DISCUSSION:

At the Board meeting of April 21, 2023, the Board of Directors appointed Albert Barragan, TCRTA's Transit Manager, as Interim Executive Director. Board members also approved a draft sole source policy for professional services which will allow the Agency to expedite an agreement due to the urgency of the matter.

Statements of interest/qualifications were received from three transit consultants. At the Executive Committee meeting of April 28, 2023, Committee members heard presentations from the interested parties, discussed qualifications, and directed staff to proceed with a draft agreement for services with Susan Hafner, Multimodal Solutions, pending final Board approval.

RECOMMENDATION:

That the Tulare County Regional Transit Agency Board of Directors authorize the TCRTA Interim Director to execute an agreement with Susan Hafner, Multimodal Solutions, for interim support services for an amount not to exceed \$80,000.

FISCAL IMPACT:

Funding for support services would come from previously budgeted staff salaries.

ATTACHMENT:

1. Resolution 2023-007
2. Draft Professional Services Agreement

RESOLUTION: 2023-007

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY
ADOPTING AMENDMENT NO. 2 TO THE FISCAL YEAR 2022-2023 BUDGET
AND CAPITAL IMPROVEMENT PROGRAM**

WHEREAS, the Joint Powers Agreement, dated August 11, 2020, by and among the County of Tulare and the Cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, and Woodlake (each, a “Party” or “Member Agency”) hereafter called Tulare County Regional Transit Agency “TCRTA”; and

WHEREAS, the purpose of the formation and operation of TCRTA is to own, operate, and administer a public transportation system within the jurisdictions of and on behalf of the Member Agencies; and

WHEREAS, TCRTA has adopted a sole source policy for professional services which allows the Agency to expedite an agreement due to the urgency of the situation; and

WHEREAS, an experienced consulting firm is needed to support the Interim Executive Director and the Agency during the period of recruitment and hiring of a permanent Executive Director.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY, that Susan Hafner, Multimodal Solutions, shall be retained for on-call services to assist in day-to-day transit operations, programming, and planning for an amount not to exceed \$80,000; and

BE IT FURTHER RESOLVED that the Executive Director is authorized to execute said agreement under these terms.

PASSED AND ADOPTED this 15th day of May 2023 by the **Board of Directors of the Tulare County Regional Transit Agency**.

RESOLUTION: 2023-007

THE FOREGOING RESOLUTION was adopted upon motion of _____ and seconded by _____ at meeting thereof held on the 15th day of May 2023.

AYES:

NOES:

ABSTAIN:

ABSENT:

Signed _____

Jose Sigala
Board Chair

ATTEST:

I HEREBY CERTIFY that the foregoing Resolution 2023-007 was duly adopted by the Board of Directors of the Tulare County Regional Transit Agency at a regular meeting thereof held on the 15th day of May 2023.

Signed _____

Albert Barragan
Interim Executive Director

**TULARE COUNTY REGIONAL TRANSIT AGENCY
SERVICES AGREEMENT
For Interim Support Services**

THIS AGREEMENT ("Agreement") is entered into as of [REDACTED], between the **TULARE COUNTY REGIONAL TRANSIT AGENCY**, a joint powers authority established under the laws of the State of California ("TCRTA"), and Susan Hafner, Multimodal Solutions, ("CONTRACTOR"). TCRTA and CONTRACTOR are each a "Party" and together are the "Parties" to this Agreement, which is made with reference to the following:

A. WHEREAS, TCRTA desires professional services to support the Interim Executive Director and the Agency during the period of recruitment and hiring of a permanent Executive Director; and

B. WHEREAS, the TCRTA Board of Directors approved retaining Susan Hafner, Multimodal Solutions for on-call services to assist in day-to-day transit operations, programming, and planning for an amount not to exceed \$80,000 on May 15, 2023, and TCRTA staff was authorized to prepare and negotiate an agreement with CONTRACTOR.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. TERM: This Agreement becomes effective as of [REDACTED], 2023 and expires at 11:59 PM on [REDACTED], 2023 unless earlier terminated as provided below, or unless the Parties extend the term by a written amendment to this Agreement.

2. SERVICES: See attached **Exhibit A**

3. PAYMENT FOR SERVICES & BUDGET: This will be a 'Time-and-Materials' contract, with a not-to-exceed amount of \$80,000 unless amended.

4. INSURANCE: Before approval of this Agreement by TCRTA, CONTRACTOR must file with the TCRTA evidence of the required insurance as set forth in the attached **Exhibit B**.

5. SCHEDULE & DELIVERABLES: All work performed under this agreement shall be performed and authorized at the request of TCRTA staff for on-call services.

6. PROJECT STAFF: Susan Hafner shall be the Project Manager performing the service under this Agreement, with subcontractor SBLB, LLC, consisting of Team Members Robert Babbitt, Timothy Lett, Kirk Scott, and Ken Fischer. The Project Manager and Team Members shall not be replaced without prior written approval from the interim Executive Director of TCRTA.

7. GENERAL AGREEMENT TERMS AND CONDITIONS: TCRTA'S "General Agreement Terms and Conditions" are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein. TCRTA'S "General Agreement Terms and Conditions" are in the attached **Exhibit C**.

8. ADDITIONAL EXHIBITS: CONTRACTOR shall comply with the terms and conditions of the Exhibits listed below and identified with a checked box, which are by this reference made a part of this Agreement.

**TULARE COUNTY REGIONAL TRANSIT AGENCY
SERVICES AGREEMENT
For Interim Support Services**

<input type="checkbox"/>	Exhibit F	Additional terms and conditions for all federally funded contracts.
<input type="checkbox"/>	NA	Additional terms and conditions specific to Federal Transit Administration (FTA)-funded contracts.
<input type="checkbox"/>	Exhibit D	Disadvantaged Business Enterprise (DBE) Participation

9. NOTICES: (a) Except as may be otherwise required by law, any notice to be given must be written and must be either personally delivered, sent by facsimile transmission, or sent by first class mail, postage prepaid and addressed as follows:

TCRTA:

Attn: Albert Barragan
Interim Executive Director
210 N. Church Street, Suite B
Visalia, CA 93291
Phone No.: (559) 623-0450
Fax No.: (559) 733-6720

CONTRACTOR:

Attn: Susan Hafner
Multimodal Solutions
7304 Eads Avenue
La Jolla, CA 92037

Phone No.: (xxx) xxx-xxxx

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail will be deemed received on the fifth calendar day after the date of mailing. Either Party may change the above address by giving written notice under this section.

10. SUBCONTRACTING: If this box is checked ☒, CONTRACTOR has indicated it will utilize subcontractors to provide certain services related to this Agreement. CONTRACTOR has selected the following subcontractors ("Subcontractors") to provide the goods or services related to this Agreement: SBLB, LLC. CONTRACTOR will supervise all Subcontractors, and ensure that Subcontractors comply with all applicable laws and regulations. CONTRACTOR will include all applicable provisions of this Agreement in its contracts with Subcontractors, and ensure compliance with those provisions. No other subcontractors shall be utilized without prior written approval from the interim Executive Director of TCRTA.

11. AUTHORITY: CONTRACTOR represents and warrants to TCRTA that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and

**TULARE COUNTY REGIONAL TRANSIT AGENCY
SERVICES AGREEMENT
For Interim Support Services**

bind CONTRACTOR to its terms. CONTRACTOR acknowledges that TCRTA has relied upon this representation and warranty in entering into this Agreement.

12. **COUNTERPARTS:** The Parties may sign this Agreement in counterparts, each of which is an original and all of which taken together form one single document.

[THIS SPACE LEFT BLANK INTENTIONALLY; SIGNATURES FOLLOW ON NEXT PAGE]

DRAFT

**TULARE COUNTY REGIONAL TRANSIT AGENCY
SERVICES AGREEMENT
For Interim Support Services**

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

Susan Hafner, Multimodal Solutions

Date: _____

By _____

Print Name _____

Title _____

Date: _____

By _____

Print Name _____

Title _____

TULARE COUNTY REGIONAL TRANSIT AGENCY

Date: _____

By _____

Jose Sigala
Chairman, Board of Directors

ATTEST: Albert Barragan
Interim Executive Director

By _____

Date: _____

**TULARE COUNTY REGIONAL TRANSIT AGENCY
SERVICES AGREEMENT
For Interim Support Services**

Exhibit A – Scope of Services

The objective of this contract is to provide professional services on an on-call basis to support TCRTA's day-to-day transit operations, programming, and planning during the period of recruitment and hiring of a permanent Executive Director. Consultant (Contractor) will provide interim budgeting/funding, regulatory compliance, planning, technical review, and Board support. Below is an outline of potential items for assistance. Services will be flexible according to daily needs.

Task Descriptions:

1. JPA Issues
 - a. Assist Board with member agency withdrawal process.
 - b. Assist with member agency MOU renewals.
2. Budget and Financial Support
 - a. Assist with development of the FY 2023/24 budget.
 - b. Assist with implementation of the Agency's Sustainability Action Plan.
 - c. Assist with and provide recommendations for the Agency's capital procurement issues.
 - d. Provide recommendations for strengthening the Agency's financial base.
 - e. Advise on the procurement of transit accounting software.
 - f. Provide grant strategy support.
 - g. Provide audit support and issue resolutions, as needed.
 - h. Monitor financial processes.
3. Electrification Projects (Technology)
 - a. Assist with charging station project at TOMF (Central Yard).
 - b. Secure additional funding sources.
 - c. Provide technical review of plans.
 - d. Project milestone reviews.
4. Service Projects (Planning & Technology)
 - a. Assist with Regional On-Demand pilot project startup and issues, as needed – including grant funding, vehicle procurement, phased rollout, and distance-based fee development.
 - b. Assist with contract extension (if needed) of existing On-Demand service.
 - c. Assist with planning and startup of Route 9 service to the Tule River Tribe.
5. Regional Fare Collection System and Regional Radio & Equipment Upgrades Projects (Technology)
 - a. Assist with going-live and completion of projects to improve customer service and increase the community's use of public transportation.
6. Regulatory Compliance
 - a. Help keep the Agency on-track with all Federal, State, and local regulations.
 - b. Assist with data collection procedures and reporting (including, but not limited to, operating reports, 5307, 5311, NTD, TDA, STA, LCTOP, and safety and security reports).

7. Staff Support
 - a. Provide recommendations for and assist with hiring of new staff.
 - b. Help facilitate ongoing communications with TCAG.
8. Board Support
 - a. Provide assistance to the Board, as needed.
 - b. Assist with agenda preparation and meeting facilitation.

DRAFT

Exhibit B

PROFESSIONAL SERVICES CONTRACTS **INSURANCE REQUIREMENTS**

CONTRACTOR shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the CONTRACTOR, his agents, representatives, employees and subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance

1. Coverage at least as broad as Commercial General Liability, insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$1,000,000 per occurrence including products and completed operations, property damage, bodily injury and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability of \$1,000,000 per occurrence including any auto or, if the CONTRACTOR has no owned autos, hired and non-owned auto coverage. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) insurance appropriate to the CONTRACTOR's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

B. Specific Provisions of the Certificate

1. If the required insurance is written on a claims made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the contract work.
2. CONTRACTOR must submit endorsements to the General Liability reflecting the following provisions:
 - a. *The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of work or operations performed by or on behalf of the CONTRACTOR including material, parts, or equipment furnished in connection with such work or operations.*
 - b. *For any claims related to this project, the CONTRACTOR 's insurance coverage shall be primary insurance as respects the COUNTY, its officers, agents, officials,*

employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, agents, officials, employees or volunteers shall be in excess of the CONTRACTOR's insurance and shall not contribute with it.

- c. CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of CONTRACTOR may acquire against the county by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.*
 - d. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled by either party, except after written notice has been provided to the County.*
- 3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors. CONTRACTOR waives all rights against the COUNTY and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers' compensation and employers' liability.
- C. Deductibles and Self-Insured Retentions
Self-insured retentions must be declared and the COUNTY Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.
- D. Acceptability of Insurance
Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A-: VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.
- E. Verification of Coverage
Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

Exhibit C

TULARE COUNTY REGIONAL TRANSIT AGENCY GENERAL AGREEMENT TERMS AND CONDITIONS

- 1. COMPLIANCE WITH LAW:** CONTRACTOR must provide services in accordance with applicable Federal, State, and local laws, regulations and directives. With respect to CONTRACTOR'S employees, CONTRACTOR must comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.
- 2. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK:** CONTRACTOR is not entitled to any payments under this Agreement until TCRTA confirms that services provided, including any furnished deliverables, satisfy all of the requirements of this Agreement. Payments to CONTRACTOR by TCRTA shall not excuse CONTRACTOR from its obligation to replace unsatisfactory deliverables, including equipment, components, materials, or services even if the unsatisfactory character of such deliverables, equipment, components, materials, or services may not have been apparent or detected at the time such payment was made. Deliverables, equipment, components, materials and services that do not conform to the requirements of this Agreement may be rejected by TCRTA and in such case must be replaced by CONTRACTOR without delay and at no cost to the TCRTA.
- 3. DISALLOWANCE:** If CONTRACTOR requests or receives payment from TCRTA for services hereunder, reimbursement for which is later disallowed by the State of California or United States Government, CONTRACTOR shall promptly refund the disallowed amount to TCRTA upon TCRTA'S request. At its option, TCRTA may offset the amount disallowed from any payment due or to become due to CONTRACTOR under this Agreement or any other Agreement between CONTRACTOR and TCRTA. CONTRACTOR'S obligations under this section 2 will survive the expiration or termination of this Agreement.
- 4. LIABILITY OF TCRTA:** TCRTA'S payment obligations under this Agreement shall be limited to the payment of the compensation provided for in section 3, "PAYMENT FOR SERVICES," of this Agreement. Notwithstanding any other provision of this Agreement, in no event shall TCRTA be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect, or incidental damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.
- 5. QUALIFIED PERSONNEL:** CONTRACTOR shall utilize only competent personnel under the supervision of, and in the employment of, CONTRACTOR (or CONTRACTOR'S authorized subcontractors) to perform the services. CONTRACTOR will comply with TCRTA'S reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at TCRTA'S request, must be supervised by CONTRACTOR. CONTRACTOR shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.
- 6. INDEPENDENT CONTRACTOR STATUS:** The Parties enter into this Agreement with the express understanding that CONTRACTOR will perform all services required under this Agreement as an independent contractor. The Parties agree that CONTRACTOR and any of its agents, employees, or officers cannot be considered agents, employees, or officers of TCRTA.

CONTRACTOR agrees to advise everyone it assigns or hires to perform any duty under this Agreement that they are not employees of TCRTA. Subject to any performance criteria contained in this Agreement, CONTRACTOR will be solely responsible for determining the means and methods of performing the specified services and TCRTA will have no right to control or exercise any supervision over CONTRACTOR as to how CONTRACTOR will perform the services. As CONTRACTOR is not TCRTA'S employee, CONTRACTOR is responsible for paying all required state and federal taxes. In particular, TCRTA will not:

**TULARE COUNTY REGIONAL TRANSIT AGENCY
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- (1) Withhold FICA (Social Security) from CONTRACTOR'S payments.
- (2) Make state or federal unemployment insurance contributions on CONTRACTOR'S behalf.
- (3) Withhold state or federal income tax from payments to CONTRACTOR.
- (4) Make disability insurance contributions on behalf of CONTRACTOR.
- (5) Obtain unemployment compensation insurance on behalf of CONTRACTOR.

Notwithstanding this independent contractor relationship, TCRTA will have the right to monitor and evaluate the performance of CONTRACTOR to assure compliance with this Agreement.

7. LICENSES AND PERMITS: CONTRACTOR represents and warrants that it possesses and will maintain during the term of this Agreement all licenses and permits required for its performance of the services required under this Agreement.

8. GOVERNING LAW: The laws of the State of California, without reference to California conflict of laws principles, govern this Agreement and its interpretation. The Parties agree that this Agreement is made in and will be performed in Tulare County, California.

9. RECORDS AND AUDIT: CONTRACTOR must maintain complete and accurate records with respect to the services rendered and the costs incurred under this Agreement. In addition, CONTRACTOR must maintain complete and accurate records with respect to any payments to employees or subcontractors. All of the records must be prepared in accordance with generally accepted accounting procedures, must be clearly identified, and must be kept readily accessible. Upon request, CONTRACTOR must make the records available within Tulare County to the Auditor of Tulare County and to his or her agents and representatives, for the purpose of auditing and/or copying the records for a period of five (5) years from the date of final payment under this Agreement. Additional record-keeping requirements may be located in Exhibit F or G (related to federally-funded contracts generally, or FTA-funded contracts specifically).

10. CONFLICT OF INTEREST:

(a) At all times during the performance of this Agreement, CONTRACTOR must comply with the law of the State of California regarding conflicts of interests and appearance of conflicts of interests, including, but not limited to, Government Code Section 1090 *et seq.*, and the Political Reform Act, Government Code Section 81000 *et seq.*, and regulations promulgated by the California Fair Political Practices Commission. The statutes, regulations, and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including CONTRACTOR for this purpose, from making any decision on behalf of TCRTA in which the officer, employee, or consultant/contractor has a direct or indirect financial interest. A violation can occur if the public officer, employee, or consultant/contractor participates in or influences any TCRTA decision that has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest, with certain narrow exceptions.

(b) CONTRACTOR agrees that if any facts come to its attention that raise any questions as to the applicability of conflicts of interests laws, then it will immediately inform TCRTA and provide all information needed for resolution of this question.

11. INSURANCE: The attached **Exhibit B** outlines the minimum scope, specifications, and limits of insurance required under this Agreement. Additional insured endorsements required as outlined in **Exhibit B** cannot be used to reduce limits available to TCRTA as an additional insured from CONTRACTOR'S full policy limits. Insurance policies cannot be used to limit liability or to limit the indemnification provisions and requirements of this Agreement or act in any way to reduce the policy coverage and limits available from the insurer(s). If CONTRACTOR fails to maintain or renew coverage, or to provide evidence of renewal, then TCRTA may consider that failure a material breach of this Agreement. TCRTA may also withhold any payment otherwise due to CONTRACTOR for failure to provide evidence of renewal until CONTRACTOR provides such evidence.

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12. INDEMNIFICATION AND DEFENSE:

(a) To the fullest extent permitted by law, CONTRACTOR must indemnify, defend (at CONTRACTOR'S sole cost and expense and with legal counsel approved by TCRTA, which approval may not be unreasonably withheld), protect and hold harmless TCRTA, all subsidiaries, divisions, committee, and affiliated agencies of TCRTA, and all of their representatives, partners, designees, officers, directors, employees, consultants, agents, successors, and assigns, (each, an "Indemnified Party" and collectively, the "Indemnified Parties"), from and against all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including, without limitation, attorneys' fees, disbursements, and court costs, and all other professional expert or consultants' fees and costs and TCRTA general and administrative expenses) of every kind and nature whatsoever (individually, a "Claim"; collectively, "Claims") which may arise out of, pertain to, or relate (directly or indirectly) to the negligence, recklessness, or misconduct of CONTRACTOR with respect to any work performed or services provided under this Agreement (including, without limitation, the acts, errors, and/or omissions of CONTRACTOR, its principals, officers, agents, employees, vendors, suppliers, consultants, sub-consultants, contractors, and anyone employed directly or indirectly by any of them, or for whose acts they may be liable, or any or all of them). CONTRACTOR'S obligation to indemnify applies unless it is finally adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an Indemnified Party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an Indemnified Party, then CONTRACTOR'S indemnification obligation shall be reduced in proportion to the established comparative liability.

(b) The duty to defend is a separate and distinct obligation from CONTRACTOR'S duty to indemnify. CONTRACTOR shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, the Indemnified Parties immediately upon tender to CONTRACTOR of the Claim in any form or at any stage of an action or proceeding, whether or not liability is established. Payment to CONTRACTOR by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party cannot be a condition precedent to enforcing the Indemnified Party's rights to indemnification under this Agreement. An allegation or determination that persons other than CONTRACTOR are responsible for the Claim does not relieve CONTRACTOR from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if CONTRACTOR asserts that liability is caused in whole or in part by the negligence or willful misconduct of an Indemnified Party. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of an Indemnified Party, then CONTRACTOR may submit a claim to the TCRTA for reimbursement of reasonable attorneys' fees and defense costs in proportion to the established comparative liability of the Indemnified Party. CONTRACTOR'S indemnification obligations under this Agreement will survive the expiration or earlier termination of this Agreement until action against the Indemnified Parties for the matter indemnified is fully and finally barred by the applicable statute of limitations or statute of repose. CONTRACTOR'S liability for indemnification under this Agreement is in addition to any liability CONTRACTOR may have to TCRTA for a breach by CONTRACTOR of any of the provisions of this Agreement. Under no circumstances may the insurance requirements and limits set forth in this Agreement be construed to limit CONTRACTOR'S indemnification obligation or other liability under this Agreement. The terms of this Agreement are contractual and the result of negotiation between the Parties.

(c) CONTRACTOR must indemnify and hold TCRTA harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses, for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by TCRTA, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

**TULARE COUNTY REGIONAL TRANSIT AGENCY
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13. TERMINATION:

(a) **Without Cause:** TCRTA may terminate this Agreement without cause by giving thirty (30) days' prior written notice to CONTRACTOR of its intention to terminate under this provision, specifying the date of termination. TCRTA will pay to CONTRACTOR the compensation earned for work satisfactorily performed and not previously paid for to the date of termination. TCRTA will not pay lost anticipated profits or other economic loss. The payment of any compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of all plans, specifications and estimates, and other documents prepared by CONTRACTOR in accordance with this Agreement. TCRTA will not impose sanctions on CONTRACTOR under these circumstances.

(b) **With Cause:** Either Party may terminate this Agreement immediately, by written notice to the other Party, should the other Party:

- (1) Be adjudged a bankrupt, or
- (2) Become insolvent or have a receiver appointed, or
- (3) Make a general assignment for the benefit of creditors, or
- (4) Suffer any judgment that remains unsatisfied for 30 days, and that would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- (5) Materially breach this Agreement.

In addition, TCRTA may terminate this Agreement based on:

- (6) Material misrepresentation, either by CONTRACTOR or anyone acting on CONTRACTOR'S behalf, as to any matter related in any way to TCRTA'S retention of CONTRACTOR, or
- (7) Other misconduct or circumstances that, in the sole discretion of TCRTA, either impairs the ability of CONTRACTOR to competently provide the services under this Agreement, or exposes TCRTA to an unreasonable risk of liability.

For any of the occurrences except item (5) above, termination may be effected upon written notice by the terminating Party specifying the date of the termination. If CONTRACTOR fails to perform according to the terms and conditions of this Agreement, then TCRTA may, in addition to any other remedy it may have, issue a declaration of default after 10 days' written notice to CONTRACTOR.

Upon a material breach, the Agreement may be terminated after the failure of the defaulting Party to remedy the breach to the satisfaction of the non-defaulting Party within 5 days of written notice specifying the breach. If the breach is not remedied within that 5-day period, then the non-defaulting Party may terminate this Agreement on further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within a 5-day period, then the defaulting Party may submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting Party consents to that proposal in writing, which consent may not be unreasonably withheld, then the defaulting Party must immediately embark on its plan to cure the default or breach. If the default or breach is not cured within the time agreed, then the non-defaulting Party may terminate this Agreement upon written notice specifying the date of termination.

TCRTA will pay to CONTRACTOR the compensation earned for work satisfactorily performed and not previously paid for to the date of termination. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of all plans, specifications and estimates, and other documents prepared by CONTRACTOR by the date of termination in accordance with this Agreement. TCRTA will not pay lost anticipated profits or other economic loss, nor will TCRTA pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If TCRTA terminates this Agreement for cause and the expense of finishing CONTRACTOR'S scope of work exceeds the unpaid balance of the Agreement, then CONTRACTOR must pay the difference to TCRTA. TCRTA may impose sanctions under these circumstances, which may include possible rejection of future proposals based on specific causes of CONTRACTOR'S non-performance.

**TULARE COUNTY REGIONAL TRANSIT AGENCY
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(c) **Effects of Expiration or Termination:** Expiration or termination of this Agreement will not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where TCRTA terminates CONTRACTOR'S services, that termination will not affect any rights of TCRTA to recover damages against CONTRACTOR.

(d) **Suspension of Performance:** Independent of any right to terminate this Agreement, the Executive Director of TCRTA may immediately suspend performance by CONTRACTOR, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CONTRACTOR to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

14. LOSS OF FUNDING: It is understood and agreed that if TCRTA'S funding is either discontinued or reduced for the services to be provided hereunder, then TCRTA will have the right to terminate this Agreement under section 13 (a) ("Termination Without Cause") as of the end of the term for which funds are appropriated. Such termination shall be without penalty, liability, or expense to TCRTA of any kind, provided that TCRTA shall pay CONTRACTOR in accordance with section 13 (a) for services satisfactorily performed prior to the date of such termination and to the extent funds have been appropriated for such payment.

15. SUBMITTING FALSE CLAIMS; MONETARY PENALTIES: Under applicable federal and state law, if CONTRACTOR submits a false claim to TCRTA under this Agreement, then CONTRACTOR will be liable to TCRTA for the statutory penalties set forth in those statutes, including but not limited to statutory fines, treble damages, costs, and attorneys' fees. CONTRACTOR will be deemed to have submitted a false claim to TCRTA if CONTRACTOR:

- (a) Knowingly presents or causes to be presented to TCRTA a false claim or request for payment or approval;
- (b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by TCRTA;
- (c) Conspires to defraud TCRTA by getting a false claim allowed or paid by TCRTA;
- (d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to TCRTA; or
- (e) Is a beneficiary of an inadvertent submission of a false claim to TCRTA, later discovers the falsity of the claim, and fails to disclose the false claim to TCRTA within a reasonable time after discovery of the false claim.

16. FORM DE-542: If CONTRACTOR is an individual, CONTRACTOR acknowledges that this Agreement is subject to filing obligations under Unemployment Insurance Code Section 1088.8. Accordingly, TCRTA has an obligation to file a report with the Employment Development Department, which report will include CONTRACTOR'S full name, social security number, address, the date this Agreement was executed, the total amount of the Agreement, its expiration date or whether it is ongoing. CONTRACTOR agrees to cooperate with TCRTA to make that information available and to complete Form DE- 542. Failure to provide the required information may, at TCRTA'S option, prevent approval of this Agreement, or be grounds for termination by TCRTA.

17. WORKS FOR HIRE: CONTRACTOR acknowledges that all work(s) under this Agreement are "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to TCRTA all rights and interests CONTRACTOR may have in the work(s) it prepares under this Agreement, including any right to derivative use of the work(s). All software and related materials developed by CONTRACTOR in performance of this Agreement for TCRTA will be the sole property of TCRTA, and CONTRACTOR hereby assigns and transfers all its right, title, and interest therein to TCRTA. CONTRACTOR will execute all necessary documents to enable TCRTA to protect TCRTA'S intellectual property rights under this section.

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GENERAL AGREEMENT TERMS AND CONDITIONS**

18. WORK PRODUCT: All work product, equipment, or materials created for TCRTA or purchased by TCRTA under this Agreement belong to TCRTA and CONTRACTOR must immediately deliver them to TCRTA at TCRTA'S request upon termination or completion of this Agreement.

19. TIME OF ESSENCE: The Parties agree that time is of the essence under this Agreement, unless they agree otherwise in writing.

20. CONFIDENTIALITY: CONTRACTOR may not use or disclose any information it receives from TCRTA under this Agreement that TCRTA has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by TCRTA. Unless required to do so by law, including, but not limited to, the Ralph M. Brown Act or the California Public Records Act, TCRTA may not disclose to third parties any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential. If TCRTA determines that it must disclose any information that CONTRACTOR previously identified as confidential, then it shall promptly give CONTRACTOR written notice of its intention to disclose such information and the authority for such disclosure. CONTRACTOR shall have period of five (5) calendar days thereafter within which to seek a protective court order to prevent such disclosure or to notify TCRTA that it will not seek such an order. TCRTA shall cooperate with CONTRACTOR in any efforts to seek such a court order. TCRTA shall not disclose the information until the five (5) day period has expired without a response from CONTRACTOR, or CONTRACTOR has notified TCRTA that it will not seek such an order, or CONTRACTOR has sought and a court has declined to issue a protective order for such information. If CONTRACTOR seeks a protective order for such information, CONTRACTOR shall defend and indemnify TCRTA from any and all loss, injury, or claim arising from TCRTA'S withholding of the information from the requestor. This includes any attorney's fees awarded to the requestor. The duty of TCRTA and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Agreement.

21. ASSIGNMENT/SUBCONTRACTING: Unless otherwise provided in this Agreement, TCRTA is relying on the personal skill, expertise, training and experience of CONTRACTOR and CONTRACTOR'S employees and no part of this Agreement may be assigned or subcontracted by CONTRACTOR without the prior written consent of TCRTA, which consent TCRTA may grant, delay, deny, or condition in its absolute discretion.

22. DISPUTES AND DISPUTE RESOLUTION: CONTRACTOR shall continue with its responsibilities under this Agreement during any dispute. If a dispute arises out of or relating to this Agreement, or the breach of the Agreement, and if the dispute cannot be settled through negotiation, then the Parties agree first to try in good faith to settle the dispute by non-binding mediation, to be held in Tulare County, California, before resorting to litigation or some other dispute resolution procedure, unless the Parties mutually agree otherwise. The Parties must mutually select the mediator, but in case of disagreement, then the Parties will select the mediator by lot from among two nominations provided by each Party. The Parties will split equally all costs and fees required by the mediator; otherwise each Party will bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, then either Party may pursue litigation to resolve the dispute.

23. PROPERTY TAXES: Under the terms of California Revenue and Taxation Code section 107.6 (possessory interest tax), CONTRACTOR'S possession or use of any TCRTA-owned real property under this Agreement may create a "possessory interest" in the real property. If a possessory interest is created, then it may be subject to property taxation and CONTRACTOR may be subject to the payment of property taxes on that possessory interest.

24. FURTHER ASSURANCES: Each Party will execute any additional documents and perform any further acts that may be reasonably required to effect the purposes of this Agreement.

25. CONSTRUCTION: This Agreement reflects the contributions of all Parties and so the provisions of Civil Code section 1654 will not apply to address and interpret any alleged uncertainty or ambiguity.

**TULARE COUNTY REGIONAL TRANSIT AGENCY
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26. HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning, or intent of the provisions under the headings.

27. NOTHIRD-PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the Parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

28. WAIVERS: The failure of either Party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any right to do so, whether for that breach or any later breach. The acceptance by either Party of either performance or payment will not be considered a waiver of any preceding breach of the Agreement by the other Party.

29. ORDER OF PRECEDENCE: In the event of any conflict or inconsistency between or among the body of the Agreement (which includes these "General Agreement Terms and Conditions") and any Exhibit, Schedule, or Attachment, then the terms and conditions of the body of the Agreement shall prevail.

30. CONFLICT WITH LAWS OR REGULATIONS/ SEVERABILITY: This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the Parties to be, in conflict with any code or regulation governing its subject matter, only the conflicting provision will be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either Party is lost, then the Agreement may be terminated at the option of the affected Party. In all other cases, the remainder of the Agreement will continue in full force and effect.

31. ENTIRE AGREEMENT: This Agreement represents the entire agreement between CONTRACTOR and TCRTA as to its subject matter and no prior oral or written understanding will be of any force or effect. No part of this Agreement may be modified without the written consent of both Parties.

32. ASSURANCES OF NON-DISCRIMINATION: CONTRACTOR must not discriminate in employment or in the provision of services based on any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation. The Parties recognize that both CONTRACTOR and TCRTA have the responsibility to protect TCRTA employees and clients from unlawful activities, including discrimination and sexual harassment in the workplace. Accordingly, CONTRACTOR agrees to provide appropriate training to its employees regarding discrimination and sexual harassment issues, and to promptly and appropriately investigate any allegations that any of its employees may have engaged in improper discrimination or harassment activities. TCRTA, in its sole discretion, has the right to require CONTRACTOR to replace any employee who provides services of any kind to TCRTA under this Agreement with other employees where TCRTA is concerned that its employees or clients may have been or may be the subjects of discrimination or harassment by such employees. TCRTA'S right to require replacement of employees under this section does not preclude TCRTA from terminating this Agreement with or without cause as provided for under this Agreement. Additional nondiscrimination requirements may be located in Exhibit F or G (related to federally-funded contracts generally, or FTA-funded contracts specifically).

33. DRUG-FREE WORKPLACE POLICY: CONTRACTOR acknowledges that under the Federal Drug-Free Workplace Act of 1989 and the California Drug-Free Workplace Act of 1990, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on TCRTA premises. CONTRACTOR agrees that any violation of this prohibition by CONTRACTOR, its employees, agents, or assigns will be deemed a material breach of this Agreement.

34. RECYCLED PAPER CONTENT: To the extent CONTRACTOR'S services under this Agreement include printing services, pursuant to Public Contract Code section 22153, CONTRACTOR shall use paper that meets the recycled content requirements of Public Contract Code section 12209.

Tulare County Regional Transit Agency

AGENDA ITEM VIII-B

May 15, 2023

Prepared by Jennie Miller, Transit Manager

SUBJECT:

Discussion: City of Porterville – Notice of Withdrawal

BACKGROUND:

The Tulare County Regional Transit Agency (TCRTA) is a joint powers agency formed by the County of Tulare and the Cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, and Woodlake (each, a "Member Agency" and together, the "Member Agencies") pursuant to Section 6500 *et seq.* of the Government Code of the State of California through the adoption of a Joint Powers Agreement (JPA) that became effective on August 11, 2020.

The purpose of the JPA is to empower the Member Agencies to exercise their common powers through the formation and operation of TCRTA, with full power and authority to own, operate, and administer a public transportation system within the jurisdictions of the Member Agencies.

Article II (Organization), Section 14 (Withdrawal and Readmission of Member Agencies) of the JPA states the following: "Any Party to this Agreement may, on or before May 1 of any year, give written notice to the Transit Agency that it is withdrawing from the Transit Agency and terminating its rights and duties under the Agreement at the end of the fiscal year, and such notice shall have the same effect on the 30th day of June thereafter."

DISCUSSION:

Pursuant to Article II, Section 14 of the current Joint Powers Agreement of the Tulare County Regional Transit Agency, the City Council of the City of Porterville acted at its meeting on April 18, 2023, to authorize Notice of Withdrawal effective June 30, 2023.

The City of Porterville officially submitted its Notice of Withdrawal to the Agency on April 28, 2023.

RECOMMENDATION:

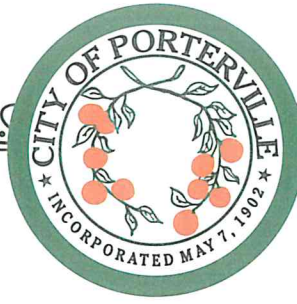
That the Tulare County Regional Transit Agency Board of Directors provide direction to Staff on how to proceed with the City of Porterville's Notice of Withdrawal.

FISCAL IMPACT:

The fiscal impact of the City of Porterville's withdrawal from the JPA is unknown at this time.

ATTACHMENT:

1. City of Porterville - Notice of Withdrawal, dated April 28, 2023



April 28, 2023

Honorable Jose Sigala, Chair
Tulare County Regional Transit Agency
210 N. Church Street, Suite B
Visalia, California 93291

Re: Notice of Withdrawal

Honorable Chair Sigala:

Pursuant to Article II, Section 14 of the current Joint Powers Agreement of the Tulare County Regional Transit Agency (TCRTA), the City Council of the City of Porterville acted at its meeting on April 18, 2023, to authorize Notice of Withdrawal effective June 30, 2023. However, the City Council also authorized deferring the effective withdrawal date from June 30 to December 30 if the TCRTA Board of Directors were to consent to that deferment prior to June 30, recognizing the ongoing fiscal and operational challenges of the TCRTA and the City's continued willingness to assist and support the member agencies. The City reserves the right to rescind this Notice of Withdrawal prior to June 30, 2023. The City respectfully requests to be notified of what its share of contractual obligations are as of June 30, 2023.

The City understands that Article II, Section 14 of the Agreement will be implemented to determine the parties various contractual obligations moving forward, including the City's interim loan of \$1.6 million to the TCRTA, which remains in effect for repayment no later than December 31, 2027.

Please do not hesitate to let me know if you have any questions in regard to this Notice.

Sincerely,

Martha A. Flores
Mayor

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Tulare County Regional Transit Agency

AGENDA ITEM VIII-C

May 15, 2023

Prepared by Jennie Miller, Transit Manager

SUBJECT:

Discussion: Board Meeting Schedule

BACKGROUND:

The Bylaws of the Tulare County Regional Transit Agency state, "At its first meeting of each calendar year, the Board of Directors shall establish a schedule of regular meetings for that year, including date, time, and location for such meetings. Every regular meeting of the Board of Directors shall be held at such date and time and at such location within the boundaries of the County of Tulare as so established and publicly noticed in the agenda for the meeting. Regular meetings of the Board may be cancelled or may be held on such other dates and/or at such other times and locations as may be approved by the Board or as directed by the Board's Chair".

DISCUSSION:

From August 2020 to February 2022, the TCRTA Board of Directors scheduled its Board Meetings on the third Monday of each month at 3:00 pm to accommodate Directors who also serve on the Tulare County Association of Governments (TCAG) or Tulare County Transportation Authority (TCTA) Boards.

At the Board Meeting of March 28, 2022, the Board of Directors adjusted the Board Meeting time from the third Monday of each month at 3:00 pm to the third Monday of each month at 6:00 pm to accommodate Directors who work during the day.

At the Board Meeting of April 21, 2023, staff received a request from the Board to revisit meeting dates and times.

RECOMMENDATION:

That the Tulare County Regional Transit Agency Board of Directors provide direction to staff on the TCRTA Board meeting schedule (dates and times).

FISCAL IMPACT:

None

ATTACHMENT:

None