

**MEMORANDUM OF UNDERSTANDING
REGARDING THE COMPREHENSIVE, CONTINUING, AND COOPERATIVE
TRANSIT PLANNING AND PROGRAMMING PROCESS
BETWEEN THE
TULARE COUNTY ASSOCIATION OF GOVERNMENTS
AND
THE COUNTY OF TULARE**

This Memorandum of Understanding (MOU) is entered into as of the ___ day of _____, 2018 between the Tulare County Association of Governments, hereinafter referred to as “TCAG”, and the County of Tulare, a public transportation provider, hereinafter referred to as “County,” and collectively referred to together as the “Parties”.

The purpose of this MOU is to:

1. Foster a cooperative and mutually beneficial working relationship between TCAG and County for the provision of comprehensive, effective, and coordinated transit planning for the benefit of the County’s public mass transportation system; and
2. Identify which entities will perform the transit planning responsibilities for the purpose of programming local, state, and federal funds within the TCAG Federal Transportation Improvement Program (FTIP); and
3. Provide for coordinated planning and foster region-wide coordinated services while avoiding duplication of effort; and

WITNESS THAT:

WHEREAS, the County was established in 1852; and

WHEREAS, all powers of the County are vested in the Board of Supervisors, which is empowered to perform all duties of and obligations of the county as imposed by state law and federal law, and as provided for in the County Ordinance; and

WHEREAS, the County has a five (5) member Board of Supervisors comprised of members elected by district for four years with staggering terms; and

WHEREAS, the County is also a public transportation provider and receives Federal Transit Administration (FTA) grant funding for capital, operating, and planning assistance for the delivery of public mass transportation; and

WHEREAS, TCAG is a joint powers authority, created in 1971 by the County and the cities of Visalia, Tulare, Porterville, Lindsay, Dinuba, Exeter, Farmersville and Woodlake; and

WHEREAS, TCAG is directed by a seventeen (17) member Board. This includes (13) locally elected official voting members, composed of five (5) members of the Tulare County Board of

Supervisors and one (1) Councilmember from each City, appointed by the City Councils of such respective cities; three (3) residents of the County, appointed by a majority vote of the other members of the governing board of TCAG; and one (1) representative of transit providers, nominated by the Council of Cities and confirmed by the other sixteen (16) members of the TCAG Board; and

WHEREAS, TCAG is the Regional Transportation Planning Agency (RTPA), Transportation Management Agency (TMA), and Metropolitan Planning Organization (MPO) for Tulare County; and

WHEREAS, TCAG recognizes that transportation planning and programming must be conducted as an integral part of and consistent with the comprehensive planning and development process, and that the process must involve the fullest possible participation by state agencies, local governments, federal agencies, and other appropriate groups; and

WHEREAS, TCAG has developed committee structures that advise the TCAG Board on planning and policy issues. These committees include the Technical Advisory Committee (TAC), the Social Service Transportation Advisory Council (SSTAC), and others; and

WHEREAS, the federal transportation bill, Fixing America's Surface Transportation (FAST Act), also requires MPOs to work cooperatively with public transit operators to develop Regional Transportation Plans (RTPs) and FTIPs through performance-based planning and programming for urbanized areas, which are intended to improve the safety of the nation's transportation systems, ensure that those systems are in a state of good repair, and provide increased transparency into agencies' budgetary decision-making processes; and

WHEREAS, TCAG and the County rely upon a cooperative relationship to foster comprehensive regional transit planning which feeds directly into state and national planning.

NOW, THEREFORE, for good and valuable consideration, including the mutual benefits to the Parties hereto, and the covenants and conditions herein contained, the Parties agree as follows:

1. County Representation on TCAG Board and Committees

County shall:

- 1.1. In accordance with the joint powers agreement, designate the Board of Supervisors to represent Tulare County as members on the TCAG Board of Directors. Board of Directors meetings are held typically on the third Monday of every month. County transit staff should update and brief their respective Board member regarding current transit issues and those that will be on the agenda for the upcoming TCAG Board meeting.
- 1.2. Appoint one (1) representative to serve as a member of the TCAG Technical Advisory Committee (TAC). The TAC meetings are typically held on the Thursday preceding the Monday Board meeting of every month.
- 1.3. Identify a representative to attend Social Service Transportation Advisory Council (SSTAC) and Transit Forum meetings regularly.

2. Transit Planning and Programming

2.1. Regional Planning

TCAG will provide a forum to foster partnerships that support the development of public transit services throughout Tulare County. As part of the coordinated regional transportation system, TCAG will continue to work to expand cooperative and consistent planning between the County's transportation system and the regional and interregional transit network.

As the RTPA and MPO, TCAG is responsible for the development of regional planning documents such as the Tulare County Regional Transportation Plan/Sustainable Communities Strategy, Congestion Management Plan, Overall Work Program, and the analysis and determination of unmet transit needs in Tulare County. The County will have the opportunity to provide technical advice during the development of these regional planning documents through the TCAG committee structure. The County may also provide input during the TCAG Board's consideration of these documents for approval.

As a critical part of the regional planning process, the County shall assist TCAG with its efforts to achieve regional goals, including taking the following specific actions: (1) assist in the attainment of federal air quality standards; and (2) ensure coordination of services, when possible, with the other transit providers in Tulare County to accommodate the transit rider and provide for an easy-to-navigate regional transit system.

2.2. FTIP Programming Criteria

As part of the FTIP updating process, federally-funded projects are programmed by TCAG on behalf of all Tulare County transit providers receiving federal funds. As such, the establishment of common criteria used for the programming of federal funds for proposed transit projects is essential. TCAG and the County will employ the following selection criteria to establish priorities for transit funding:

- a) Project purpose and need;
- b) Anticipated benefit;
- c) Degree to which a project will improve transit availability;
- d) Degree to which a project will improve level of service performance standards;
- e) Air quality benefits;
- f) Overall cost effectiveness;
- g) Leveraging other funding sources;
- h) Degree to which project will coordinate with the other transit providers in Tulare

County;

- i) Compliance with regional policies and regional planning documents.

2.3. Planning Assistance to the County

TCAG will provide input into the development of transit planning documents produced by the County. Examples of the type of transit planning documents include a Short Range Transit Plan, Long Range Transit Plan, and others as needed. In addition, TCAG will work cooperatively with and assist the County in its efforts to generate planning and forecasting information needed to establish and maintain the Short and Long Range Transit Plans. The type of assistance provided by TCAG may include, but is not limited to, the following:

- a) Obtain and analyze data from various sources to develop concrete demographic, growth, and use assumptions for the purpose of transit forecasting and development (e.g., trip generation tables, census information, and maps);
- b) Assist in securing funds to conduct transit demand studies and in-depth analysis (e.g. research funding options, grant writing, grant assistance);
- c) Assist in obtaining state and federal funding of projects consistent with the TCAG Regional Transportation Plan/Sustainable Communities Strategy (e.g. completing paperwork, facilitating FTIP amendments, etc.).

2.4. County's Short Range Transit Planning

In accordance with the planning regulations and FTA guidance, the County is required to prepare and implement a five- (5) year Short Range Transit Plan (SRTP) to support sound financial and operational decision-making in transit planning and programming. In the development of short-range transit plans, the County will provide a draft list of projects for FTA funding. The list shall:

- a) Identify and describe the scope of the specific projects and service, which address ongoing and increased future transit demands. These projects and services are to include Americans with Disabilities Act (ADA) elements, and Transportation Control Measures (TCM) with sufficient detail (design, concept, and scope) to permit air quality conformity analysis to be performed by TCAG;
- b) Provide qualitative and quantitative analysis showing how the project addresses transit needs;
- c) Identify the amount and type of federal and non-federal funds required supporting the projects for each year represented in the plan. In addition, identify anticipated discretionary funding estimates for the FTIP;
- d) Identify how the projects implement the Transit Asset Management (TAM) Plan.

2.5. County's Input for RTP

The County shall provide any pertinent information required to fully comply with planning regulations and/or federal and state guidance on the preparation of Regional Transportation Plans/Sustainable Communities Strategies (RTP/SCSs). Examples of the type of information the County agrees to provide to TCAG include, but are not limited to:

- a) An overview of key performance measures of existing transit systems.
- b) Anticipated equipment replacement and rehabilitation needs.
- c) Anticipated facility needs.
- d) Documentation of the public participation process used to develop the transit system.
- e) A financial plan, including expected revenues, planned expenditures, and documentation of fiscal ability to operate and expand services.
- f) The County's most recent planning assumptions, considering local general plans and other factors.

2.6. Coordinated Public Transit-Human Services Plan

The County shall cooperate in the development and implementation of the Coordinated Public Transit-Human Services Plan as required by federal law. This plan will be adopted through a process that includes representatives of public, private, and nonprofit transportation and human services providers and participation by the public, including seniors and people with disabilities.

2.7. Applications for Transit Funding

The County shall work with TCAG to develop and make consistent and timely funding requests from all potential transit funding sources in order to facilitate programming and prevent funding delays. The County agrees to prepare any applications necessary to obtain applicable funding, including state, Measure R, and federal transit funding. The County's applications for transit funding shall be consistent with the TCAG Regional Transportation Plan/Sustainable Communities Strategy and other pertinent planning documents and regional policies. Prior to submitting such applications, the County agrees to submit drafts of the applications to TCAG for review. TCAG will review the applications for accuracy (to the best of its information and knowledge) and consistency of projects with FTIP Programming Criteria. If TCAG considers the application to be appropriate, accurate, and consistent with all applicable requirements, TCAG may prepare a letter of concurrence.

3. Project Monitoring & Maintenance

3.1. Progress Reporting

Per Federal requirements, TCAG is required to produce an annual list of projects for which federal funds have been obligated in the preceding fiscal year and will ensure that the annual list of projects is made available for public review.

The County shall submit annual reports that address the status of each of its projects receiving federal funds, due each year to TCAG by October 31st. At a minimum, the report shall:

- a) Identify and correlate the documentation of projects to individual categories as identified in the FTIP (e.g., Operations, Capital Purchases, Facility Maintenance, and Planning).
- b) Document the stage of project implementation.
- c) State the reasons for the delay if a project is behind schedule.
- d) State the reasons for any cost overruns if the project is over budget.
- e) Project savings to be reverted, if any, at project completion.
- f) Report on the status of the amount of federal funding obligated, received, and used to support projects.
- g) Identify the need for an FTIP amendment.

In addition to providing the above supporting documentation, the County shall forward to TCAG a final copy of all planning documents produced, FTA Triennial Audits, annual Transportation and Transit Financial Statements, National Transit Database reports, Transit Asset Management Plans, and State Controller's Reports. This will assist TCAG in overall transit planning as well as ensure that FTA Section 5307, 5339, 5303, and other funds were used accordingly for planning purposes as per FTA's requirements.

3.2. National Transit Database Reporting

The National Transit Database Reporting (NTD) is FTA's primary source for information and statistics collected from transit systems that receive FTA formula funding under the Urbanized Area Formula Program (UZA). Transit operators receiving funds from these programs are required by statute and FTA guidance to submit annual reports to the NTD. Service factors reported in the UZA determine the amounts of FTA 5307 and 5339 funds generated in the region. The County shall report service factors to the NTD to maximize the amounts of funds generated in the region and to determine urbanized area eligibility.

3.3. FTIP Amendments

The County shall submit requests for FTIP amendments in writing, and at the earliest possible time as of the identification of the need for an amendment. All requests for FTIP amendments shall include documentation related to the project funding, such as published funding allocations, published carryover balances, grant award letters, etc. TCAG shall request such documentation as is needed to certify the project funding for programming in the FTIP.

TCAG's Executive Director will exercise the authority delegated by the TCAG Board of Directors to process minor administrative amendments, which includes (but is not limited to) amendments such as minor changes in the project scope, cost, or schedule.

The County will alert TCAG as to the need for a formal amendment to the FTIP as early as possible. Formal amendments require a public notice process, approval by the TCAG Board, approval by Caltrans, and final approval by the Federal Highway Administration (FHWA). This process can take up to approximately three (3) months, but often varies. Formal FTIP amendments will be necessary if major changes are proposed, which may include, but are not limited to, the following: major changes in project scope, cost, or schedule, or new projects that need to be included in the FTIP. TCAG maintains criteria for determining whether changes to scope, cost, or schedule are minor or major.

4. Additional Terms and Conditions of the MOU

4.1. Responsibility for MOU

The Executive Director of TCAG and the County's Resource Management Agency Director (RMA Director) are the primary individuals responsible for ensuring that the provisions specified in this MOU are followed. The RMA Director shall coordinate with the County Administrative Officer (CAO) to effect this agreement and the programs thereunder, including budgeting and grant funding for the County.

4.2. Participation in MOU Required for Federal Funding

The Parties understand and agree that their participation in this MOU is required for the receipt of Federal FTA and FHWA funds, including the FTA Urbanized Area Formula Grants (5307) and Bus and Bus Facilities (5339) programs.

4.3. Rescission of Prior MOU

This MOU supersedes the existing MOU between the Parties related to the Comprehensive, Continuing, And Cooperative Transit Planning and Programming Process. This MOU does not supersede the Joint Powers Agreement or any other Agreements entered into between TCAG and the County.

4.4. Term

This MOU shall continue in effect until superseded by a new agreement or cancelled by either party in accordance with the MOU.

4.5. MOU Amendments

This MOU may be amended by the written agreement of both Parties. Amendments must be approved by both TCAG and the Board of Supervisors.

4.6. MOU Termination

Either party, upon ninety (90) days' advance written notice to the other party, may withdraw its participation in this MOU. Any transit provider that withdraws from the MOU forfeits its eligibility to receive FTA funds, including Urbanized Area Formula Grants (5307) and Bus and Bus Facilities (5339) program funds.

4.7. Conflict with Laws or Regulations/ Severability

This MOU, and the Parties' performance under this MOU, is subject to all applicable laws and regulations.

If any provision of this MOU is found by any court of other legal authority, or is agreed by the Parties, to be in conflict with any code or regulation governing its subject, the conflicting provisions shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the MOU to either party is lost, the MOU may be terminated at the option of the affected party. In all other cases, the remainder of the MOU shall continue in full force and effect.

4.8. Records and Audit

The County agrees to maintain records in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements, and upon request shall make available all records and supporting information for inspection by TCAG and permit TCAG the ability to respond to official audits..

4.9. 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.

4.10. Waiver of Breach

The failure of either Party to insist on strict compliance with any provision of this MOU will not be considered a waiver of any right to do so, whether for that breach or any later breach.

4.11. No Third-Party Beneficiaries

This MOU is for the benefit of and applies to the undersigned Parties. There are no third-party beneficiaries, intended or otherwise.

4.12. Counterparts

The Parties may sign this MOU in counterparts, each of which is an original and all of which taken together form one single document.

5. Authorization of MOU

By its authorized signatures below, the Parties agree that the responsibilities outlined in this MOU foster healthy collaboration for the purpose of fostering transit planning and programming of local, state, and federal funds within the TCAG Federal Transportation Improvement Program.

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IN WITNESS WHEREOF, the Parties have entered into this MOU as of the day and year first above written.

COUNTY OF TULARE

Kuyler Crocker
Chair, Tulare County Board of
Supervisors

Date

APPROVE AS TO FORM:

E. J. Ryan

Tulare County Counsel
Matter ID: 2019977

Date

TULARE COUNTY ASSOCIATION OF GOVERNMENTS

Kuyler Crocker
Chair, TCAG

Date

APPROVE AS TO FORM:

Tulare County Counsel
Matter ID: _____

Date