



**Tulare County Regional Transit Agency
AGENDA**

January 27, 2025

3:30 PM

**Meeting Location:
200 E. Center Avenue
Visalia, CA 93291**

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

[Join the meeting now](#)

Meeting ID: 248 953 725 015

Passcode: p6Xz3s38

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 Regional Transit Agency ("TCRTA") office at 559-623-0832 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 TCRTA 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. 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 / Discussion Items.

Request Approval of the Consent Calendar Items

- A. Approve Minutes of December 9, 2024 (Pages 01-02)
- B. Approve Special Meeting Minutes of December 16, 2024 (Pages 03-03)
- C. Information: Monthly Ridership Summary (Pages 05-06)
- D. Information: Financial Statement (Pages 07-08)
- E. Information: Conflict of Interest Code (Form 700) Due April 1, 2025 (Pages 09-13)

V. ACTION/ DISCUSSION ITEMS:

- A. Appointment of Officers
- B. Action: Approve Resolution 2025-002 TCRTA Passenger Code of Conduct (Pages 15-27)
- C. Action: Approve Resolution 2025-003 TCRTA Drug and Alcohol Policy (Pages 29-59)
- D. Action: Approve Resolution 2025-001 SB 125 – Supplemental Agreement for EV Charging Infrastructure Design and Project Management (Pages 61-67)

VI. CLOSED SESSION ITEMS:

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

- A. § 54956.9(d) (1) – Pending Litigation
City of Porterville v. TCRTA
Tulare County Superior Court Case No. VCU312913
- B. Conference with Legal Counsel – Anticipated Litigation
Closed session pursuant to Government Code § 54956.9(d)(2)
Significant Exposure to Litigation
Number of Potential Cases: 1

RECONVENE OPEN SESSION

VII. OTHER BUSINESS:

- A. Requests from Board Members for Future Agenda Items
- B. Director’s Report

VIII. ADJOURN:

The next regularly scheduled Tulare County Regional Transit Agency (TCRTA) Board meeting will be **Monday, February 24, 2025, and will take place at 3:30 pm** at the Tulare County Regional Transit Agency (TCRTA), 200 E. Center Avenue, Visalia, CA 93291.

BOARD OF DIRECTORS**ALTERNATE****AGENCY**

Maribel Reynosa

Kuldip Thusu

City of Dinuba

Vicki Riddle

Frankie Alves

City of Exeter

Greg Gomez – Vice Chair

Armando Hinojosa

City of Farmersville

Misty Villarreal

Joe Soria

City of Lindsay

Terry Sayre

Patrick Isherwood

City of Tulare

Jose Martinez

Rudy Mendoza

City of Woodlake

Larry Micari

Amy Shuklian

County of Tulare

Vacant

Vacant

Tule River Tribe

EX OFFICIO MEMBERS

Georgina Landecho, CalVans

Liz Wynn, TCAG Public Transit Representative

TCRTA STAFF

Derek Winning, TCRTA Interim Executive Director

Melissa Cashen, TCRTA Interim Finance Manager

Vacant, TCRTA Transit Planning Manager

Olivia Forte, TCRTA Transit Analyst

Clayton Landis, TCRTA Transit Analyst

Vacant, TCRTA Transit Analyst

Vacant, TCRTA Accountant

Ashlee Compton, TCRTA Administrative Clerk I

*Thomas Degn, County Counsel

TCRTA

200 E. Center Avenue

Visalia, CA 93291

Phone: (559) 623-0832

www.gotcrta.org**Tulare County Regional Transit Agency (TCRTA)****2025 Board Meeting Schedule**

Date	Location
January 27, 2025*	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
February 24, 2025*	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
March 17, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
April 21, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
May 19, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
June 16, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
July 21, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
August 18, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
September 15, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
October 20, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
November 17, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291
December 15, 2025	Tulare County Regional Transit Agency 200 E Center Ave., Visalia, CA 93291

The TCRTA Board meets at 3:30 pm. Most meetings fall on the third Monday of each month. Meeting dates with asterisks have been changed due to holidays and/or calendar conflicts.

Meetings will be held at the location noted above for each month, unless otherwise noted in that month's agenda.

**Tulare County Regional Transit Agency
Board Meeting Minutes
December 9, 2024, 3:00 p.m.**

Members Present: Reynosa, Riddle, Gomez, Serna, Martinez, Micari, Sigala
Members Absent:
Non-Voting Alternates:
Ex Officio Present:
Staff Present: Derek Winning, Olivia Forte, Melissa Cashen, Clayton Landis,
Ashlee Compton
Counsel Present: Thomas Degn
***Board member attended online or due to emergency or just cause.**

I. CALL TO ORDER:

Vice Chair Gomez called the meeting to order at 03:01 p.m.

II. PLEDGE OF ALLEGIANCE:

Led by Vice Chair Gomez

III. PUBLIC COMMENT:

No public comments.

IV. 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 / Discussion Items.

Request Approval of the Consent Calendar Items

- A.** Approve Minutes of November 18, 2024
Motion: Martinez
Second: Serna
Notes/Comments: No Comments

V. ACTION/ DISCUSSION ITEMS:

- A.** TCRTA On-call Transit Planning/ Operations Services
Motion: Serna
Second: Riddle
Notes/Comments: Interim Director Winning gave staff report on the TCRTA On-Call Transit Planning/Operations services. The board asked questions regarding the budget amount, timelines and contractors. Director Riddle asked about the input from the Technical Advisory Committee. Director Micari asked about the timeline for the Technical Advisory Committee.

VI. CLOSED SESSION ITEMS:

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

- A.** § 54956.9(d) (1) – Pending Litigation
City of Porterville v. TCRTA
Tulare County Superior Court Case No. VCU312913

Report: Nothing to report.

- B. Conference with Legal Counsel – Anticipated Litigation**
Closed session pursuant to Government Code § 54956.9(d)(2)
Significant Exposure to Litigation
Number of Potential Cases: 1

Report: Nothing to report.

VII. OTHER BUSINESS:

- A. Requests from Board Members for Future Agenda Items**

Notes: Director Riddle stated that it has been an honor to serve with members of the board, she is hoping to return after the reorganization with committees. Director Riddle stated that in her opinion, when it comes to getting a permanent replacement for the TCRTA Executive Director, that the person should be Interim Executive Director Derek Winning. In Riddle's two years serving on the board, she has seen four different directors for TCRT and in her opinion Interim Director Winning has proven himself and has done more in the few months as interim director than the previous directors have not. Chair Sigala thanked Mayor Serna for his service to the board.

- B. Director's Report**

Notes: None

VIII. ADJOURN:

The meeting adjourned at 04:32 p.m. Chair Sigala confirmed the next scheduled meeting of the Tulare County Regional Transit Agency (TCRTA) Board of Directors will be held on **Monday, January 27, 2025, and will take place at 3:30 PM.** at the Tulare County Regional Transit Agency (TCRTA), 200 E. Center Avenue, Visalia, CA 93291.

**Tulare County Regional Transit Agency
Special Board Meeting Minutes
December 16, 2024, 8:30 a.m.**

Members Present: Riddle, Gomez, Villarreal, Sigala, Martinez, Micari

Members Absent: Reynosa

Non-Voting Alternates:

Ex Officio Present:

Staff Present: Derek Winning, Melissa Cashen, Olivia Forte, Clayton Landis, Ashlee Compton

Counsel Present: Thomas Degn

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

I. CALL TO ORDER:

Chair Sigala called the meeting to order at 8:31 a.m.

II. PLEDGE OF ALLEGIANCE:

Led by Chair Sigala

III. PUBLIC COMMENT:

No Public Comment

IV. CLOSED SESSION ITEMS:

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

A. § 54956.9(d) (1) – Pending Litigation (Settlement)

City of Porterville v. TCRTA

Tulare County Superior Court Case No. VCU312913

RECONVENE OPEN SESSION

V. ANNOUNCEMENT FROM CLOSED SESSION (IF ANY):

Motion: Gomez

Second: Micari

Ayes: Riddle, Gomez, Villarreal, Sigala, Martinez, Micari

Absent: Reynosa

Report: During the closed session, a recommendation was made to approve the settlement agreement between the City of Porterville and TCRTA. The specifics of which will be announced later when everything has been finalized. Along with the agreement there is a recommendation that the Agency's cross complaint against Porterville be dismissed without prejudice, which was not covered in the agreement.

VI. ADJOURN:

The next regularly scheduled Tulare County Regional Transit Agency (TCRTA) Board meeting will be **Monday, January 27, 2025, and will take place at 3:30 pm** at the Tulare County Regional Transit Agency (TCRTA), 200 E. Center Avenue, Visalia, CA 93291.

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**AGENDA ITEM IV-C
Ridership Summary Report (FY 24-25)**



	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25	ANNUAL	Comments
OPERATING DAYS														
Weekday	22	22	20	23	18	19	21	19	21	22	21	21	249	
Saturday	4	5	4	4	5	4	4	4	5	4	5	4	52	
Sunday	4	4	5	4	6	7	5	5	5	3	4	5	57	
TOTAL OPERATING DAYS	30	31	29	31	29	30	30	28	31	29	30	30	358	
FIXED ROUTE RIDERSHIP														
Dinuba: D1	709	595	549	666	504	686							3,709	D1/D3 service uses 1 bus
D2	670	693	678	966	740	659							4,406	D2/D4 service uses 1 bus
D3	196	258	259	432	311	192							1,648	D1/D3 service uses 1 bus
D4	421	702	608	711	471	322							3,235	D2/D4 service uses 1 bus
(Dinuba Connection) DC	198	1,174	1,318	1,318	1,201	574							5,783	Reduced service during Summer (May-August)
Dinuba Totals	2,194	3,422	3,412	2,411	3,227	2,433	0	0	0	0	0	0	17,099	
Tulare: T1	1,630	1,649	2,321	2,156	1,905	1,426							11,087	
T2	1,849	1,757	2,470	2,411	1,836	1,788							12,111	
T3	1,719	1,763	2,261	2,519	2,133	1,928							12,323	
T4	3,122	2,376	2,596	2,485	3,052	2,820							16,451	
T5	2,068	1,793	1,801	1,761	1,885	1,480							10,788	
T6	1,006	1,439	1,636	1,944	1,212	970							8,207	
(Tulare) 11X	1,721	2,266	2,570	3,280	2,941	2,645							15,423	
Tulare Totals	13,115	13,043	15,655	16,556	14,964	13,057	0	0	0	0	0	0	86,390	
Commuter: C10	2,483	3,508	3,677	4,498	3,873	3,642							21,681	
C20	1,514	1,643	1,819	1,871	1,717	1,663							10,227	
C30	2,387	2,284	3,204	3,338	3,769	3,166							18,148	
C40	2,274	2,963	2,862	3,165	2,957	2,887							17,108	
C70	49	49	55	37	45	69							304	Service only runs M-F; C70-C90 service uses 1 bus
C80	57	62	82	46	82	84							413	Service only runs M-F; C70-C90 service uses 1 bus
C90	213	330	550	545	391	415							2,444	Service only runs M-F; C70-C90 service uses 1 bus
County Totals	8,977	10,839	12,249	13,500	12,834	11,926	0	0	0	0	0	0	70,325	
Tule River Tribe (TR)	59	56	36	45	49	55							300	Service reinstated on April 1, 2024
TOTAL RIDERSHIP	24,345	27,360	31,352	32,512	31,074	27,471	0	0	0	0	0	0	174,114	
PARATRANSIT RIDERSHIP														
Dinuba	71	89	94	121	124	113							612	
Lindsay	33	68	38	40	56	50							285	
Tulare	220	360	366	483	400	376							2,205	
Woodlake	102	218	233	251	175	163							1,142	
County	97	43	63	88	65	82							438	
TOTAL RIDERSHIP	523	778	794	983	820	784	0	0	0	0	0	0	4,682	Service commingled with Microtransit
MICROTRANSIT RIDERSHIP														
Dinuba	239	285	268	364	312	340							1,808	
Farmersville	29	51	67	79	23	24							273	
Lindsay	49	70	87	87	97	62							452	
Tulare	160	361	357	517	506	421							2,322	
Woodlake	38	41	35	55	81	144							394	
County	163	202	237	307	253	230							1,392	
Visalia	123	366	488	663	395	200							2,235	
TOTAL RIDERSHIP	801	1,376	1,539	2,072	1,667	1,421	0	0	0	0	0	0	8,876	Service commingled with Paratransit
Rider Account Creations	420	423	369	314	276	226							2,028	

Note: All data in this report is preliminary. Totals will be validated at the end of the fiscal year.

**AGENDA ITEM IV-C
Ridership Summary Report (FY 24-25)**

Service Provided by Visalia Transit

FIXED ROUTE RIDERSHIP														
Exeter Boardings (Route 9)	734	72	733	907	698	934							4,078	
TOTAL EXETER RIDERSHIP	734	72	733	907	698	934	0	0	0	0	0	0	4,078	
Farmersville Boardings (Route 9)	487	121	688	895	887	831							3,909	
Farmersville Boardings (Route 12)	459	629	514	399	427	571							2,999	
TOTAL FARMERSVILLE RIDERSHIP	946	750	1,202	1,294	1,314	1,402	0	0	0	0	0	0	6,908	
DIAL-A-RIDE RIDERSHIP														
Trips from Exeter	117	61	84	168	110	69							609	
Trips to Exeter	117	77	83	173	119	73							642	
TOTAL EXETER RIDERSHIP	234	138	167	341	229	142	0	0	0	0	0	0	1,251	
Trips from Farmersville	78	38	32	64	63	24							299	
Trips to Farmersville	74	36	29	67	64	23							293	
TOTAL FARMERSVILLE RIDERSHIP	152	74	61	131	127	47	0	0	0	0	0	0	592	

Tulare County Regional Transit Agency

AGENDA ITEM IV-D

January 27th, 2025

Prepared by Melissa Cashen, Accountant II

SUBJECT:

Action: Receive and File Preliminary Financial Statement as of December 31st, 2024.

BACKGROUND:

The following Preliminary Financial Statement as of December 31st, provides Decembers, Revenues and Expenses compared to the Fiscal Year 2024-20245 Budget.

DISCUSSION:

This Financial Statement for December 31st, 2024 is preliminary, as the Fiscal Year 2024-2025 is closing, and other accruals are pending.

RECOMMENDATION:

That the Tulare County Regional Transit Agency Board of Directors receive and file the Preliminary Financial Statement as of December 31st, 2024.

FISCAL IMPACT:

None

ATTACHMENTS:

1. Preliminary Financial Statement for December 31st, 2024.

	24-25 Budget Operations	December	Year to Date
Revenues			
4801 Interest	\$ -	\$ -	\$ 102,676.55
5054 State-Other	8,904,699	1,271,651.00	3,207,522.00
5700 Fed-Other	8,625,210	-	-
5835 Other Revenue	1,087,500	3,944.63	14,730.15
5873 Public Transit Passenger Fares	450,000	151,943.70	451,679.83
	<u>19,067,409</u>	<u>1,427,539.33</u>	<u>3,776,608.53</u>
Expenses			
6001 Salaries	1,096,498	32,474.67	542,724.20
Total Salaries & Benefits	<u>1,096,498</u>	<u>32,474.67</u>	<u>542,724.20</u>
7000 Services & Supplies	1,470	-	-
7005 Communications(IT,Telephone,Radio)	47,553	1,666.00	17,588.40
7010 Insurance (Liab&Auto)	159,356	-	-
7021 Maint-Equip	0	-	373,726.52
7024 Maint-Blds	73,295	-	-
7036 Office Expense	19,793	1,313.52	19,829.65
7040 Courier	5,680	-	-
7043 Professional & Spec	17,084,878	5,316,271.37	9,422,135.37
7062 Rent & Lease	31,415	1,680.00	18,862.20
7066 Spec Dept Exp	283,592	5,406.07	536,899.59
7073 Training	5,850	800.00	1,035.44
7074 Transportation & Travel	17,930	-	2,344.18
7081 Utilities	240,099	27,842.67	213,224.49
	<u>17,970,911</u>	<u>5,354,979.63</u>	<u>10,611,495.84</u>
Total Budget	<u>19,067,409</u>	<u>5,387,454.30</u>	<u>11,154,220.04</u>
Net Profit(loss)	0	(3,959,914.97)	(1,576,701.46)

Tulare County Regional Transit Agency

AGENDA ITEM IV-E

January 27, 2025

Prepared by Ashlee Compton, TCRTA Staff

SUBJECT:

Information: Conflict of Interest Code (Form 700) Due April 1, 2025

BACKGROUND:

The Tulare County Regional Transit Agency is required to adopt and maintain a conflict-of-interest code. This code outlines who must disclose information on an annual basis, and what type of information must be disclosed.

DISCUSSION:

The Political Reform Act requires certain officials and employees who serve in positions designated in an agency's conflict of interest code to file a Statement of Economic Interest (Form 700). The Form 700 is available in an interactive version on the Fair Political Practices Commission website: www.fppc.ca.gov.

ATTACHMENTS:

1. TCRTA Conflict of Interest Code

CONFLICT OF INTEREST CODE OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY

(Adopted August 17, 2020)

The Political Reform Act (Gov Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted 2 Cal. Code of Regulations section 18730, which contains the terms of a standard conflict of interest code that can be incorporated by reference in an agency's code. After public notice and hearing, Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730 and the attached Appendix designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the **Tulare County Regional Transit Agency (the "Transit Agency")**.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **Transit Agency Executive Director** (or his or her designee) as the Transit Agency's Filing Officer. The Transit Agency's Filing Officer shall make and retain a copy of all statements filed by Officials listed in Government Code Section 87200, and forward the originals of such statements to the Fair Political Practices Commission. The Transit Agency's Filing Officer shall retain the originals of the statements of all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours (Gov. Code § 81008.)

**CONFLICT OF INTEREST CODE OF THE
TULARE COUNTY REGIONAL TRANSIT AGENCY**

(Adopted August 17, 2020)

PART "A"

The Transit Agency Officials who manage public investments as defined by 2 Cal. Code of Regs. § 18700.3, are NOT subject to the Transit Agency's Code but must file disclosure statements under Government Code section 87200 et seq. [Regs.§ 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other Transit Agency Officials who manage public investments. ¹ These positions are listed here for informational purposes only.

TCRTA Director of Finance

¹ Individuals holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic investments that the designated position must disclose for each disclosure category to which he or she is assigned.³ "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of the Transit Agency.

Category 1: All investments and business positions in business entities and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the jurisdiction of the Transit Agency.

Category 2: All interests in real property that is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Transit Agency.

Category 3: All investments and business positions in business entities and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Transit Agency.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the Transit Agency.

Category 5: All investments and business positions in business entities and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the designated position's department, unit or division.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730)

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Tulare County Regional Transit Agency

AGENDA ITEM V - B

January 27, 2025

Prepared by Olivia Forte, TCRTA Staff

SUBJECT:

Action: Approve TCRTA Passenger Code of Conduct

BACKGROUND:

Tulare County Regional Transit Agency (TCRTA) operates fixed route and on-demand transit service within the Cities of Dinuba, Lindsay, Tulare, Woodlake, the unincorporated areas of County of Tulare, and within the Tule River Indian Tribe of California. Ensuring the safety and security of the passengers, staff, and the community is imperative to TCRTA. All passengers and members of the public who utilize TCRTA service or facilities also contribute to the safety of those who ride on service or visit them and must refrain from engaging in inappropriate or seriously disruptive behavior.

DISCUSSION:

TCRTA staff, in conjunction with the Safety Committee, which consists of driver representatives, dispatchers, road supervisors, and other frontline transit personnel, have developed a Passenger Code of Conduct which passengers and members of the public shall adhere to, lest consequences be administered, to protect those using TCRTA's services and facilities. Providing language that outlines behavioral guidelines grants fellow passengers, personnel, and the community with protection against individuals' otherwise seriously disruptive and inappropriate behavior. This permits smoother, safer service.

RECOMMENDATION:

That the Tulare County Regional Transportation Agency's Board of Directors

1. Approve TCRTA's Passenger Code of Conduct and Authorize Staff to implement and disseminate TCRTA's Passenger Code of Conduct

ATTACHMENTS:

1. Resolution 2025-002 Authorization to Implement and Approval of TCRTA Passenger Code of Conduct
2. TCRTA Passenger Code of Conduct
3. TCRTA Code of Conduct, Abbrev.

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY
AUTHORIZING THE IMPLEMENTATION OF AND APPROVING TCRTA'S
PASSENGER CODE OF CONDUCT**

WHEREAS, the TCRTA Passenger Code of Conduct provides behavioral guidelines when utilizing TCRTA services and/or facilities, as well as procedures for suspension of services if these guidelines are violated.

NOW, THEREFORE, BE RESOLVED BY THE BOARD OF DIRECTORS OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY, hereby approves TCRTA's Passenger Code of Conduct.

PASSED AND ADOPTED this 27th day of January 2025 by the **Board of Directors of the Tulare County Regional Transit Agency**.

THE FOREGOING RESOLUTION was adopted upon motion of _____ and seconded by _____ at meeting thereof held on the 27th day of January 2025.

AYES:

NOES:

ABSTAIN:

ABSENT:

Signed _____

Board Chair

ATTEST:

I HEREBY CERTIFY that the foregoing Resolution 2025-002 was duly adopted by the Board of Directors of the Tulare County Regional Transit Agency at a regular meeting thereof held on the 27th day of January 2025.

Signed _____

Derek Winning
Interim Executive Director

Passenger Code of Conduct

Tulare County Regional Transit Agency (TCRTA) operates fixed route and on-demand transit service within the Cities of Dinuba, Lindsay, Tulare, and Woodlake, the unincorporated areas of County of Tulare, and within the Tule River Indian Tribe of California. Ensuring the safety and security of the passengers, staff, and the community is imperative to TCRTA. All passengers and members of the public who utilize our service or facilities also contribute to the safety of those who ride on service or visit TCRTA facilities and must refrain from engaging in inappropriate or seriously disruptive behavior.

Any individual who exhibits inappropriate or seriously disruptive behavior at any TCRTA facility, on board any TCRTA transit vehicle, while disembarking from any TCRTA vehicle, or riding on any TCRTA transit vehicle may lose ridership privileges.

INAPPROPRIATE BEHAVIOR

Inappropriate behavior includes conduct that is unwarranted and is reasonably interpreted to be demeaning or offensive. Any such behavior directed towards transit personnel or other passengers, behavior that interferes with service operations, involves damage to property, or is disruptive, or otherwise violates the rules of riding on TCRTA service will not be tolerated. Such behavior may result in loss of ridership privileges.

When an individual's behavior warrants immediate ejection, transit personnel with supervisor or managerial approval, may require the immediate removal of that individual from a TCRTA vehicle or facility, including administrative and customer service areas (i.e., transit lobbies or ticket counters).

SERIOUSLY DISRUPTIVE BEHAVIOR

Seriously disruptive behavior includes conduct that is violent, illegal, and/or endangers the health or safety of others. Unacceptable behavior includes, but is not limited to:

- Physical or verbal abuse
- Harassment, including any verbal, nonverbal, or physical behavior having sexual or racial connotations
- Bullying, defined as abusive or repeated conduct that is threatening, humiliating, or intimidating
- Trespassing
- Stealing
- Wielding a weapon

- Causing destruction of property, including graffiti and vandalism
- Unauthorized use of equipment on the vehicle
- Carrying any hazardous materials aboard a vehicle or into a facility
- Public intoxication or imbibing of substances aboard vehicles or in facilities (including vaping and e-cigarettes)
- Extremely poor personal hygiene, including the release of bodily fluids or fluid from a customer, their clothing, mobility device, or other personal item
- Failure to be dressed in shoes and shirt and have body parts reasonably concealed
- Being accompanied by a misbehaving service animal or a service animal not under the control of its handler
- Voluntarily and repeatedly engaging in inappropriate behavior or violating vehicle riding rules
- Engaging in behavior that otherwise seriously inconveniences or alarms other reasonable persons in their vicinity
- Refusing to comply with other requirements as indicated by TCRTA's policies

An individual who engages in seriously disruptive behavior may be removed from a TCRTA vehicle or facility immediately, have service denied without prior warning, and may be subject to additional disciplinary action including law enforcement investigation.

This code of conduct applies to all services provided by TCRTA including fixed route and on-demand service.

DISSEMINATION OF THE CODE OF CONDUCT

TCRTA's Code of Conduct is posted on the agency's website, abbreviated on service brochures, and provided at other public spaces displaying transit information. The publication is available in English and Spanish. The Code of Conduct is provided to all individuals engaged in a disciplinary process to ensure that they are aware of their rights and responsibilities when using TCRTA services.

Complaint Investigation

ADMINISTRATIVE REVIEW PROCESS

Instances of disruptive behavior reported to TCRTA, the operations contractor, or other TCRTA personnel or security are thoroughly investigated before corrective action is considered. Reports are received from sources including: a complaint to the customer service call center (559) 372-2290, other transit personnel, local law enforcement, incident reports communicated to dispatch, and more. There are several steps and multiple staff involved in gathering and reviewing both initial reports and supplemental data necessary to validate a report. These steps may include: gathering statements from personnel/witnesses, reviewing surveillance footage, reviewing police reports.

Disciplinary Consequences

WARNINGS

The first disciplinary step is a verbal warning to the individual that violates the Code of Conduct. The individual involved in inappropriate behavior will be given a warning that states the reason their behavior is inappropriate and the steps they must take to correct their behavior. The bus operator or other transit personnel will also report this verbal warning to TCRTA indicating the date, time, and warning given.

Depending on the severity of the person's behavior, a written warning may be issued by TCRTA. The warning will cite the date of the incident, the route and bus number or facility location, and a summary of the event including notification of any available video documentation.

SUSPENSION

Repeated inappropriate behavior or any seriously disruptive behavior will lead to suspension of the individual from TCRTA vehicles, bus stops, facilities, and services. Any time an individual is removed from a TCRTA vehicle, their fare will be forfeit. An order prohibiting an individual from the transit system may be issued by TCRTA when:

- Within 90 consecutive days, the individual is given three (3) verbal warnings (of which there will be written documentation) for a violation of the Code of Conduct on a vehicle, at a bus stop, transit station, or other TCRTA property. This suspension will last for up to one week.

- The individual is referred to law enforcement, arrested, charged, or convicted for a misdemeanor or felony committed on a vehicle, at a bus stop, transit station, or other TCRTA property.
- The individual’s behavior is deemed so detrimental to the safety of others that they should immediately be denied access to transit services.

The length of the suspension will be determined by the severity of the immediate incident, the documented history of previous incidents, and any previous suspensions. Additional occurrences of inappropriate or seriously disruptive behavior after a suspension action may result in discipline from TCRTA’s transit system until the person can demonstrate the ability to comply with TCRTA’s policies and rules.

TCRTA reserves the right to initiate a suspension without first issuing verbal or formal warning letters should it be necessary for the health and safety of any transit personnel, assets, and/or the public.

NOTICE OF SUSPENSION

Written notice of suspension will be served to the suspended individual. The notice shall include a description of the conduct underlying the violation(s) giving rise to the suspension order and a copy of the Code of Conduct policy. The suspension notice will specify the reason for the suspension, the duration, and the appeal process.

SUSPENSION TERM

The length of time that an individual is prohibited from transit service typically will follow a progressive process beginning with verbal and/or written warnings.

Suspension	Minimum Duration
1 st	30 days
2 nd	90 days
3 rd	180 days

When three (3) warnings accumulate within 90 days, the individual may be subject to suspension of 30 days. If the individual engages in inappropriate or seriously disruptive behavior within one year of the suspension, the second suspension may be up to 90 days in length. A third or subsequent suspension within one year may be up to 180 days in duration.

Individuals whose violations, including but not limited to arson, sexual assault, and other, violent actions can and will be suspended for a period commensurate to the findings made by law enforcement agencies. This period will extend to a year or more.

Rights to Appeal

APPEALS PROCESS

Once served with a suspension, the individual has five (5) calendar days to request an initial review of the suspension order. During that period, the individual may still use transit services. If the suspension notice is not contested within five (5) calendar days after receipt of the notice, the suspension order will be deemed final. The individual may file their appeal request by phone, in electronic or written form, or in person. TCRTA appointed appeals review officer will have five (5) business days from the receipt of the appeal to complete the review and issue a determination using the delivery methods described previously. Requests for suspensions review should be directed to:

Attn: Safety Officer
Tulare County Regional Transit Agency
200 E. Center Ave.
Visalia, CA 93277
(559) 623-0832
info@gotcrta.org

The appeal hearing shall be conducted by the appeals officer via virtual video conference, telephone, or in person. The contester is not required to participate in the hearing but may participate by submitting a written or oral statement regarding the alleged conduct leading to the proposed suspension order. Contesters wishing to participate in person at the hearing must submit their request to do so as part of the appeal request. If the person requesting the appeal hearing cannot attend, they may have another person represent them at the hearing. If the individual or a designated representative is not present and no information is provided for the hearing, the appeals officers' decision will be based on the documentation available at the time.

Appeals proceedings will take place during normal business hours at TCRTA or an accessible public facility designated by the governing board. The appeals officer will review the documentation supporting the suspension action. Documentation submitted by the contester in response to the charges, if any, will then be examined. Once all documentation has been

presented, the appeals officer will have five (5) business days after the appeal hearing to issue a written decision delivered to the contestor in an agreed upon manner as described previously within this policy.

The appeals officer determines whether the suspension order meets the standards for inappropriate or seriously disruptive behavior as defined by TCRTA and described herein. If the appeals officer determines that the suspension should be upheld in whole or in part, TCRTA shall issue a written statement to that effect, including any modifications. The prohibition from all transit assets begins at the time the contestor receives the formal notification and continues until the specified termination date.

The appeals officer may choose to rescind, uphold, or modify the suspension of service. The appeals officer's decision is final.

APPEALS OFFICER

The appeals officer function is assigned to a TCRTA staff member that was not previously involved in the suspension process. This brings a fresh perspective to the process. The appeals officer is empowered to render their decision without concern for repercussion should their ruling overturn or modify a suspension.

APPEAL CONSIDERATIONS

The appeals officer, when issuing their final decision, will consider foremost the health and safety of others. The determination of whether an individual poses a direct threat to the health and safety of others will be made on an individualized assessment, based on reasonable judgement that relies on the best available objective evidence to ascertain the nature, duration, and severity of the risk; the probability that potential injury will occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk. If the investigation reveals that the individual's disruptive behavior is caused by a disability beyond the person's control, the appeals officer will evaluate whether accommodations can be made to allow the individual continued access to transit services.

RESUMING TRANSIT SERVICE

When the suspension period is completed, the affected individual will be notified that they are eligible for bus service. Notification will be made according to the procedures set forth under "Notice of Suspension".

If there is another documented incident of inappropriate or seriously disruptive behavior, the suspended individual may have their suspension reinstated or extended for a longer period.

If another infraction occurs during the five (5) day period during which they can file an appeal, the suspension will be automatically approved.

Sample Suspension Letter

NOTICE OF SUSPENSION FROM TRANSIT SERVICE AND PROPERTIES

Date

To: _____,

Tulare County Regional Transit Agency (TCRTA) Passenger Code of Conduct policy provides for the suspension of ridership privileges whenever an individual's behavior presents a health and safety risk to transit operations. Following that policy, **you are hereby suspended from public transit privileges on TCRTA's transit system and properties, fixed route, paratransit, and on demand service for a period of XXX days running:**

_____ through _____, 2023.

During this suspension period, you are hereby forbidden to access any transit asset including all transit vehicles, bus stops, transit centers, and other TCRTA properties. Contact with TCRTA personnel is also forbidden.

The incident that triggered this suspension is described as follows:

- **DATE, TIME, ROUTE, BUS #. DESCRIPTION OF THE INCIDENT.** This suspension is the result of an incident documented on videotape and in written reports that showing that you engaged in behavior that violated TCRTA's Code of Conduct policy. The incident is described as: _____ (e.g. "while at the stop of XXX and XXXX, you kicked the door of the bus causing the glass to shatter.)

The TCRTA personnel as well as our security firm have been made aware of your image and the period of this suspension. They are authorized to refuse service during the suspension period. Failure to comply with this suspension will result in TCRTA reporting you to local law enforcement.

Your Rights to Appeal. Any suspended passenger has five (5) calendar days to request a review of the suspension order. During that period, you may continue to use TCRTA's transit system. If the suspension notice is not contested within five (5) calendar days after delivery of this notice, the suspension order will be deemed final. You may file the request by phone, in electronic or written form, or in person. TCRTA's appointed administrative review officer will have five (5) business days from the receipt of the contest to complete the review and issue a determination using the delivery methods described previously.

The complete Code of Conduct, which includes a full description of the appeals process, is attached to this letter for your reference.

Sincerely,

Tulare County Regional Transit Agency (TCRTA)

Attachment:

1. TCRTA Passenger Code of Conduct

Code of Conduct

All passengers and members of the public who utilize TCRTA services or facilities also contribute to the safety of those who ride on service or visit the facilities and must refrain from engaging in inappropriate or seriously disruptive behavior.

Any individual who exhibits inappropriate or seriously disruptive behavior at any TCRTA facility, on board any TCRTA transit vehicle, while disembarking from any TCRTA vehicle, or riding on any TCRTA transit vehicle may lose ridership privileges.

INAPPROPRIATE & SERIOUSLY DISRUPTIVE BEHAVIOR

Inappropriate behavior includes conduct that is unwarranted and is reasonably interpreted to be demeaning or offensive. Seriously disruptive behavior includes conduct that is violent, illegal, and/or endangers the health or safety of others. Such behavior directed towards personnel or other transit users will not be tolerated. Unacceptable behavior includes, but is not limited to:

- Physical or verbal abuse or harassment
- Trespassing
- Stealing
- Wielding a weapon
- Causing destruction of property, including graffiti and vandalism
- Unauthorized use of equipment on the vehicle
- Carrying any hazardous materials aboard a vehicle or into a facility
- Public intoxication or imbibing of substances aboard vehicles or in facilities (including vaping and e-cigarettes)
- Extremely poor personal hygiene, including the release of bodily fluids from a customer, their clothing, mobility device, or other personal items
- Failure to be dressed in shoes and shirt and have body parts reasonably concealed
- Being accompanied by a misbehaving service/animal or a service/animal not under the control of its handler
- Voluntarily and repeatedly engaging in inappropriate behavior or violating vehicle riding rules
- Refusing to comply with other requirements as indicated by TCRTA's policies

To view TCRTA's full Code of Conduct, scan the QR code or visit www.gotcrta.org.

Thank you for riding with TCRTA.



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Tulare County Regional Transit Agency

AGENDA ITEM V - C

January 27, 2025

Prepared by Olivia Forte, TCRTA Staff

SUBJECT:

Action: Approve TCRTA Drug & Alcohol Policy

BACKGROUND:

The Tulare County Regional Transit Agency (TCRTA) provides public transit, paratransit, and on-demand services for the residents of Tulare, Dinuba, Woodlake, Lindsay, Tulare River Tribe and Tulare County. Part of its mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public.

DISCUSSION:

The purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991.

This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.

RECOMMENDATION:

That the Tulare County Regional Transportation Agency's Board of Directors

1. Approve TCRTA's Drug & Alcohol Policy

ATTACHMENTS:

1. Resolution 2025-003 Approve TCRTA Drug & Alcohol Policy
2. TCRTA Drug & Alcohol Policy

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY
AUTHORIZING THE IMPLEMENTATION OF AND APPROVING TCRTA'S Drug &
ALCOHOL POLICY**

WHEREAS, the Tulare County Regional Transit Agency (TCRTA) provides public transit, paratransit, and on-demand services for the residents of Tulare, Dinuba, Woodlake, Lindsay, Tulare River Tribe and Tulare County.

WHEREAS, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991.

WHEREAS, covered employees shall abide by the terms of this policy statement as a condition of employment. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.

NOW, THEREFORE, BE RESOLVED BY THE BOARD OF DIRECTORS OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY, hereby approves TCRTA's Drug & Alcohol Policy.

PASSED AND ADOPTED this 27th day of January 2025 by the **Board of Directors of the Tulare County Regional Transit Agency**.

THE FOREGOING RESOLUTION was adopted upon motion of _____ and seconded by _____ at meeting thereof held on the 27th day of January 2025.

AYES:

NOES:

ABSTAIN:

ABSENT:

Signed _____

Board Chair

ATTEST:

I HEREBY CERTIFY that the foregoing Resolution 2025-003 was duly adopted by the Board of Directors of the Tulare County Regional Transit Agency at a regular meeting thereof held on the 27th day of January 2025.

Signed _____

Derek Winning
Interim Executive Director

DRUG AND ALCOHOL TESTING POLICY

Tulare County Regional Transit Agency

Adopted as of [MONTH DD, YEAR]

A. PURPOSE

The Tulare County Regional Transit Agency (TCRTA) provides public transit, paratransit, and on-demand services for the residents of Tulare, Dinuba, Woodlake, Lindsay, Tulare River Tribe and Tulare County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, TCRTA declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991.

Covered employees shall abide by the terms of this policy statement as a condition of employment. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.

Any provisions set forth in this policy that are included under the sole authority of TCRTA and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of TCRTA will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

Covered Employees

A safety-sensitive function is operation of public transit service including:

- a. Employee who operates a revenue service vehicle (whether or not the vehicle is in revenue service).
- b. Employee who provides maintenance of a revenue service vehicle or equipment used in revenue service (maintenance functions include repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service).
- c. Security personnel who carry firearms.
- d. Employee who control the dispatch or movement of revenue service vehicles.
- e. Any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate.

A list of safety-sensitive positions who perform one or more of the above-mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Aliquot: A fractional part of a specimen used for testing, it is taken as a sample representing the whole specimen.

Alternate specimen: An authorized specimen, other than the type of specimen previously collected or attempted to be collected.

Canceled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

Collection Site: A place selected by the employer where employees present themselves for the purpose of providing a specimen for a drug test.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify a specific drug or drug metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Cutoff: The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DOT, The Department, DOT Agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Employee: Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term “donor” as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Evidential Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations and appears on ODAPC’s Web page for “Approved Evidential Breath Measurement Devices” because it conforms with the model specifications available from NHTSA.

Initial Drug Test: The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS when a positive, negative, adulterated, or

substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of HHS; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

Limit of Detection (LOD): The lowest concentration at which the analyte (e.g., drug or drug metabolite) can be identified.

Limit of Quantification (LOQ): For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative specimen: A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), or invalid.

Oral Fluid Specimen: A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Primary specimen: In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor's subdivided specimen designated as the primary ("A") specimen by the collector to distinguish it from the split ("B") specimen, as defined in 49 CFR Part 40, as amended.

Prohibited drug: Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling dispatch or movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

Specimen: Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.

Specimen Bottle: The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary ("A") or split ("B") specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a "vial," "tube," or "bottle."

Split Specimen: In drug testing, the specimen that is sent to a first laboratory

and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated or substituted.

Split specimen collection: A collection in which the single specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: An employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

Test Refusal: The following are considered a refusal to test if the employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by Tulare County Regional Transit Agency.
- (2) Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath urine specimen. An employee who does not provide a breath or urine specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of breath or urine specimen without a valid medical explanation.
- (6) Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or Tulare County Regional Transit Agency's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection .

- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Undiluted (neat) oral fluid: An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

Urine specimen: Urine collected from an employee at the collection site for the purpose of a drug test.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine or oral fluid. Specimen validity testing will be conducted on all specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

D. EDUCATION AND TRAINING

Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the

effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following.

Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for:

- a. marijuana
- b. cocaine
- c. amphetamines
- d. opioids
- e. phencyclidine (PCP)

Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. **However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Tulare**

County Regional Transit System supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

- f. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

F. PROHIBITED CONDUCT

Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.

Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.

TCRTA shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol

Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.

- a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
 - i. The employee's alcohol concentration measures less than 0.02; or
 - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

TCRTA, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.

Consistent with the Drug-free Workplace Act of 1988, all TCRTC employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the TCRTA management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in this policy.

H. TESTING REQUIREMENTS

Drug testing and alcohol testing will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy, and return to duty/follow-up.

A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under TCRTA authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with TCRTA. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

I. DRUG TESTING PROCEDURES

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

The drugs that will be tested for include:

- 1) marijuana,
- 2) cocaine,
- 3) opioids,
- 4) amphetamines, and
- 5) phencyclidine

After the identity of the donor is checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at an HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to TCRTA. If a legitimate explanation is found, the MRO will report the test result as negative.

- 1) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 2) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. TCRTA will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however TCRTA will seek reimbursement for the split sample test from the employee.
- 3) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 4) Observed collections
 - a. Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to TCRTA that there was not an adequate medical explanation for the result;
 - ii. The MRO reports to TCRTA that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
 - iii. The laboratory reported to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the urine specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).

- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- v. The temperature on the original urine specimen was out of range (See §40.65(b)(5));
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with (See §40.65(c)(1)).
- vii. All follow-up-tests; or
- viii. All return-to-duty tests

Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part 40.67.

J. ALCOHOL TESTING PROCEDURES

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids".

- 1) If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.
- 2) The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test.
- 3) The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT.

- 4) The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout.
- 5) The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee.
- 6) The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 7) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy.
- 8) Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy.
- 9) An alcohol concentration of less than 0.02 will be considered a negative test.
- 10)TCRTA affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.
- 11)If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 12)The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo drug testing prior to performance of a safety-sensitive function.

- a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
- b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
- c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded, and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy.
- e. If a pre-employment test is canceled, TCRTA will require the applicant to take and pass another pre-employment drug test.
- f. In instances where an FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide TCRTA with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do

so will result in the employment offer being rescinded. *TCRTA* is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide TCTRA proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

All TCRTA FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under TCRTA' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

- 1) TCRTA shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.
- 2) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the TCRTA.

- 3) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with this policy. TCRTA shall place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of the TCRTA. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in this policy or the associated consequences.

M. POST-ACCIDENT TESTING

- 1) FATAL ACCIDENTS – A covered employee will be required to undergo drug and alcohol testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) NON-FATAL ACCIDENTS – A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
 - a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
 - b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have

contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that TCRTA is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), TCRTA may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Individuals who may be covered under company authority will be selected from a pool of non-DOT-covered individuals.

The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.

The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.

Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.

Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under TCRTA authority.

Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under TCRTA' authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.

Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

TCRTA will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

P. FOLLOW-UP TESTING

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
 - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
 - b. Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the

testing process commences for a pre-employment test has not refused to test.

- c. Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
 - d. In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
 - e. Fail to provide a sufficient quantity of specimen without a valid medical explanation.
 - f. Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
 - g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
 - h. Fail to cooperate with any part of the testing process.
 - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.
 - j. Possess or wear a prosthetic or other device used to tamper with the collection process.
 - k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
 - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
 - m. Fail to remain readily available following an accident.
 - n. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 4) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement.
 - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from TCRTA employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test

immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in this policy; however, all follow-up testing performed as part of a return-to-work agreement required under this policy is under the sole authority of TCRTA and will be performed using non-DOT testing forms.

- c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**
 - d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in this policy.**
 - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in this policy.
 - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with TCRTA.
 - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

TCRTA is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

Drug/alcohol testing records shall be maintained by the TCRTA Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.

Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.

- 1) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 2) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 3) Records will be released to the National Transportation Safety Board during an accident investigation.
- 4) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 5) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 6) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over TCRTA or the employee.

- 7) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 8) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the **Tulare County Regional Transit Agency** on the **27th of January 2025**.

[Resolution 2025-003 placed here.]

Attachment A

COVERED POSITIONS:

- Executive Director
- Vehicle Operator
- Road Supervisor
- Maintenance Technician
- Revenue Collection

Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

TCRTA Drug and Alcohol Program Manager

Name: Olivia Forte

Title: TCRTA Transit Analyst

Address: 200 E. Center Avenue, Visalia, CA 93291

Telephone Number: (559) 972-2467

The TCRTA current transit contractor have the below positions in place for all safety-sensitive employees (full- or part-time):

Medical Review Officer

Name: Dr. Kirk Roberts

Title: Medical Review Office

Address: Suite 500 Kansas City, MO 64108

Telephone Number: (866) 730-8820

Substance Abuse Professional #1

Name: Jerri Thompson

Title: Substance Abuse Professional #1

Address: 1500 S. Mooney Blvd, Suite 5, Visalia, CA 93291

Telephone Number: (559) 604-0441

Substance Abuse Professional #2

Name: Al J. Everette

Title: Substance Abuse Professional #2

Address: 1024 W. Orange St. Hanford, CA 93230

Telephone Number: (559) 309-1024

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Tulare County Regional Transit Agency

AGENDA ITEM V-D

January 27, 2025

Prepared by Derek Winning, TCRTA Staff

SUBJECT:

Action: Adoption of Resolution 2025-001 approving TCAG TCRTA SB 125 Program Supplemental Agreement for EV Charging Infrastructure Design

BACKGROUND:

In July 2023, the California State Legislature approved SB 125, which amended the Budget Act of 2023 to appropriate \$4 billion of General Fund to the Transit and Intercity Rail Capital Program (TIRCP) over the next two (2) years, as well as a total of \$1 billion from the Greenhouse Gas Reduction Fund (GGRF) and Public Transportation Account (PTA) over four (4) years to establish a new Zero-Emission Transit Capital Program (ZETCP). The program is administered by the California State Transportation Agency (CalSTA).

Tulare County Association of Governments (TCAG) is due to receive approximately \$56 million through the life of the program and has already received its first-year allocation of \$27,053,561. In the interest of allowing member agencies who are receiving SB 125 funds to proceed with their projects as quickly as possible, TCAG staff have drafted a master agreement for the use of SB 125 program funds that is modeled on the Measure R master agreement.

DISCUSSION:

SB 125 guidelines require submission of an Annual Report to CalSTA but provide regional transportation planning agencies (RTPAs) discretion regarding the administration of program funds. TCAG staff have therefore proposed to utilize a master agreement modeled on the Measure R master agreements with member agencies. The TCRTA Board approved the SB 125 Cooperative Agreement at its November 18, 2024 meeting.

This agreement will not have any force or effect on transit projects unless and until a project-specific Program Supplement to this Agreement has been fully executed by both the Authority and the Sponsor.

TCRTA Staff has included an SB 125 Supplemental Agreement for EV Charging Infrastructure Design at \$1,000,000 for up to 3 locations including: County of Tulare Central Yard, City of Tulare Yard, and City of Dinuba yard. The SB 125 Supplemental Agreement also included \$300,000 for project management through construction and installation.

RECOMMENDATION:

Adoption of Resolution 2025-001 authorizing the TCRTA Interim Executive Director to sign the TCAG TCRTA SB 125 Program Supplemental Agreement.

FISCAL IMPACT:

N/A

ATTACHMENTS:

1. TCAG TCRTA SB 125 Program Supplemental Agreement for EV Charging Infrastructure Design
2. Resolution 2025-001 Approving TCAG TCRTA SB 125 Program Supplemental Agreement

SB 125 PROGRAM SUPPLEMENT TO COOPERATIVE AGREEMENT

TCAG Agreement No. _____

This Program Supplement ("Program Supplement") is made and entered into on January 27, 2025 by and between the **TULARE COUNTY REGIONAL TRANIST AGENCY** ("TCRTA") (the "SPONSOR") and the **TULARE COUNTY ASSOCIATION OF GOVERNMENTS**, acting as the Regional Transportation Planning Agency for Tulare County ("TCAG"). The SPONSOR and TCAG are each a "Party" and together are the "Parties" to this Program Supplement.

This Program Supplement hereby incorporates the "SB 125 Cooperative Agreement" for SB 125 Program funding that was entered into between the SPONSOR and TCAG on January 8, 2025 and is subject to all terms and conditions thereof.

This Program Supplement is executed under authority of TCAG Resolution No. 2025-XXX, dated 27 January 2025.

The purpose of this Program Supplement is to document TCAG's approval of funding from the SB 125 Program for SPONSOR'S proposed project identified as TCRTA EV Charging Infrastructure Project (the "Project"). The scope of said Project, including its costs and schedule, are shown on the attached Attachment "A."

Covenants of SPONSOR

- 1.1 By entering into this Program Supplement, SPONSOR agrees that it will only proceed with work authorized for specific phase(s) of the Project with written "Authorization to Proceed" or other TCAG approval and will not proceed with future phase(s) of the Project(s) prior to receiving a written "Authorization to Proceed" or other TCAG approval.
- 1.2 SPONSOR will advertise, award, and administer the Project(s) as necessary and in accordance with SPONSOR standards.
- 1.3 Contract award information, if any, shall be submitted by SPONSOR to TCAG within 60 days after any Project contract award.
- 1.4 Failure to submit contract award information in accordance with section 1.3 will cause a delay (without interest or penalties) in TCAG's processing of invoices for the construction phase of the Project.
- 1.5 If no costs have been invoiced by SPONSOR for the Project for a six-month period, then SPONSOR agrees to submit to TCAG for each Project phase a written explanation of the absence of Project(s) activity along with target billing dates and target billing amounts.

IN WITNESS WHEREOF, the undersigned Parties have executed this Program Supplement on the day and year first written above.

TULARE COUNTY ASSOCIATION OF GOVERNMENTS

By: _____
TCAG Executive Director

Attest: _____
TCAG Finance Director

TULARE COUNTY REGIONAL TRANSIT AGENCY

By: _____
TCRTA Executive Director

Attest: _____
TCRTA Finance Manager

DRAFT

SB 125 PROGRAM SUPPLEMENT TO
COOPERATIVE AGREEMENT
TCAG Agreement No. _____

Attachment A

Project Name: TCRTA EV Charging Infrastructure Project

Project Scope

TCRTA will conduct a technical assessment followed by the installation, construction and maintenance of electric vehicle (EV) charging stations to support its current and future fleet of zero emission vehicles including microtransit/ paratransit vans and fixed-route medium to large buses. Charging stations would be installed at maintenance facilities located at the TCRTA Central Yard in Visalia, City of Dinuba Yard, and City of Tulare Yard/ Transit Center.

Project Schedule

Project Management RFP	Jan 2025
Design RFQ	Mar 2025
Begin Design	May 2025
Complete Design	Nov 2025

Sources and Use of Funds

Funding Source	SB 125
Project Management	\$300,000
PA&ED	\$50,000
PS&E	\$950,000
ROW	
Construction	
Total Funding	1,300,000

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY
ADOPTING TCAG TCRTA SB 125 PROGRAM SUPPLEMENTAL AGREEMENT**

WHEREAS, on June 28, 2023, the California State Legislature approved SB 125, which authorized the distribution of \$4 billion in Transit and Intercity Rail Capital Program (TIRCP) and \$1.1 billion in Zero-Emission Transit Capital Program (ZETCP) funds to regional transportation planning agencies according to a population-based formula; and

WHEREAS, TCAG was allocated \$48,671,620 in TIRCP and \$7,372,832 in ZETCP funding; and

WHEREAS, TCAG staff submitted a board-approved program of projects to CalSTA in accordance with program guidelines; and

WHEREAS, CalSTA authorized the disbursement of \$24,305,505 of TIRCP and \$2,748,056 of ZETCP funding to TCAG on August 7, 2024; and

WHEREAS, TCAG has included several TCRTA Projects in its SB 125 Program including:

1. Charging Infrastructure - \$9.2 million
2. Microtransit Operating - \$5.9 million
3. Microtransit Vans - \$2.8 million

WHEREAS, TCRTA desires to initiate the design phase \$1 million including project management \$300 k for the SB 125 EV Charging Infrastructure Project which is critical to the conversion to a zero emission fleet; and

WHEREAS, it is in the interest of TCAG and member agencies to execute agreements governing the disbursement and utilization of these funds in an expeditious manner; and

NOW, THEREFORE, BE RESOLVED BY THE BOARD OF DIRECTORS OF THE TULARE COUNTY REGIONAL TRANSIT AGENCY, adopts the attached, “TCAG TCRTA SB 125 Program Supplemental Agreement”.

BE IT ADDITIONALLY RESOLVED that the Interim Executive Director is hereby authorized to sign the SB 125 Supplemental Agreement.

THE FOREGOING RESOLUTION was adopted upon motion of _____ and seconded by _____ at meeting thereof held on the 27th day of January 2025.

AYES:

NOES:

ABSTAIN:

ABSENT:

Signed _____

Board Chair

ATTEST:

I HEREBY CERTIFY that the foregoing Resolution 2025-001 was duly adopted by the Board of Directors of the Tulare County Regional Transit Agency at a regular meeting thereof held on the 27th day of January 2025.

Signed _____

Derek Winning

Interim Executive Director