

**TULARE COUNTY REGIONAL TRANSIT AGENCY
JOINT POWERS AGREEMENT**

The Joint Powers Agreement ("Agreement"), dated this 11th day of August, 2020, by and among the County of Tulare and the Cities of Exeter, Farmersville, Lindsay, Porterville, Tulare, and Woodlake (each, a "Party" or "Member Agency" and together, the "Parties" or "Member Agencies" to this Agreement) is hereby entered into pursuant to Section 6500 *et seq.* of the Government Code of the State of California.

**Article I
General Provisions**

Section 1: Purpose

The purpose of this Agreement is to empower the Parties to exercise their common powers by the formation and operation of a Joint Powers Agency, hereafter called "Tulare County Regional Transit Agency" or "Transit Agency," with full power and authority to own, operate, and administer a public transportation system within the jurisdictions of the Member Agencies. The Transit Agency shall be a public agency separate and apart from the Member Agencies.

Section 2: Name and Membership

The legal name of the Transit Agency shall be "Tulare County Regional Transit Agency." Agencies eligible to enter into this Agreement include the County of Tulare and all incorporated cities within Tulare County. Upon entering into this Agreement, Member Agencies shall be required to maintain membership for the duration of the remaining fiscal year in which the Member Agency joined, plus the following three (3) fiscal years. Early withdrawal of any agency under these terms may be approved by unanimous vote of the Transit Agency's Board of Directors if withdrawal is determined to be mutually beneficial.

Section 3: Boundaries

The boundaries of the Transit Agency shall coincide with the exterior boundaries of Tulare County but shall exclude the territory of any incorporated city within Tulare County that is not a Party to this Agreement.

Section 4: Powers

The Transit Agency shall have all powers necessary to carry out the purpose of this Agreement, except the power to tax. The powers of the Transit Agency specifically include, but are not limited to, the following:

- a. To operate a public transportation system to service the incorporated areas of the cities who elect to become Member Agencies hereunder and the unincorporated areas of the County of Tulare.
- b. To acquire, hold, and dispose of real and personal property.
- c. To acquire, construct, manage, maintain, and/or operate any facilities or improvements.

- d. To own, lease, operate, and maintain vehicles and other property and equipment, which are necessary or reasonable to carry out the purpose of this Agreement.
- e. To expend funds. This power shall be limited only by the availability of funds as set forth in Article III, Sections 4 and 9 of this Agreement.
- f. To sue and be sued in its own name.
- g. To make and enter into contracts for services.
- h. To incur debts, liabilities, and obligations, none of which shall become a debt, liability, or obligation of any Member Agency pursuant to California Government Code section 6508.1 (a) without the express written consent of that Member Agency, except that any debt, liability, or obligation of the Transit Agency with respect to retirement liabilities of the Transit Agency shall be a joint debt, liability, or obligation of each Member Agency if the Transit Agency contracts with a public retirement system.
- i. To provide and enter into agreements for transportation services to locations outside the jurisdiction and boundaries of any of the Member Agencies.
- j. To apply for and execute agreements for financial assistance from the State of California, U.S. Government, and other sources, and to obligate the Transit Agency to operate the public transportation system in accordance with the terms and conditions of said financial assistance.
- k. To purchase insurance.
- l. To employ staff, or to contract with the Member Agencies, or private vendors or individuals to provide the agency with necessary and appropriate services, including, but not limited to, an Executive Director and legal counsel. If the Transit Agency elects to employ its own staff, then the Board shall establish appropriate personnel rules and benefit programs, and determine whether to seek and approve membership in the Tulare County Employees Retirement Association, another established retirement/pension system, or make other retirement/pension options available for its employees.
- m. To adopt local debt policies pursuant to California Government Code section 8855.
- n. To adopt a Conflict-of-Interest Code pursuant to California Government Code section 87300.
- o. All other powers that are necessary and proper for the Transit Agency in order to provide public transportation services.

Article II

Organization

Section 1: Governing Board of Directors

The powers of the Transit Agency are vested in its governing Board of Directors, hereafter called the "Board." The Board shall be composed of elected officials, hereafter called "Directors," from each Member Agency. Each Member Agency shall appoint one regular Director and one alternate Director to the Board. Each Director will serve at the pleasure of the Director's appointing authority; however, Directors who are members of the governing body of their respective Member Agencies shall cease to serve as Directors upon termination of that public office. The applicable appointing authorities shall fill vacancies on the Board of Directors.

The following shall sit as non-voting, *ex-officio* members of the Board:

- a. The Tulare County Association of Governments (TCAG) Board members sitting as the Public Transit Representative and Alternate (if different than an already seated Transit Agency Director); and
- b. The Calvans Executive Director or his/her designee.

Section 2: Officers

a. The Board shall elect a Chair and Vice-Chair from among the Directors, and such other officers as the Board may deem necessary.

b. The Chair shall preside at all meetings of the Board and generally shall perform all duties incident to the office of Chair and such other duties as may from time to time be assigned to such office by the Board.

c. At the request of the Chair, or in case of his or her absence or disability, the Vice-Chair shall perform all duties of the Chair and, when so acting, shall have all the powers of, and be subject to all restrictions upon, the Chair. In addition, the Vice-Chair shall perform such other duties as may from time to time be assigned to that office by the Board of Directors or the Chair.

d. The Chair, Vice-Chair, and such other officers as are elected by the Board each shall serve at the pleasure of the majority of the Board and be elected for a term of two years, with no limit on the number of terms served. Each such officer shall continue to serve until his or her successor is elected, or until his or her death, resignation, or removal from office by the majority of the Board, whichever occurs earlier.

e. The Executive Director of the Transit Agency (provided for below) shall serve *ex-officio* as the Secretary of the Board. The Secretary shall (i) certify and keep at the office of the Transit Agency, or at such other place as the Board may order, the original or a copy of the Agreement, the Bylaws, and the other documents provided for below, as amended or otherwise altered; (ii) keep at the office of the Transit Agency, or at such other place as the Board may order, a book of minutes of all meetings of the Board, recording therein the time and place of holding, whether regular or special, and, if special, how authorized, the notice thereof given, and the proceedings thereat; (iii) see that all notices are duly given in accordance with the provisions of this Agreement, the Bylaws, or as required by law; (iv) be custodian of the records of the Transit Agency; (v) exhibit at all reasonable times to any Director, upon application, the Bylaws and minutes of the proceedings of the Board; and (vi) in general, perform all duties of the office of Secretary and such other duties as may from time to time be assigned to such office by the Board or the Chair.

f. Any officer may resign at any time by giving written notice to the Board. Any such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in this Agreement for regular election or appointment to such office.

g. With prior Board approval, the Chair, the Vice-Chair, or the Secretary is authorized to execute all documents in the name of the Transit Agency.

Section 3: Compensation

The members of the Board shall serve without compensation but shall receive reimbursement for actual and necessary travel expenses incurred in the performance of their duties and outlined in accordance with policies established by the Board.

Section 4: Executive Director

The Board shall appoint an Executive Director. The Executive Director shall serve at the pleasure of or upon the terms prescribed by the Board. The Executive Director so appointed may be an employee of a Member Agency, an employee of the Transit Agency, or an independent contractor (or employee of an independent contractor). Under rules and regulations provided by the Board, the powers and duties of the Executive Director are:

- a. To lead and coordinate the transit system of the Transit Agency and to be responsible to the Board for proper administration of all affairs of the Transit Agency.
- b. To appoint, assign, direct, supervise, and, subject to the personnel rules adopted by the Board, discipline or remove Transit Agency employees.
- c. To arrange for secondary support services, including: legal counsel, general services, office space, human resources, fiscal and administrative support, communications, information technology, payroll, and other support services necessary or convenient for the operation of the transit system and Transit Agency.
- d. To supervise and direct the preparation of the annual operating and capital improvement budgets, hereafter called "Budget", for the Board and be responsible for their administration after adoption by the Board.
- e. To formulate and present to the Board plans for transit facilities and/or services and the means to finance them.
- f. To supervise the planning, acquisition, construction, maintenance, and operation of the transit facilities and/or services of the Transit Agency.
- g. To provide regular performance updates to the Board.
- h. To attend all meetings of the Board and act as the Secretary of the Board. As Secretary, he or she shall cause to be kept minutes of all meetings of the Board, to cause a copy of the minutes of the previous Board meeting to be included with the agenda of the next regular meeting of the Board, and perform all of the duties prescribed in Section 2.e. above.
- i. To establish and maintain fare collection and deposit services.
- j. To organize and operate an ongoing transit marketing program, including special promotions.
- k. To evaluate and propose new programs and public transportation services, with implementation to occur as approved by the Board.
- l. To execute transfers within major budget units, in concurrence with the Treasurer/ Auditor-Controller of the Transit Agency, as long as the total expenditures of each major budget unit remain unchanged.
- m. To purchase or lease items, fixed assets, or services within the levels authorized in the applicable Budget.

- n. To lease buses, vans, and other transit vehicles on an “as needed” basis from public or private organizations when deemed necessary to assure continued reliability of service.
- o. To perform such other duties as the Board may require in carrying out the policies and directives of the Board.

Section 5: Meetings

The Board shall hold regular monthly meetings and shall establish a date, time, and place for those meetings. Meetings may be canceled by a vote of the Board. Special meetings may be called at any time by the Chair, or at the suggestion of the Executive Director, or upon written request by any two members of the Board. Each member shall receive written notice at least 24 hours in advance of any special meeting unless the member has specifically waived this required notice.

Section 6: Ralph M. Brown Act

All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the California Government Code).

Section 7: Quorum

A majority of the total membership of the Board shall constitute a quorum for the transaction of business.

Section 8: Voting

Regular business will be acted upon by approval of a quorum of the Board, with the exception of the following actions which shall require approval by a unanimous vote of the Directors present and voting at a regular or special meeting of the Board, provided that a quorum of the Board is present and voting:

- a. Approval of the Budget.
- b. Local Transportation Fund (LTF) Claims Approval for Submittal to TCAG.
- c. Withdrawal of an agency prior to completion of initial new membership term (per Article I, Section 2).
- d. Readmission of an agency that was a prior member of the Transit Agency and has since withdrawn.

Section 9: Policies and Procedures, Bylaws, Conflict-of-Interest Code, and Debt Policies

Within the first six (6) months of the Transit Agency’s existence, the Board shall establish a Policies and Procedures Manual and Bylaws to govern the day-to-day operations of the Transit Agency, local debt policies pursuant to California Government Code section 8855, and a Conflict-of-Interest Code pursuant to California Government Code section 87300, all of which are not inconsistent either with applicable law or with this Agreement. Each Director and Member Agency shall receive a copy of the adopted Policies and Procedures Manual, the Bylaws, and the Conflict-of-Interest Code. Thereafter, the Board may amend or repeal any bylaw, regulation, policy, procedure or portion of the Conflict-of-Interest Code, provided that

such action is not inconsistent with either the applicable law or this Agreement. The Executive Director shall send to each Director and to each Member Agency all Bylaw amendments, and Debt Policy and Conflict-of-Interest Code revisions promptly after adoption by the Board.

Section 10: New Members

If a city within the County of Tulare not a Party to this Agreement desires to join the Transit Agency, it may become a Member Agency subject to such terms and conditions as may be prescribed by the Board. Upon becoming a Member Agency, the new Member Agency shall become responsible for its share of the funding for public transportation provided by the Transit Agency. The new Member Agency's share of the funding shall be determined in the same manner as for the original Member Agencies, as set forth in Article III, Section 4, "Sources of Funds" of this Agreement.

If a new city is incorporated in Tulare County, it may become a Member Agency, subject to such terms and conditions as may be prescribed by the Board. Upon becoming a Member Agency, the new city shall become responsible for its share of the funding for public transportation provided by the Transit Agency. The new city's share of the funding shall be determined in the same manner as for the original Member Agencies as set for the in Article III, Section 4, "Sources of Funds" of this Agreement. Regardless of whether or not the new city elects to become a Member Agency, at the end of the fiscal year during which incorporation becomes effective, unless otherwise agreed among the new city, the County, and the Transit Agency, the County will no longer be responsible for funding public transportation within the area included in the new city.

New Member Agencies shall be required to maintain membership in this Agreement for the duration of the fiscal year in which the Member Agency joined, plus the following three (3) fiscal years.

Section 11: Change of Boundaries

In the case of annexations, reorganization of transit services and costs due to new jurisdictional boundaries will occur. Funding for transit services provided within Member Agencies' jurisdictions shall be determined as set forth in Article III, Section 4, "Source of Funds" of this Agreement.

Section 12: Ratification and Effective Date

This Agreement shall become effective upon ratification by the legislative bodies of all participating agencies. This Agreement shall be dated and shall be effective upon the last date ratified by a Member Agency.

Section 13: Amendment of Agreement

This Agreement may be amended at any time by a supplemental written agreement executed by all Parties. Amendments may be made only with the unanimous approval of the legislative bodies of all of the Member Agencies.

Section 14: Withdrawal and Readmission of Member Agencies

Any Party to this Agreement may, on or before May 1 of any year, give written notice to the Transit Agency that it is withdrawing from the Transit Agency and terminating its rights and duties under the Agreement at the end of the fiscal year, and such notice shall have the same effect on the 30th day of June thereafter. Withdrawal at any other time requires approval of the Board per Article II, Section 8.

If a Member Agency chooses to withdraw, it nevertheless shall be responsible for its share of all Transit Agency contractual obligations in force on the effective date of withdrawal. Said share shall be determined in accordance with Article III, Section 4, "Sources of Funds" of this Agreement. The withdrawing agency shall remain responsible for said contractual obligations until the involved contracts legally expire or until the obligations can be changed or eliminated by negotiations between the contracting parties.

Each of the Parties to this Agreement hereby agrees that if it should withdraw from the Transit Agency and give up its rights and duties under this Agreement, as provided hereinabove, and the Transit Agency is not dissolved as a result of said withdrawal, then such withdrawing Party waives its right to any refund of contributions previously made by such Party to the Transit Agency and relinquishes to the Transit Agency all right, title, and interest it may have in any property of the Transit Agency.

After finalization of Member Agency withdrawal, that agency will be eligible to re-enter into this Agreement after one full fiscal year has passed. When any Party has ceased to be a Party to this Agreement, it shall not be entitled to again become a Party to this Agreement except upon unanimous consent of the Board and upon such terms and conditions as may be imposed by unanimous action of the Board.

Section 15: Duration of Agreement

This Agreement shall continue in full force and effect until termination is approved by all or by all but one of the legislative bodies of the Member Agencies, or until withdrawals have reduced the number of Member Agencies to less than two.

In the case of termination, contractual obligations shall be met in the same manner as specified for withdrawals in Article II, Section 14, "Withdrawal and Readmission of Member Agencies" of this Agreement.

Section 16: Distribution of Surplus Money and Property

Pursuant to California Government Code Sections 6511 and 6512, in the event that this Agreement is terminated, then all surplus money and property of the Transit Agency shall be distributed to the Member Agencies in proportion to the most recent annual contributions made by the Member Agencies under the terms of Article III, Section 4, "Source of Funds" of this Agreement. In the case of property, the Member Agencies may elect to receive their shares of the property in kind or may request that their shares be sold and the money distributed in the manner prescribed in this Section.

Section 17: Notification of Secretary of State, State Controller, and Local Agency Formation Commission

Pursuant to California Government Code Sections 6503.5 and 6503.6, the Transit Agency shall, within thirty (30) days of the effective date of this Agreement or amendment thereto, cause (a) a notice of the Agreement or amendment to be prepared and filed with the office of the California Secretary of State, (b) a full copy of the Agreement or amendment to be filed with the State Controller, and (c) a full copy of the Agreement or amendment to be filed with the Tulare County Local Agency Formation Commission.

Article III

Financial and Service Level Provisions

Section 1: Fiscal Year and Budget

The fiscal year for the Transit Agency shall be July 1 through June 30 of the following calendar year.

The Board shall adopt an Annual Budget prior to the beginning of each fiscal year. Except as otherwise provided in Article III, Section 4 of this Agreement, a unanimous vote of approval by all Directors present and voting at a regular or special meeting of the Board, which must be a quorum, shall be required for the adoption of the Budget.

The Annual Budget may carry forward funds for future fiscal years where necessary to reflect obligations under state or federal funding or grant agreements.

Section 2: Level of Service

The minimum level of public transit service provided within the jurisdiction of each Member Agency shall be established by the Transit Agency. The Transit Agency shall set levels of service based on appropriate established criteria, including: needs of residents, service performance, TCAG performance measures and other requirements, Title VI compliance, and any other criteria deemed a) appropriate by the Transit Agency and/or b) required by law. Unmet needs found reasonable to meet will also be implemented as required.

Costs of services above the minimum level of service as set by the Transit Agency shall be calculated based upon the marginal increase in cost, plus an allocation of fixed costs of the additional services based upon the proportion of vehicle hours of the new service to the total vehicle hours provided by the Transit Agency, and shall be charged to and paid by the requesting Member Agency.

Section 3: Service Changes

Transportation Development Act (TDA)-funded services may be adjusted from time to time as deemed appropriate by the Board. Additionally, each Member Agency, by resolution of its governing body, may submit a request for changes in the services funded through TDA within said Member Agency's jurisdictional boundaries. Said request shall include a description of the requested changes.

In reviewing requests for service increases, the Transit Agency shall consider:

- a. Whether such changes are in substantial conformance with applicable plans, such as transit plans and the Regional Transportation Plan, and comply with required minimum levels of service.
- b. Whether there is sufficient funding available to implement the proposed service change.
- c. Whether there is sufficient personnel, operating capacity, and capital resources available to implement such services.
- d. Whether changes are permissible under state and federal law, and including Transit Agency's willingness and ability to implement necessary actions required for requested changes.

In reviewing requests for service decreases that will amount to a funding reduction of ten (10) percent or more from the requesting agency's share, the Transit Agency shall require up to six (6) months to negotiate changes with the requesting Member Agency and to implement any reductions approved by the Board. The Transit Agency shall consider whether such changes are in substantial conformance with applicable plans, such as transit plans and the Regional Transportation Plan, and comply with required minimum levels of service.

Section 4: Sources of Funds

The Transit Agency shall have the authority to apply for any funds available for transit purposes from any regional, local, state, or federal sources. Claims for Local Transportation Funds must be unanimously approved by Directors present at a regular or special meeting of the Board and voting on the matter, which must be a quorum.

Each Member Agency shall make an annual contribution to the Transit Agency. The contribution shall be the member's pro rata share of the Transit Agency's annual budget, less any transit assistance funds that can only be used for transit. The pro rata share shall be based on one-half on the ratios of populations within a member's jurisdictional boundary (excluding the population of any non-member jurisdiction), and one-half on ratios of transit service hours available to each Member Agency. Notwithstanding the foregoing, while any debt incurred by the Transit Agency in accordance with this Agreement remains outstanding, (i) the annual budget of the Transit Agency shall include the aggregate amount of all principal and/or interest payments payable on such debt for each application fiscal year (which aggregate amount so budgeted shall be deemed approved by all Member Agencies, whether or not the annual budget, as a whole, has been approved in accordance with Article III, Section 1 of this Agreement), and (ii) each Member Agency which is a member on the date on which the Transit Agency incurs the applicable debt, shall be obligated to annually contribute its Local Transportation Funds (Government Code section 29530 et seq.), to the Transit Agency (whether the Member Agency remains a member or withdraws as a member of the Transit Agency).

Population figures shall be those published by the California Department of Finance. Transit service hour ratios shall be developed by TCAG or Transit Agency staff, as applicable, and shall be included as part of the Annual Budget.

Section 5: Transfer of Transit-Related Assets

Upon the effective date of this Agreement, each Member Agency shall consider the transfer to the Transit Agency, or retention, of the agency's existing transit-related assets. The terms and conditions for transfers and/or lease of assets shall be negotiated between the Transit Agency and applicable Member Agency. The Executive Director shall establish policies and procedures for maintaining assets and the use of assets necessary to provide public transportation services within its service area, including requirements for Transit Agency pre-approval of alterations and improvements.

Section 6: New Assets

Upon the effective date of this Agreement, the Transit Agency will become responsible for the purchase all new transit vehicles and related equipment, at a minimum, for the provision of services within its service area.

Section 7: Assignment of Federal Transit Administration (FTA) Contracts and Grant Application Authority

Subject to FTA and Transit Agency approval, Member Agencies may assign existing FTA contracts and policies, including contractual requirements, assurances, and responsibilities, over to the Transit Agency. The Executive Director shall be authorized to prepare, submit, and execute grant applications for the use of FTA operating, planning, and capital funds, as well as other state, federal, and local funds that may become available.

Section 8: Service Agreements

Upon the effective date of this Agreement, the Transit Agency shall work with Member Agencies to assume service agreements, if possible and feasible, for services necessary for the operation of the Transit Agency and for provision of service within its service area. Where service agreements cannot be assumed, the Transit Agency will work with contracting Member Agencies to utilize services until such time that the agreements are terminated, as necessary and appropriate. A Member Agency shall not enter into new transit service agreements as required for operation of the Transit Agency once its existing transit service agreements are terminated.

Section 9: Limitation of Financial Commitment

Except as provided in Article III, Section 4 of this Agreement, the Transit Agency shall not obligate Member Agencies to expenditure of general funds for transit purposes.

Section 10: Investment of Funds

Pursuant to California Government Code section 6509.5, the Transit Agency shall have the power to invest any money in the treasury pursuant to California Government Code section 6505.5 that is not required for the immediate necessities of the Transit Agency, as the Board determines is advisable, in the same manner and upon the same conditions as local agencies pursuant to California Government Code section 53601.

Article IV

Miscellaneous provisions

Section 1: Treasurer and Auditor

Pursuant to California Government Code Section 6505.5, the County Treasurer and County Auditor of the County of Tulare are hereby designated as Treasurer and Auditor of the Transit Agency. As such, they shall have the powers, duties, and responsibilities as set forth in said section of the Government Code. The County shall be compensated for the services rendered. The amount and method of compensation agreed upon between the County and Transit Agency shall be set forth in the Annual Budget of the Transit Agency.

Section 2: Annual Audit

The Board shall cause an annual audit to be prepared and filed pursuant to California Government Code Section 6505. The Transit Agency shall pay the cost of such audit whether conducted by the County Auditor or an independent auditor.

Section 3: Official Bonds

Pursuant to California Government Code Section 6505.1, the Board shall require the official bonds be filed by any officers, employees, or agents, which have access to the property of the Transit Agency. The cost of said bonds shall be borne by the Transit Agency.

Section 4: Purchasing Procedures

The Board may establish purchasing procedures and policies to ensure the Transit Agency receives competitive prices for the lease or purchase of goods and services. Formal bidding shall not be required unless specifically directed by the Board or required by applicable state or federal law.

Section 5: Indemnification

The Transit Agency shall indemnify, defend, and hold harmless the Member Agencies, their officers, agents, and employees, and members of the Board of Directors, their officers, agents, and employees, and committee members, their officers, agents, and employees, from and against any and all claims and losses whatsoever, occurring or resulting to persons, firms, or corporations furnishing or supplying work, services, materials or supplies to the Transit Agency in connection with the performance of this Agreement, and, except as expressly provided by law, from any and all claims and losses accruing or resulting to any persons, firm or corporation, for damage, injury, or death arising out of or connected with the Transit Agency's performance of its obligations under this Agreement. Nothing herein shall limit the right of the Transit Agency to purchase insurance or to create a self-insurance mechanism to provide coverage for the foregoing indemnity.

In this regard, the Member Agencies do not intend hereby to be obligated either jointly or severally for the debts, liabilities or obligations of the Transit Agency, except as may be specifically provided for in California Government Code Section 895.2 as amended or supplemented. Provided, however, if any Member Agency is, under such applicable law, held liable for the acts or omissions of the Transit Agency caused by negligent or wrongful act or omission occurring in the performance of this Agreement, then such parties shall be entitled to contribution from the other Member Agencies so that after said contributions each Member Agency shall bear a proportionate share of such liability, in ratios consistent with those provided for in Article III, section 4 above. This Section 5 of Article IV does not apply to acts or omissions of a Member Agency in implementing the public transit system approved by the Transit Agency within such Member Agency's boundaries and managed in whole or in part by such Member Agency.

Section 6: Privileges and Immunities

All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of officers, agents or employees of any Member Agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the auspices of the Transit Agency and the provisions of this Agreement.

Section 7: Finance or Refinance Acquisition of Transit Equipment

- a. Pursuant to California Government Code section 6518, the Transit Agency, without being subject to any limitations of any Party to the Agreement pursuant to California Government Code section 6509, may also finance or refinance the acquisition or transfer of transit equipment or transfer federal income tax benefits with respect to any transit equipment by executing agreements, leases, purchase agreements, and equipment trust certificates in the forms customarily used by a private corporation engaged in the transit business to effect purchases of transit equipment, and dispose of the equipment trust certificates by negotiation or public sale upon terms and conditions authorized by the parties to the agreement. Payment for transit equipment, or rentals therefor, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates payable from any source or sources of funds specified in the equipment trust certificates that are authorized by the parties to the agreement. Title to the transit equipment shall not vest in the Transit Agency until the equipment trust certificates are paid.
- b. If the Transit Agency finances or refinances transit equipment or transfers federal income tax benefits with respect to transit equipment under subdivision (a), it may provide in the agreement to purchase or lease transit equipment any of the following:
 - (1) A direction that the vendor or lessor shall sell and assign or lease the transit equipment to a bank or trust company, duly authorized to transact business in the state as trustee, for the benefit and security of the equipment trust certificates.
 - (2) A direction that the trustee shall deliver the transit equipment to one or more designated officers of the Transit Agency.
 - (3) An authorization for the Transit Agency to execute and deliver simultaneously therewith an installment purchase agreement or a lease of equipment to the Transit Agency.

- c. If the Transit Agency finances or refinances transit equipment or transfers federal income tax benefits with respect to transit equipment under subdivision (a), then it shall do all of the following:
 - (1) Have each agreement or lease duly acknowledged before a person authorized by law to take acknowledgments of deeds and be acknowledged in the form required for acknowledgment of deeds.
 - (2) Have each agreement, lease, or equipment trust certificate authorized by resolution of the Board.
 - (3) Include in each agreement, lease, or equipment trust certificate any covenants, conditions, or provisions that may be deemed necessary or appropriate to ensure the payment of the equipment trust certificate from legally available sources of funds, as specified in the equipment trust certificates.
 - (4) Provide that the covenants, conditions, and provisions of an agreement, lease, or equipment trust certificate do not conflict with any of the provisions of any trust agreement securing the payment of any bond, note, or certificate of the Transit Agency.
 - (5) File an executed copy of each agreement, lease, or equipment trust certificate in the office of the California Secretary of State, and pay the fee, as set forth in paragraph (3) of subdivision (a) of Section 12195 of the Government Code, for each copy filed
- d. The Transit Agency acknowledges that California Secretary of State may charge a fee for the filing of an agreement, lease, or equipment trust certificate under California Government Code section 6518. The agreement, lease, or equipment trust certificate shall be accepted for filing only if it expressly states thereon in an appropriate manner that it is filed under California Government Code section 6518. The filing constitutes notice of the agreement, lease, or equipment trust certificate to any subsequent judgment creditor or any subsequent purchaser.
- e. Each vehicle purchased or leased under California Government Code section 6518 shall have the name of the owner or lessor plainly marked on both sides thereof followed by the appropriate words "Owner and Lessor" or "Owner and Vendor," as the case may be.

Section 8: Issuance of Revenue Bonds or Other Debt

Pursuant to Article 2, commencing with section 6540, of Chapter 5 of Division 7 of Title 1 of the California Government Code and upon the affirmative authorization of each of the Member Agencies, the Transit Agency may issue revenue bonds or other forms of indebtedness, including refunding bonds, pursuant to that article to pay the cost and expenses of acquiring or constructing mass transit facilities or vehicles, including any or all expenses incidental thereto or connected therewith, and such expenses may include engineering, inspection, legal and fiscal agents' fees, costs of the issuance and sale of said bonds, working capital, reserve fund, and bond interest estimated to accrue during the construction period and for a period of not to exceed 12 months after completion of construction. The proceeds of the bonds shall be used only for the project provided for in the indenture pursuant to which such revenue bonds are issued. Pursuant to California Government Code section 6547.8, no Director shall be personally liable on the bonds or subject to any personal liability by reason of the issuance of bonds pursuant to this authority. Pursuant to California Government Code section 6551, said revenue bonds shall not constitute a debt,

liability, or obligation of any Member Agency unless that Member Agency has given its express written consent to such obligation.

Section 9: Insurance

The Transit Agency shall obtain insurance for all Directors and Member Agencies, including, but not limited to, directors and officers liability insurance, and general liability insurance, containing policy limits in such amounts as the Board shall determine will be necessary to adequately insure against the risks of liability that may be incurred by the Transit Agency.

Section 10: Dispute Resolution Procedures

This Section shall govern the resolution of all controversies or claims among or between the Parties, including those that may arise between the Transit Agency and a Member Agency, that arise from or are related to this Agreement and any modifications hereto (collectively, "Arbitrable Disputes"). Wherever this Agreement makes reference to any means of resolving Arbitrable Disputes among or between the Parties, and/or the Transit Agency and a Member Agency, the Parties agree to follow the meet and confer and mediation procedure described below prior to initiating any litigation to resolve the dispute. Pending the resolution of any dispute hereunder, the Transit Agency and each Party shall continue to perform or otherwise fulfill its obligations under the Agreement. For convenience, the parties to a particular dispute are referred to in this Article as the "Disputants" and may include one or more Member Agencies and /or the Transit Agency.

- a. **Opportunity to Cure.** Notwithstanding any other provision in this Agreement, no Disputant may terminate the Agreement or pursue any remedy for any breach of this Agreement without first giving the applicable Party written notice of such breach and a reasonable time, not less than thirty (30) days, within which to cure such breach.
- b. **Voluntary Resolution, Meet and Confer Obligation.** In recognition of the government-to-government relationships of the Parties, the Disputants will make their best efforts to resolve disputes that occur under this Agreement by good faith negotiations whenever possible. Therefore, without prejudice to the right of any Disputant to seek injunctive relief against the other(s) pursuant to this Section 10, subsection e., when circumstances are deemed to require injunctive relief, the Parties hereby establish a threshold requirement that disputes between or among the Disputants first be subject to a process of meeting and conferring in good faith in order to allow the opportunity to cure any breach of contract issue between or among the Disputants, and to foster a spirit of cooperation and efficiency in the administration and monitoring of performance and compliance by each other with the terms, provisions, and conditions of this Agreement, as follows:
 - (1) Any Disputant shall give the other applicable Disputant(s), as soon as possible after the event giving rise to the concern, written notice setting forth, with specificity, the issues to be resolved. Notice shall be provided consistent with Section 11 below. Said notice shall suggest a date, time and place for the meeting. The Disputants may jointly decide to meet at another time and place; provided, however, the Disputants agree that such meeting shall commence within fifteen (15) calendar days after the date that the original

notice was given to the applicable Party, unless the Disputants agree that there is good cause to extend this time limit.

- (2) The Disputants agree that the meet and confer, including proceedings or discussions concerning the proposed meet and confer, is to be considered a confidential settlement negotiation for the purpose of all state and federal rules protecting disclosures made during such conferences from later discovery or use in evidence. All conduct, statements, promises, offers, views and opinions, oral or written, made during a meet and confer by any Party or a Party's agent, employee, or attorney shall be deemed to be confidential and shall not be subject to discovery or be admissible for any purpose, including impeachment, in any litigation or other proceeding, including mediation, involving the Disputants; provided, however, that evidence otherwise subject to discovery or otherwise admissible is not excluded from discovery or admission into evidence simply as a result of it having been used in connection with the meet and confer.
 - (3) Absent mutual consent of the Disputants, if a noticed meeting fails to commence within the fifteen (15) calendar day period, or if a reasonable attempt to schedule or reschedule the meeting has not been made within those fifteen (15) calendar days, then the meet and confer obligation imposed under this Section shall be deemed to have been satisfied and the Disputants shall be free to pursue their rights and remedies under this Section 10, unless the reason for such failure to meet and confer is the refusal of the Party asserting a claim to participate in the meet and confer, in which event said claim will be deemed to have been waived.
 - (4) If the dispute is not resolved to the satisfaction of the Disputants within thirty (30) calendar days after the first meeting, then upon the written request of any Disputant, the dispute may be submitted to non-binding mediation in accordance with Subsection c of this section ("Mediation Request"). The disputes submitted to non-binding mediation shall be limited to claims that this Agreement has been breached by one or more Disputants or the Transit Agency.
- c. **Mediation.** In the event a dispute arising under this Agreement is not resolved through the above-described meet and confer process, then within thirty (30) days after notice is provided through a Mediation Request, the Disputants to the dispute agree to participate in non-binding mediation administered by a mediator, mutually agreed to by the Disputants, to help mediate and settle the dispute as soon as practicable. The mediation shall proceed as follows:
- (1) The mediation shall be held at a mutually agreeable location within Tulare County, California.
 - (2) The Disputants shall work together to select a single mediator, but if the Disputants cannot agree on a mediator within forty-five (45) calendar days of the Mediation Request, then each Disputant will provide the others with three (3) names of proposed mediators based on substantive and procedural knowledge, availability, and location. Each Disputant will have an opportunity to strike one (1) name from the list provided by the other Disputants and rank the remaining two (2) names 1-2, with one (1) being the most favorable. The Disputants shall then exchange lists of proposed mediators and the ranking numbers from each Disputant will be added together; the proposed mediator whose combined ranking number is the lowest, which is most favorable, will be deemed to have been chosen to serve as mediator for the particular dispute (the "Mediator"). If any Disputant

fails to act within the forty-five (45) calendar day period, then the mediator shall be appointed by Fresno, California office of the American Arbitration Association ("AAA") in accordance with applicable AAA Commercial Arbitration Rules for large, complex commercial disputes.

- (3) The Mediator shall meet with and hear presentations by the Disputants as soon as practicable after appointment.
 - (4) Mediation will be conducted consistent with California Evidence Code Sections 1115-1129, this Section 10, and, to the extent practicable, the Commercial Mediation Procedures of the American Arbitration Association ("AAA"). The Mediator shall owe a professional duty to all Disputants, and shall be barred from testifying in any litigation or arbitration concerning any information obtained or disclosed in the course of the mediation.
 - (5) Each Disputant shall bear its own costs and attorneys' fees, and an equal proportionate share of all fees and expenses of the Mediator.
 - (6) Unless otherwise agreed upon by the Disputants in writing, the mediation shall be completed within ninety (90) days of the selection of the Mediator.
 - (7) The Mediator's recommendations shall not be binding on or admissible against any Disputant. The Arbitrable Dispute shall be resolved in accordance with the litigation provisions set forth in Subsection d. below if: (1) a Disputant elects to reject the Mediator's recommendations; or (2) the Mediator does not meet with the Disputants.
 - (8) The Disputants agree that the mediation, including proceedings or discussions concerning the mediation, is to be considered a confidential settlement negotiation for the purpose of all state and federal rules protecting disclosures made during such conferences from later discovery or use in evidence. All conduct, statements, promises, offers, views and opinions, oral or written, made during the mediation by any Disputant or a Disputant's agent, employee, or attorney shall be deemed to be confidential and shall not be subject to discovery or admissible for any purpose, including impeachment, in any litigation or other proceeding involving the Disputants; provided, however, that evidence otherwise subject to discovery or admissible is not excluded from discovery or admission into evidence simply as a result of it having been used in connection with the mediation.
- d. **Litigation.** Following the satisfaction of the meet and confer and mediation requirements, any controversy(ies) or claim(s) arising out of or relating to this Agreement that was not resolved during the meet and confer or mediation process (as applicable) may be resolved through litigation by or among the Disputants.
- e. **Expedited Procedure for Threats to Public Safety**
- (1) **Judicial Litigation.** If any Disputant reasonably believes that another Disputant's violation of this Agreement has caused or will cause an imminent and significant threat to public health or safety, resolution of which cannot be delayed for time periods otherwise specified in this Section 10, then the complaining Disputant may proceed with judicial litigation consistent with the provisions of this Section 10.
 - (2) The Parties consent to the jurisdiction of the Tulare County Superior Court for purposes of obtaining declaratory relief and specific performance under this Subsection.

Section 11: Notice

All notices required by this Agreement will be deemed to have been given when made in writing and personally delivered or mailed to the respective representatives of Parties at their respective addresses on file with the Transit Agency. Any Party may change the address to which such communications are to be given by providing the other Parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change. All notices will be effective upon receipt and will be deemed received through delivery if personally served, or on the fifth (5th) day following deposit in the mail.

Section 12: No Third Party Beneficiaries and No Assignment

This Agreement is not intended to, and will not be construed to, confer a benefit or create any right for any person or entity that is not a Party. The Parties agree that this Agreement and any of the obligations of the Parties under this Agreement may not be assigned to any third party and that no third party possesses the right or power to bring an action to enforce any of the terms of this Agreement.

Section 13: Waiver

The waiver by any Party or any of its officers, agents or employees or the failure of any other Party or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement, shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement.

Section 14: Authorized Representatives

The persons executing this Agreement on behalf of the Parties hereto affirmatively represent that each has the requisite legal authority to enter into this Agreement on behalf of their respective Parties and to bind their respective Parties to the terms and conditions of this Agreement. The persons executing this Agreement on behalf of their respective Parties understand that all Parties are relying on these representations in entering into this Agreement.

Section 15: Successors in Interest

The terms of this Agreement will be binding on all successors in interest of each Party.

Section 16: Severability

If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. The Parties shall endeavor in good faith negotiations to replace the prohibited or unenforceable provision with a valid provision, with the economic effect of which comes as close as possible to that of the prohibited or unenforceable provision in accordance with Article IV, section 10 of this Agreement.

Section 17: Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter, and supersedes all prior negotiations, representations, or other agreements, whether written or oral. In the event of a dispute among the Parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement will be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any Party to this Agreement. Headings contained in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 18: Governing Law

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

Section 19: Counterparts

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

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

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

COUNTY OF TULARE

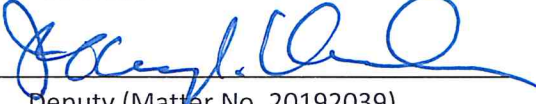
By 
Chair, Board of Supervisors

Attest: Jason T Britt, County Administrative Officer/Clerk of the Board of Supervisors

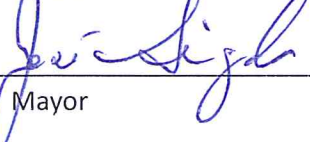
By 

Approved as to Form:

COUNTY COUNSEL

By 
Deputy (Matter No. 20192039)

CITY OF TULARE

By 
Mayor

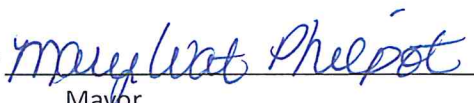
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By 
Tulare City Clerk

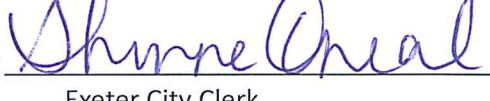
Approved as to Form:

By 
Tulare City Attorney

CITY OF EXETER

By 
Mayor

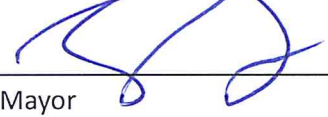
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By 
Exeter City Clerk

Approved as to Form:

By 
Exeter City Attorney

CITY OF FARMERSVILLE

By 
Mayor

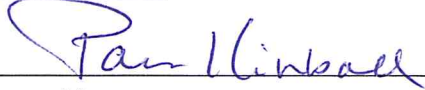
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By 
Farmersville City Clerk

Approved as to Form:

By 
Farmersville City Attorney

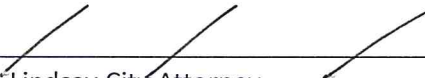
CITY OF LINDSAY

By 
Mayor

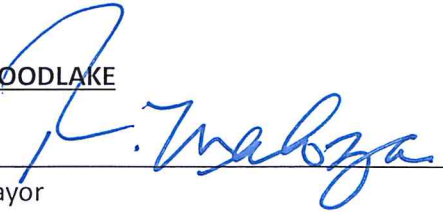
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By 
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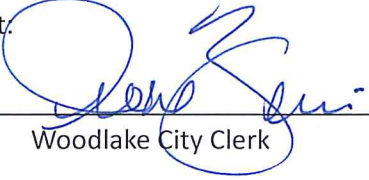
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Lindsay City Attorney

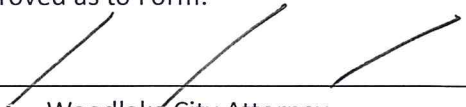
CITY OF WOODLAKE

By 
Mayor

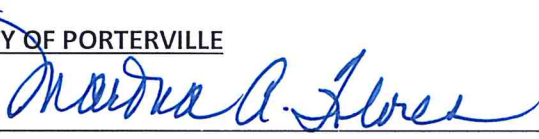
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By 
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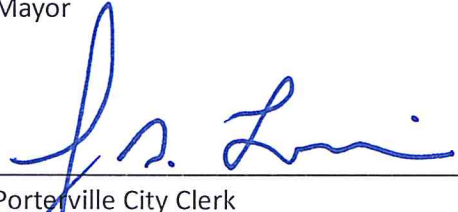
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Woodlake City Attorney

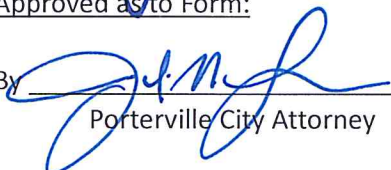
CITY OF PORTERVILLE

By 
Mayor

Attest:

By 
Porterville City Clerk

Approved as to Form:

By 
Porterville City Attorney

CITY OF LINDSAY

By _____
Mayor

Attest:

By _____
Lindsay City Clerk

Approved as to Form:

By _____
Lindsay City Attorney

CITY OF PORTERVILLE

By _____
Mayor

Attest:

By _____
Porterville City Clerk

Approved as to Form:

By _____
Porterville City Attorney

CITY OF WOODLAKE

By _____
Mayor

Attest:

By _____
Woodlake City Clerk

Approved as to Form:

By _____
Woodlake City Attorney

CITY OF DINUBA

By _____
Mayor

Date 10/01/2020

Attest:

By Linda Burkley
Dinuba City Clerk

Approved as to Form:

By _____
Dinuba City Attorney