

1 **MEASURE C EXTENSION LITTER ABATEMENT PROGRAM**
2 **CITY OF FRESNO**

3 This Agreement is made and entered into, effective as of the 12th day of June, 2019
4 ("Effective Date"), by and between the City of Fresno (hereinafter "GRANTEE") and the Fresno
5 County Transportation Authority (hereinafter "AUTHORITY"), a body politic duly organized and
6 existing under the Constitution and the laws of the State of California.
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8 **RECITALS**
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10 WHEREAS, revenues from the 1987 Original Measure C and the 2007 Measure C
11 Extension one-half cent sales and use tax (collectively referred to hereinafter as "MEASURE C")
12 included funding for projects of Regional significance on and off the State Highway System; and
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14 WHEREAS, these Regional projects have significantly improved transportation and
15 mobility within the Urban and Rural areas of Fresno County; and

16 WHEREAS, the State of California, through its Department of Transportation
17 (CALTRANS) is the owner and operator of the State Highway System (SHS), including those
18 portions partially or fully funded by MEASURE C; and

19 WHEREAS, State funding for Operations and Maintenance of the SHS within Fresno
20 County has not kept pace with the growth of the SHS within the County; and

21 WHEREAS, lack of adequate resources for Operations and Maintenance of the SHS has
22 resulted in Caltrans being unable to maintain the appearance and condition of the SHS roadsides in
23 regards to litter and weed control; and
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25 WHEREAS, the AUTHORITY, CALTRANS, and the GRANTEE desire to dedicate
26 additional resources to improve the appearance of the SHS roadsides within GRANTEE's
27 jurisdiction; and
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1 WHEREAS, The AUTHORITY adopted Expenditure Plan Amendment No. 5 in order to
2 implement a pilot program to determine the feasibility and effectiveness of partnering with
3 CALTRANS on enhanced roadside maintenance activities, specifically litter removal and control
4 (hereinafter referred to as the Litter Abatement Program or LAP); and,

5 WHEREAS, Amendment No. 5 provided up to \$125,000 in Regional Measure C funding
6 per year for two years to provide matching funds to enhance litter abatement activities; and,

7 WHEREAS, Amendment No. 5 required participating agencies to match MEASURE C
8 funding for LAP activities within their jurisdiction on a dollar-for-dollar basis; and
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10 WHEREAS, CALTRANS has agreed to match the Measure C and Local Agency funding
11 for LAP on a dollar-for-dollar basis (up to a maximum of \$250,000 per year) resulting in an overall
12 total of \$500,000 available to eligible local agencies for eligible LAP activities; and

13 WHEREAS, in February 2019, AUTHORITY issued a request for Applications from
14 interested Measure C eligible agencies for LAP funding; and,

15 WHEREAS, the AUTHORITY received an application from the GRANTEE requesting
16 \$100,000 in MEASURE C LAP funding to be matched by \$100,000 in Local Agency funding and
17 in-lieu services, and \$200,000 in CALTRANS funding.
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19 NOW, THEREFORE, the AUTHORITY and GRANTEE agree as follows:

20 1. PROGRAM

21 A. The purpose of this Agreement is to provide GRANTEE, pursuant to the Authority's
22 Expenditure Plan Amendment No. 5, up to \$100,000 in Measure C LAP funding.
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24 B. GRANTEE will be responsible for entering into a separate agreement with
25 CALTRANS that will allow the GRANTEE to perform LAP activities within the SHS, and will
26 provide for direct reimbursement from CALTRANS to the GRANTEE for actual LAP activities
27 performed. GRANTEE cannot receive MEASURE C LAP funds through this Agreement until said
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1 separate agreement between GRANTEE and CALTRANS has been approved and fully executed by
2 both parties.

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4 2. DESCRIPTION OF WORK

5 A. Funding under this Agreement shall be utilized by GRANTEE for LAP activities as
6 described in GRANTEE's Application, appended hereto as Attachment 1 and incorporated into this
7 Agreement as though fully set forth herein.

8 B. GRANTEE shall implement the performance measures identified in Attachment 1.

9 C. GRANTEE shall abide by all terms and conditions contained in its separate
10 agreement with CALTRANS for LAP activities, as described in Section 1-B of this Agreement; and
11 GRANTEE shall seek full reimbursement for eligible LAP activities from CALTRANS under that
12 separate agreement.
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15 3. OBLIGATIONS OF AUTHORITY

16 A. AUTHORITY shall reimburse GRANTEE for up to 25% of the direct costs of
17 completed LAP activities.
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19 B. AUTHORITY shall issue payment to GRANTEE within thirty (30) working days of
20 receipt by AUTHORITY of a properly documented and verified invoice for payment for eligible
21 LAP activities.

22 C. AUTHORITY'S maximum financial obligation pursuant to this Agreement shall not
23 exceed \$100,000 (One Hundred Thousand dollars and no cents).
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1 4. AGREEMENT TERM

2 A. Unless earlier terminated as provided in Section 8 hereof, or extended by
3 mutual agreement of both parties, this Agreement shall expire twelve (12) months from its
4 execution date.

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6 5. REPORTING

7 A. GRANTEE shall furnish to AUTHORITY the results of the performance measures
8 identified in Attachment 1 during the term of this agreement in order to help evaluate the
9 effectiveness of the LAP Pilot.

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11 B. Grantee shall submit to AUTHORITY a monthly status of reimbursements received
12 from CALTRANS for LAP activities performed under the separate agreement as referenced in
13 Section 1-B of this Agreement.

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15 6. AVAILABILITY OF FUNDING

16 The terms of this Agreement and the services to be provided hereunder are
17 contingent on the availability of funds. In the event sufficient funds are not available, the services
18 provided hereunder may be modified or this Agreement terminated at any time by giving
19 GRANTEE thirty (30) days' prior written notice.
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22 7. NONASSIGNMENT

23 Neither party shall assign, transfer, or subcontract this Agreement, nor any of its
24 respective rights or duties under this Agreement, without the prior express, written consent of the
25 other party.
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1 8. TERMINATION

2 AUTHORITY may immediately suspend or terminate this Agreement, in whole or in
3 part, or withhold payment where in the determination of AUTHORITY there is:

- 4 a. An illegal or improper use of funds;
5 b. A failure to comply with any term of this Agreement; or
6 c. A substantially incorrect or incomplete report submitted to AUTHORITY.

7 In no event shall any payment by AUTHORITY constitute a waiver by AUTHORITY of any breach
8 of this Agreement or any default that may then exist on the part of GRANTEE, nor shall such
9 payment impair or prejudice any remedy available to AUTHORITY with respect to the breach or
10 default. AUTHORITY shall have the right to demand of GRANTEE the repayment to
11 AUTHORITY of any funds disbursed to GRANTEE under this Agreement that, in the judgment of
12 AUTHORITY, were not expended in accordance with the terms of this Agreement. GRANTEE
13 shall promptly refund any such funds upon demand. In addition to immediate suspension or
14 termination, AUTHORITY may impose any other remedies available at law, in equity, or otherwise
15 specified in this Agreement.
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19 9. INDEMNIFICATION

20 GRANTEE agrees to indemnify, save, hold harmless, and at AUTHORITY'S request,
21 defend AUTHORITY, its boards, committees, representatives, officers, agents, and employees from
22 and against any and all costs and expenses (including reasonable attorneys' fees and litigation
23 costs), damages, liabilities, claims, and losses (whether in contract, tort, or strict liability, including,
24 but not limited to, personal injury, death, and property damage) occurring or resulting to
25 AUTHORITY which arises from or is in any way related to the performance of GRANTEE, its
26 officers, agents, subcontractors, suppliers, or employees in their performance of this Agreement.
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10. NOTICES

The persons and their addresses having authority to give and receive notices under this Agreement are as follows:

GRANTEE

AUTHORITY

Scott Mozier
City of Fresno
Public Works Director
2600 Fresno Street
Fresno, California 93721
(559) 621-8811
Scott.Mozier@Fresno.gov

Mike Leonardo, Executive Director
Fresno County Transportation
Authority
2220 Tulare Street, Suite 2101
Fresno, California 93721
(559) 600-3282
mike@thefcta.com

Any and all notices between AUTHORITY and GRANTEE provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the parties, or in lieu of such personal service, when deposited in the United States mail, postage prepaid, addressed to such party.

11. GOVERNING LAW

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

12. TIME IS OF THE ESSENCE

It is understood that GRANTEE's time of performance under this Agreement is of the essence. The parties reasonably anticipate that GRANTEE will, to the reasonable satisfaction of AUTHORITY, complete all activities provided herein within the time schedule outlined in this Agreement; provided, however, that GRANTEE may be excused from timely performance in the

1 event of a reasonable delay in such performance that is acknowledged by AUTHORITY as having
2 been caused by circumstances entirely outside GRANTEE's control or otherwise not attributable to
3 any fault of GRANTEE.

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5 13. ENTIRE AGREEMENT

6 This Agreement constitutes the entire Agreement between GRANTEE and
7 AUTHORITY with respect to the subject matter hereof and supersedes all previous negotiations,
8 proposals, commitments, writings, advertisements, publications, and understandings of any nature
9 whatsoever unless expressly included in this Agreement.
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12 14. MODIFICATION

13 Any matters of this Agreement may be modified from time to time by the written
14 consent of all the parties without in any way affecting the remainder.
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17 15. NO FINANCIAL THIRD-PARTY BENEFICIARIES

18 Notwithstanding anything else stated to the contrary herein, it is understood that
19 GRANTEE services and activities under this Agreement are being rendered only for the benefit of
20 AUTHORITY, and no other person, firm, corporation, or entity shall be deemed an intended
21 financial third-party beneficiary of this Agreement.
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24 16. AUDIT

25 At any time during normal business hours and as often as AUTHORITY deems necessary
26 GRANTEE shall make available to AUTHORITY or its agents for examination at GRANTEE
27 business office all of GRANTEE data and records with respect to all matters pertaining to the
28 functions performed under the terms of this Agreement and GRANTEE will permit AUTHORITY

1 or its agents to audit, examine and make excerpts or transcripts from such data and records.
2 GRANTEE shall maintain such data and records in an accessible location and condition for a period
3 of not less than five years following receipt of final payment under this Agreement unless
4 AUTHORITY agrees in writing to an earlier disposition.
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6 17. TERMINATION
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8 Either party may terminate this Agreement at any time by giving at least thirty (30) days
9 written notice to the other of such termination. In that event, GRANTEE shall be paid the amount
10 of money payable to GRANTEE as of the date of such termination, in accordance with the terms
11 and conditions set forth in this Agreement.

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

**FRESNO COUNTY
TRANSPORTATION AUTHORITY**

BY: _____

ERNEST "BUDDY" MENDES

TITLE: CHAIRMAN

FEDERAL I.D. NO. 77-0159920

REVIEWED AND RECOMMENDED
FOR APPROVAL

BY _____

MIKE LEONARDO

EXECUTIVE DIRECTOR

FRESNO COUNTY TRANSPORTATION
AUTHORITY

APPROVED AS TO LEGAL FORM
DANIEL C. CEDERBORG
COUNTY COUNSEL

BY: _____

Michael E. Rowe, Principal Deputy County
Counsel

APPROVED AS TO ACCOUNTING FORM
OSCAR J. GARCIA, C.P.A.
AUDITOR-CONTROLLER/
TREASURER-TAX COLLECTOR

BY: _____

**GRANTEE,
CITY OF FRESNO**

BY: _____

Scott Mozier

TITLE: Director Public Works

TAX ID NO. 94-6000338

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

BY: _____

Brandon M. Collet
Senior Deputy City Attorney

ATTEST:
YVONNE SPENCE, MMC CRM
City Clerk

BY: _____

Deputy Date