

RECEIVED
2024 JUN 18 P 2:37
CITY OF FRESNO
CITY CLERK'S OFFICE

Regular Council Meeting

June 20, 2024

FRESNO CITY COUNCIL



Supplement Packet

ITEM(S)

2-DD (ID 24-734)

Approve the reciprocal agreement for mutual assistance for public transportation services known as the California Transit Mutual Assistance Compact at no present monetary consideration.

Contents of Supplement: Updated Transit Mutual Assistance Compact Agreement

Item(s)

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

CALIFORNIA STATEWIDE
TRANSIT MUTUAL
ASSISTANCE COMPACT
(TransMAC)

MAY 2013

TABLE OF CONTENTS

PREAMBLE..... 1

ARTICLE I: PREAMBLE..... 1

ARTICLE II: DEFINITIONS..... 2

ARTICLE III: ADMINISTRATION 3

ARTICLE IV: PROCEDURES..... 4

ARTICLE V: MEMBER RESPONSIBILITIES..... 4

ARTICLE VI: REQUESTS FOR ASSISTANCE..... 5

ARTICLE VII: COST REIMBURSEMENT 6

ARTICLE VIII: RESPONSE COORDINATION..... 8

ARTICLE IX: ARBITRATION..... 10

ARTICLE X: REQUESTING MEMBER'S DUTY TO INDEMNIFY..... 10

ARTICLE XI: SIGNATORY INDEMNIFICATION..... 10

ARTICLE XII: WORKERS' COMPENSATION CLAIMS..... 11

ARTICLE XIII: NOTICE..... 11

ARTICLE XIV: INSURANCE..... 11

ARTICLE XV: SENSITIVE SECURITY INFORMATION..... 11

ARTICLE XVI: EFFECTIVE DATE..... 11

ARTICLE XVII: WITHDRAWAL..... 11

ARTICLE XVIII: MODIFICATION..... 12

ARTICLE XIX: SEVERABILITY..... 12

ARTICLE XX: PRIOR AGREEMENTS..... 12

ARTICLE XXI: PROHIBITION ON THIRD PARTIES..... 12

ARTICLE XXII: TORT CLAIMS..... 12

ARTICLE XXIII: INTRASTATE AND INTERSTATE MUTUAL ASSISTANCE PROGRAMS... 12

EXECUTION OF THE AGREEMENT..... 13

**CALIFORNIA STATEWIDE
TRANSIT MUTUAL ASSISTANCE COMPACT (TransMAC)**

PREAMBLE

This Transit Mutual Assistance Compact (TransMAC) and its Members have established a formal process whereby they may receive and provide Mutual Assistance to each other in the form of personnel, services, and equipment as deemed to be necessary or advisable in an emergency. The Mutual Assistance Agreement contained herein, sets forth the terms and conditions under which the undersigned Members agree to provide or receive Mutual Assistance. However, if a Requesting Member and one or more Providing Members are parties to another mutual assistance agreement at the time the Mutual Assistance is requested, such other mutual agreement shall govern the Mutual Assistance among those Members insofar as the previous agreements are not inconsistent with this Agreement.

In consideration of the foregoing, the TransMAC Member hereby agrees as follows:

- A. When providing Mutual Assistance to, or receiving Mutual Assistance from, another Member, the Member will adhere to these written principles to govern Mutual Assistance arrangements that are in effect as of the date of a specific request for Mutual Assistance, unless otherwise agreed to in writing by each Member.
- B. With respect to each Period of Assistance, Requesting Members agree that they will provide appropriate reimbursement to the Providing Member regarding all costs and expenses incurred by the Providing Member in furnishing Mutual Assistance as identified under the articles of this Agreement, unless otherwise agreed to in writing by each Member. Entities must maintain auditable records in a manner consistent with generally accepted practices and in a manner consistent with the Member's adopted practices and methods of record keeping and retention.
- C. During each Period of Assistance, the conduct of the Requesting Member and the Providing Member shall be subject to the liability and indemnification provisions set forth herein.
- D. A Member may withdraw from this Agreement at any time. In such an event, the Member should provide written notice to the Chairperson of the TransMAC Steering Committee.
- E. The TransMAC Steering Committee Chairperson shall maintain a current list of Members, which shall be distributed to all Members no less than twice annually; however, a Member may at any time request a copy of the signed Agreement of another Member prior to providing or receiving Mutual Assistance.

**ARTICLE I.
PURPOSE**

Recognizing that emergencies and other events may overwhelm the resources and capabilities of transit agencies, and that transit agencies may require assistance in the form of personnel, services, and equipment to continue to deliver critical services, the TransMAC Members hereby establish an intrastate program for Mutual Assistance. Through the TransMAC, Members

coordinate response activities and share resources when deemed to be necessary or advisable in an emergency. This Agreement sets forth the policies and standards for the administration of the TransMAC.

This Agreement shall be in accordance with the California Emergency Services Act, the California Disaster and Civil Defense Master Mutual Aid Agreement, the State Emergency Plan, and other existing state and local emergency operations plans, and shall be by and among Member transportation providers in the State of California.

ARTICLE II. **DEFINITIONS**

- A. **Associate Member** – Any non-transit providers, approved by the TransMAC Steering Committee, which play a supporting role for the TransMAC program. For example, the U.S. Department of Transportation (U.S. DOT), Federal Transit Administration (FTA), California Department of Transportation (CalTrans), California Emergency Management Agency (CalEMA), local emergency management organizations, and/or others who are not signatories to the TransMAC, but manifest the intent to offer support or coordination.
- B. **Authorized Official** – An employee or officer of a Member who is empowered and legally authorized to: (1) request assistance; (2) offer assistance; (3) refuse to offer assistance; (4) cancel a request or release assistance; or (5) withdraw assistance under this Agreement.
- C. **Emergency** – A natural or human caused event or circumstance causing, or imminently threatening to cause, impact to the operations of a Member, loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, flood, severe weather, earthquake, civil disturbance, riot, explosion, drought, volcanic activity, spills or releases of oil or hazardous material, utility interruption, transportation emergencies, disease, blight, infestation, intentional acts, sabotage, declaration of war, or other conditions which are, or are likely to exceed, the resources of a Member and requires Mutual Assistance.
- D. **Founding Members** – The original agencies that coordinated and drafted this Agreement, which include: Los Angeles County Metropolitan Transportation Authority, Orange County Transportation Authority, Foothill Transit, SunLine Transit, Omnitrans, Long Beach Transit, California Emergency Management Agency, and the Orange County Sheriff-Coroner Department - Emergency Management Division.
- E. **Incident Command System (ICS)** – A management system designed to enable effective and efficient domestic incident management by integrating a combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure.
- F. **Independent Contractor** – Independent entity that agrees to furnish certain number or quantity of goods, materials, equipment, personnel, and/or services, at a mutually agreed upon price and within a specified timeframe to Members.
- G. **Member** – Any public or private transit provider who participates in the transit mutual assistance program by executing the TransMAC Agreement.

- H. **Mutual Assistance** – Any assistance provided under this Agreement. Mutual assistance is to be provided to a Requesting Member with the expectation of cost reimbursement as negotiated with the Providing Member.
- I. **Mutual Assistance Agreement** – A written agreement between and among Members that provides a mechanism to quickly obtain Mutual Assistance in the form of personnel, services, and equipment. The primary objective is to facilitate rapid, short-term deployment of emergency support prior to, during, and/or after an emergency.
- J. **National Incident Management System (NIMS)** – A national, standardized approach to incident management and response that sets uniform processes and procedures for emergency response operations.
- K. **Period of Assistance** – A specified period of time when a Providing Member assists a Requesting Member. The period shall commence when personnel and/or equipment expenses are initially incurred by the Providing Member in response to the official request of the Requesting Member and shall end upon agreement of the parties.
- L. **Providing Member** – A Member that responds to a Requesting Member by agreeing to provide personnel, services, equipment, etc. under the terms and conditions of this Agreement.
- M. **Requesting Member** – A Member who requests Mutual Assistance under this Agreement.
- N. **Sensitive Security Information** – Any document marked Sensitive Security Information (SSI), including but not limited to any map, report, notes, papers, plans, opinion, or e-mail, which relates to the system vulnerabilities of a Member or Associate Member, shall be handled consistent with proper protocols for Sensitive Security Information under 49 CFR Parts 15 and 1520.
- O. **Standardized Emergency Management System (SEMS)** – A standardized approach to command and jurisdictional management and response set forth by State of California Code of Regulations for multi-agency or multi-jurisdictional response to an emergency.

ARTICLE III. ADMINISTRATION

The administration of the TransMAC will be through the TransMAC Steering Committee and ad hoc project committees as designated by the Steering Committee.

The Steering Committee will be established by representatives from the Members to the TransMAC Agreement and will be originally comprised of the Founding Members that established this Agreement. Membership in the Steering Committee will be by nomination of the current Steering Committee membership from among the Members and Associate Members to this Agreement. The Steering Committee shall be comprised of no more than sixteen (16) Members and no more than eight (8) Associate Members. Steering Committee Members will have full voting rights. Associate Members will serve as advisors and will not have voting rights. A Chair and Vice-Chair will be elected by majority vote for a period of two (2) years and will act as administrators for the TransMAC during that time.

At a minimum, the Steering Committee will meet twice each year and issue a list of current Members and Associate Members. The Steering Committee will also address administrative issues such as database and document management, communications, funding, organization, and annual membership events.

In the event membership to this Agreement grows beyond the original region, comprised of the Counties of Los Angeles, Orange, San Bernardino, and Riverside, to include Members throughout the State of California, then the Steering Committee will explore options for establishing Regional Steering Committees and a State Steering Committee.

ARTICLE IV. PROCEDURES

An Operational Guide, detailing the processes for implementing this Agreement will be developed and adopted by majority vote of the Steering Committee. The Operational Guide will be reviewed and updated at least annually to reflect new material, processes, and to remove obsolete materials and processes. The document and revisions and updates will be reviewed and approved by the Steering Committee prior to publication and dissemination to the Members.

- A. In coordination with local and state emergency management organizations, the TransMAC Steering Committee shall develop operational and planning processes for the implementation of the TransMAC that shall be consistent with the California Emergency Services Act, SEMS, the State Emergency Plan, and the NIMS, reviewed annually and updated as needed by the Steering Committee.
- B. Requests for Mutual Assistance under this Agreement shall be directed to appropriate Authorized Official(s) from the list of Members.
- C. Any private sector Member to this Agreement shall be requested and tasked by a public sector Member before furnishing Mutual Assistance. Private sector Members may not be eligible to receive Mutual Assistance from public sector Members.
- D. Consistent with SEMS, when more than one County is impacted by a disaster, requests for mutual assistance under this Agreement may be channeled through the Regional Emergency Operations Centers and/or the State Operations Center to ensure maximum effectiveness in allocating resources to the highest priority needs.

ARTICLE V. MEMBER RESPONSIBILITIES

- A. Consistent with the NIMS, SEMS, and this Agreement, each Member shall develop a plan providing for the effective mobilization of its resources and personnel, both public and private, to cope with emergencies.
- B. Each Member agrees to furnish personnel, services, and/or equipment to each and every other Member to this Agreement to prevent and/or respond to any type of emergency in accordance with duly adopted plans, whether heretofore or hereafter adopted, detailing the method and manner by which such personnel, services, and equipment are to be made available and furnished; provided, however, that no Member shall be required to unreasonably deplete its own personnel, services, and/or equipment in furnishing such Mutual Assistance.

- C. It is expressly understood that any Mutual Assistance extended under this Agreement and the operational plans adopted pursuant thereto, is furnished in accordance with the California Emergency Services Act and other applicable provisions of law.
- D. Members shall identify an Authorized Official and alternates; provide contact information including 24-hour access; and maintain resource information made available by the Member for Mutual Assistance purposes, as allowed by the Member's policies. Such information shall be updated annually or as changes occur (whichever is sooner) and shall be provided to the TransMAC Steering Committee.
- E. Personnel of the Providing Member shall at all times during the Period of Assistance continue to be personnel of the Providing Member and shall not be deemed personnel of the Requesting Member for any purpose. Wages, hours, and other terms and conditions of employment of the Providing Member shall remain applicable to its personnel during the Period of Assistance.
- F. The Providing Member shall make available a sufficient number of Supervisors during its provision of Mutual Assistance consistent with the Providing Member's policies for personnel. All instructions for work to be done by Providing Member's personnel shall be given by Requesting Member to Providing Member supervisor(s); or when Providing Member personnel are to work in separate areas, to such of Providing Member's supervisors as may be designated for the purpose by Providing Member's policies/management.
- G. Unless otherwise agreed, the Requesting Member shall be responsible for supplying and/or coordinating support functions such as travel, lodging, meals, materials, etc. from the time Mutual Assistance arrives to the time of release when it is reasonably able to do so. The Providing Member shall normally be responsible for arranging travel, lodging and meals en route to the Requesting Member and for the return trip home.
- H. The Providing Member's safety and security rules, procedures, policies, guidelines, regulations, and laws shall apply to all work done by its personnel unless as mutually agreed otherwise. Any conflict, disagreement, questions and/or concerns arising about any safety and security rules and/or procedures should be brought to the Authorized Officials for prompt resolution between the Requesting Member and Providing Member.
- I. All time sheets and work records pertaining to the Providing Member's personnel furnishing Mutual Assistance shall be kept by the Providing Member.

ARTICLE VI.
REQUESTS FOR ASSISTANCE

In general, Mutual Assistance will be in the form of resources, such as personnel, services equipment, and/or supplies. Mutual Assistance shall be given only when Providing Member, in its sole and absolute discretion, determines that its own needs can be met while rendering Mutual Assistance. The execution of this Agreement shall not create any duty to furnish Mutual Assistance on the part of any Member hereto.

- A. **Member Request** – In the event of an emergency, a Member's Authorized Official may request Mutual Assistance from another Member. Requests for Mutual Assistance may be made orally or in writing. When made orally, the request for Mutual Assistance shall

also be prepared in writing and submitted to the Member as soon as possible, but in no event longer than forty-eight (48) hours after the oral request was made. Requests for Mutual Assistance shall be directed to the Authorized Official of the other Member.

- B. **Response to a Request for Assistance** – After a Member receives a request for Mutual Assistance, the Authorized Official evaluates whether or not to respond, whether resources are available to respond, and/or if other circumstances will hinder response. Following the evaluation, the Authorized Official shall inform, as soon as possible, the Requesting Member of its decision.
- C. **Discretion of Providing Member's Authorized Official** – Execution of this Agreement does not create any duty to furnish Mutual Assistance. When a Member receives a request for Mutual Assistance, the Authorized Official shall have sole and absolute discretion as to whether or not to furnish Mutual Assistance, or the availability of resources to be furnished in such response. A potential Providing Member shall not be held liable for refusing to provide Mutual Assistance. An Authorized Official's decisions on the availability of resources and the furnishing of Mutual Assistance shall be final.
- D. **Specifying Type and Quantity of Mutual Assistance Resources** – The Requesting Member shall indicate to the Providing Member the number and specific types of resources desired, but the extent to which the Providing Member makes available such resources shall be at the Providing Member's sole discretion. Every effort will be made, to the extent reasonably possible, to accommodate the Providing Member's personnel with assigned work in their job classification.
- E. **Period of Assistance** – The Period of Assistance shall commence when personnel, services and/or equipment expenses are initially incurred by the Providing Member in response to the official request of the Requesting Member. This may include any request for the Providing Member to prepare its personnel, services, and/or equipment for transport and/or to prepare them for the Mutual Assistance assignment, and/or while awaiting further instructions before departing. The Period of Assistance shall terminate when such personnel and/or equipment have returned to the Providing Member, and may include any mandated U.S. Department of Transportation rest time resulting from the Mutual Assistance provided and reasonable time required to prepare the equipment for return to normal activities (e.g., cleaning, repair of vehicles, restocking parts).

The Requesting Member and Providing Member should reach a mutual understanding and agreement in advance as to the anticipated length, in general, of the Period of Assistance. For extended Periods of Assistance, there should be agreement on the process for replacing or providing extra rest for the Providing Member's personnel. It is understood and agreed that if, in the Providing Member's judgment, such action becomes necessary; the decision to terminate the assistance and recall personnel and equipment lies solely with the Providing Member. The Requesting Member will take the necessary action to return such personnel and equipment promptly (See Right to Withdraw Resources).

ARTICLE VII.

COST REIMBURSEMENT

Except as herein otherwise provided, the Requesting Member shall reimburse the Providing Member for each of the following categories of costs and expenses incurred by the Providing

Member as a result of furnishing Mutual Assistance during the specified Period of Assistance, as set forth below, or by written mutual agreement reached at the time the request for assistance is agreed to by the Providing Member. Members will use their respective documented financial, accounting, and procurement policies in managing costs and coordinating reimbursement and payment.

- A. **Personnel** – Providing Member's fully burdened personnel costs (i.e., equal to the personnel's applicable salary or hourly wage plus fringe benefits and overhead, and consistent with Providing Member's collective bargaining agreements or other prescribed conditions). All personnel costs incurred for work performed during the specified Period of Assistance will be included. The Requesting Member shall be responsible for all direct and indirect labor costs.
- B. **Equipment** – Use of equipment, including construction equipment, revenue and/or non-revenue vehicles, or any other equipment, shall be at Providing Member's current equipment rates and subject to the following conditions:
1. The Requesting Member shall reimburse the Providing Member for the use of equipment during the specified Period of Assistance, including, but not limited to, any rental rates, fuel, lubrication, maintenance, transportation, and loading/unloading of equipment furnished for Mutual Assistance. Alternatively, Requesting Member may, at its own expense, provide fuel, lubrication and maintenance for furnished equipment until such time as the equipment is returned to the Providing Member.
 2. Providing Member's costs related to the transportation, handling and loading/unloading of equipment shall be chargeable to the Requesting Member.
 3. In the event equipment is damaged while being dispatched to the Requesting Member, or while in the custody and use of the Requesting Member, the Requesting Member shall reimburse the Providing Member for the reasonable cost of repairing said damaged equipment. If the equipment cannot be repaired, then the Requesting Member shall reimburse the Providing Member for the cost of replacing said equipment with equipment that is of at least equal capability as determined by the Providing Member. If the Providing Member must lease equipment while the equipment furnished to the Requesting Member is being repaired or replaced; then the Requesting Member shall reimburse the Providing Member for such lease costs.
- C. **Materials and Supplies** – Requesting Member shall reimburse the Providing Member in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. Other supplies and reusable items that are returned to the Providing Member in a clean, damage-free condition shall not be charged to the Requesting Member and no rental fee will be charged; otherwise, they shall be treated as expendable supplies. Supplies that are returned to the Providing Member with damage must be treated as expendable supplies for purposes of cost reimbursement.
- D. **Payment Period** – Providing Member shall provide an itemized invoice to the Requesting Member for all expenses incurred by the Providing Member while furnishing Mutual Assistance. The Providing Member shall send the itemized invoice not later than ninety (90) days following the end of the Period of Assistance. The Providing Member may request additional periods of time within which to submit the itemized invoice, and Requesting Member shall not unreasonably withhold consent to such requests. The

Requesting Member agrees to reimburse the Providing Member within sixty (60) days from receipt of an invoice for Mutual Assistance furnished under this Agreement. The Requesting Member may request additional periods of time within which to pay the itemized invoice, and Providing Member shall not unreasonably withhold consent to such requests, provided, however, that all payments shall occur no later than one (1) year after the date a final itemized invoice was submitted to the Requesting Member.

- E. **Records** – Each Providing Member and Requesting Member and their duly authorized representatives shall have access to books, documents, notes, reports, papers and records, which are directly pertinent to this Agreement and the Period of Assistance for the purposes of reviewing the accuracy of an invoice or making a financial, maintenance or regulatory audit. Such records shall be maintained in a manner consistent with the Member's records retention policy for at least three (3) years after the close of the Period of Assistance or longer where required by law and as needed for federal reimbursement practices.
1. The Providing Member shall furnish documentation of expenses to the Requesting Member when it submits its invoice. Such documented costs and expenses shall include, but not be limited to the following:
 - a. Employees' wages and salaries for time during the Period of Assistance spent in Requesting Member's service, and time during travel to and from such service area, plus the Providing Member's standard payable additives to cover all personnel benefits and allowances for vacation, sick leave and holiday pay, social and retirement benefits, all payroll taxes, workers' compensation, employer's liability insurance, and other contingencies and benefits imposed by applicable law or regulation.
 - b. Personnel travel and support functions such as lodging, meals, materials, etc.
 - c. Replacement costs of expendable materials and supplies furnished.
 - d. Repair or replacement costs of equipment damaged or lost.
 - e. Charges for the use of vehicles and other equipment furnished.
 - f. Administrative and general costs, which are properly allocated to Mutual Assistance, to the extent such costs are not chargeable pursuant to the foregoing subsections.

ARTICLE VIII. **RESPONSE COORDINATION**

When providing assistance under this Agreement, the Requesting Member and Providing Member shall be organized by and shall function under the NIMS and SEMS protocols and procedures.

- A. **Resources** – Providing Member retains the right to identify the resources that are available for Mutual Assistance.

- B. **Control** – While personnel furnished through Mutual Assistance shall remain under the employment and supervision of the Providing Member, the Providing Member's personnel come under the direction and control of the Requesting Member when providing Mutual Assistance, consistent with the NIMS and the ICS to address the needs of the Requesting Member and/or as deemed appropriate by the Incident Commander. The Requesting Member's Authorized Official shall coordinate Mutual Assistance activities with the designated supervisor(s) of the Providing Member(s). The Providing Member's designated supervisor(s) must keep accurate records, consistent with Federal Emergency Management Agency (FEMA) standards, of work performed by personnel during the specified Period of Assistance.
- C. **Lodging and Meals** – As set forth in Article V Section I of this Agreement or unless otherwise agreed to in writing by the Requesting and Providing Members, the Requesting Member remains responsible for reimbursing the Providing Member for all reasonable and necessary costs associated with providing lodging and meals, if such resources are not provided.
- D. **Communications** – The Requesting Member shall provide the Providing Member's personnel with communications equipment such as radio equipment as available, or radio frequency information to program existing radios, in order to facilitate communications with local responders and/or the Requesting Member's command and control structure.
- E. **Status** – Unless otherwise provided by law, the Providing Member's officers and personnel retain the same privileges, immunities, rights, duties and benefits as provided in their respective home jurisdictions.
- F. **Licenses and Permits** – To the extent permitted by law, Providing Member personnel who hold licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials while providing Mutual Assistance during the specified Period of Assistance.
- G. **Right to Withdraw Resources** – The Providing Member's Authorized Official retains the right to withdraw some or all of its resources at any time for any reason in the Providing Member's sole and absolute discretion. Notice of intention to withdraw resources must be communicated by the Providing Member to the Requesting Member's Authorized Official as soon as possible under the circumstances. Actual release of the Providing Member's furnished resources shall be made as soon as it is safe and practicable as determined by the Requesting Member's Authorized Official. All resources shall be returned to the Providing Member as soon as is practicable and reasonable under the circumstances.
- H. **Right to Cancel a Request for Mutual Assistance or Release Resources** – The Requesting Member's Authorized Official retains the right to cancel a request for Mutual Assistance at any time for any reason prior to the deployment of Mutual Assistance resources by a Providing Member. The Requesting Member also retains the right to release the Providing Member's furnished resources at any time, including when they are en route, for any reason so long as it is safe and practicable to do so. In accordance with Article VII of this Agreement, all policies related to cost reimbursement still apply to the Period of Assistance even if that Period of Assistance is terminated early. Notice of

intention to release resources must be communicated by the Requesting Member to the Providing Member's Authorized Official as soon as possible under the circumstances.

ARTICLE IX.
ARBITRATION

If any controversy or claim arises out of, or relates to, this Agreement, including, but not limited to an alleged breach of the Agreement, the disputing Members shall first attempt to resolve the dispute by negotiation, followed by mediation or arbitration in accordance with the Rules of the American Arbitration Association. Each Member reserves the right at any time after mediation or arbitration to pursue its rights and remedies in a court of law.

ARTICLE X.
REQUESTING MEMBER'S DUTY TO INDEMNIFY

The Requesting Member shall indemnify, hold harmless, and defend the Providing Member from and against any and all liability for loss, damage, cost, or expense which the Providing Member may incur by reason of bodily injury, including death, to any person or persons, or by reason of damage to or destruction of any property, including the loss of use thereof, which result from furnishing Mutual Assistance and whether or not due in whole or in part to any act, omission, or negligence of the Providing Member, except to the extent that such death or injury to person, or damage to property, is caused by the willful or wanton misconduct and/or gross negligence of the Providing Member, its employees, officers, contractors, or agents. Where payments are made by the Providing Member under a workers' compensation or disability benefits law or any similar law for bodily injury or death resulting from furnishing or Mutual Assistance, the Requesting Member shall reimburse the Providing Member for such payments, except to the extent that such bodily injury or death is caused by the willful or wanton misconduct and/or gross negligence of the Providing Member, its employees, officers, contractors, or agents.

In the event any claim or demand is made, or suit or action is filed against the Providing Member alleging liability for which the Requesting Member shall indemnify and hold harmless the Providing Member under the above paragraph, the Providing Member shall promptly notify the Requesting Member thereof; and the Requesting Member, at its sole cost and expense, shall settle, compromise, or defend the same in such manner as it deems necessary or prudent. The Requesting Member shall consult the Providing Member on all such litigation and will not compromise any issue or claim without the concurrence of the Providing Member, which will not be unreasonably withheld. The Providing Member shall cooperate with the Requesting Member's reasonable efforts to investigate, defend, and settle the claim or lawsuit.

ARTICLE XI.
SIGNATORY INDEMNIFICATION

In the event of a liability, claim, demand, action or proceeding, of whatever kind or nature arising out of the rendering of Mutual Assistance through this Agreement, the parties involved in rendering or receiving Mutual Assistance agree to indemnify and hold harmless all Members whose only involvement is the execution and approval of this Agreement, in the transaction or occurrence which is the subject of such claim, action, demand or other proceeding. Such indemnification shall include indemnity for all claims, demands, liability, damages and costs, including reasonable attorneys' fees and other costs of defense, for injury, property damage and workers' compensation.

ARTICLE XII.
WORKERS' COMPENSATION CLAIMS

The Providing Member and Requesting Member are responsible for providing workers' compensation benefits and administering workers' compensation for their respective personnel.

ARTICLE XIII.
NOTICE

Each Member hereto shall give to the others prompt and timely written notice, within fifteen (15) business days of any claim made or any suit instituted coming to its knowledge, which in any way, directly or indirectly, contingently or otherwise, affects or might affect them, and each Member shall have the right to participate in the defense of the same, as it considers necessary to protect its own interests.

ARTICLE XIV.
INSURANCE

Members shall maintain an insurance policy or maintain a self-insurance program that covers activities that it may undertake by virtue of membership in the TransMAC. Proof of General Liability and Workers' Compensation coverage must be provided to any Requesting or Providing Member or the Steering Committee upon request.

ARTICLE XV.
SENSITIVE SECURITY INFORMATION

To the extent allowed by law, any Member or Associate Member shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any confidential or Sensitive Security Information provided to it by another Member pursuant to this Agreement. If any Member, Associate Member, or third party requests or demands, by subpoena or otherwise, that a Member or Associate Member disclose any confidential or Sensitive Security Information provided to it under this Agreement, the Member or Associate Member shall immediately notify the owner of the confidential or Sensitive Security Information and shall take all reasonable steps necessary to prevent the disclosure of any confidential or Sensitive Security Information by asserting all applicable rights and privileges with respect to such information and shall cooperate fully in any judicial or administrative proceeding relating thereto.

ARTICLE XVI.
EFFECTIVE DATE

This Agreement shall take effect for a new Member immediately upon its execution by said Member.

ARTICLE XVII.
WITHDRAWAL

Any Member may terminate its participation in this Agreement by written notice to the Chair of the TransMAC Steering Committee. Withdrawal takes effect sixty (60) days after the appropriate officials receive notice. Withdrawal from this Agreement shall in no way affect a Requesting

Member's duty to reimburse a Providing Member for costs incurred during a Period of Assistance, which duty shall survive such withdrawal.

**ARTICLE XVIII.
MODIFICATION**

No provision of this Agreement may be modified, altered or rescinded by individual Members to the Agreement. Modifications to this Agreement require a simple majority vote of Members. The TransMAC Steering Committee will notify all parties of modifications to this Agreement in writing and those modifications shall be effective upon sixty (60) days written notice to the Members.

**ARTICLE XIX.
SEVERABILITY**

If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**ARTICLE XX.
PRIOR AGREEMENTS**

To the extent that prior mutual assistance agreements among Members are inconsistent with this Agreement, such agreements are hereby superseded.

**ARTICLE XXI.
PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES**

This Agreement is for the sole benefit of the Members and no other person or entity has rights under this Agreement as a third party beneficiary. Assignment of benefits or delegation of duties created by this Agreement to third parties that are not Members is prohibited and without effect.

**ARTICLE XXII.
TORT CLAIMS**

This Agreement in no way abrogates or waives any immunity or defense available under Federal laws and/or the laws of the State of California.

**ARTICLE XXIII.
INTRASTATE AND INTERSTATE MUTUAL ASSISTANCE PROGRAMS**

To the extent practicable, Members retain the right to participate in mutual assistance activities conducted under the State of California Civil Defense and Master Mutual Aid Agreement, the TransMAC, and the interstate Emergency Management Assistance Compact (EMAC) and similar programs.

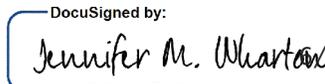
IN WITNESS WHEREOF, the Parties have executed this TransMAC Agreement at Fresno, California, the day and year first below written.

CITY OF FRESNO,
A California municipal corporation

By: _____
Georgeanne A. White
City Manager

By: _____
Gregory A. Barfield
Director, Department of Transportation

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By:  _____
Jennifer M. Wharton 18/2024
250AD6D4466E467... _____
Deputy City Attorney Date

ATTEST:
TODD STERMER, CMC
City Clerk

By: _____
Date

Addresses:
CITY: City of Fresno
Attention: Daniel Colbert
Training Officer
2223 G Street
Fresno, CA 93706
Phone: (559) 621-1430