

3-1 ID 19-1946  
7/25/19

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

This Agreement is made and entered into, effective as of the 7th day of August, 2019 (“Effective Date”), by and between the City of Fresno (hereinafter “GRANTEE”) and the Fresno County Transportation Authority (hereinafter “AUTHORITY”), a body politic duly organized and existing under the Constitution and the laws of the State of California.

**RECITALS**

WHEREAS, revenues from the 1987 Original Measure C and the 2007 Measure C Extension one-half cent sales and use tax (collectively referred to hereinafter as “MEASURE C”) included funding for projects of Regional significance on and off the State Highway System; and

WHEREAS, these Regional projects have significantly improved transportation and mobility within the Urban and Rural areas of Fresno County; and

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

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

WHEREAS, lack of adequate resources for Operations and Maintenance of the SHS has resulted in Caltrans being unable to maintain the appearance and condition of the SHS roadsides in regards to litter and weed control; and

WHEREAS, the AUTHORITY, CALTRANS, and the GRANTEE desire to dedicate additional resources to improve the appearance of the SHS roadsides within GRANTEE’s jurisdiction; and

CITY OF FRESNO  
City Clerk's Office (Original)

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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.

18 B. AUTHORITY shall issue payment to GRANTEE within thirty (30) working days of  
19 receipt by AUTHORITY of a properly documented and verified invoice for payment for eligible  
20 LAP activities.  
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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.

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

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8 In no event shall any payment by AUTHORITY constitute a waiver by AUTHORITY of any breach  
9 of this Agreement or any default that may then exist on the part of GRANTEE, nor shall such  
10 payment impair or prejudice any remedy available to AUTHORITY with respect to the breach or  
11 default. AUTHORITY shall have the right to demand of GRANTEE the repayment to  
12 AUTHORITY of any funds disbursed to GRANTEE under this Agreement that, in the judgment of  
13 AUTHORITY, were not expended in accordance with the terms of this Agreement. GRANTEE  
14 shall promptly refund any such funds upon demand. In addition to immediate suspension or  
15 termination, AUTHORITY may impose any other remedies available at law, in equity, or otherwise  
16 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 <u>Scott.Mozier@Fresno.gov</u>	Mike Leonardo, Executive Director Fresno County Transportation Authority 2220 Tulare Street, Suite 2101 Fresno, California 93721 (559) 600-3282 <u>mike@thefcta.com</u>

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

7 Either party may terminate this Agreement at any time by giving at least thirty (30) days  
8 written notice to the other of such termination. In that event, GRANTEE shall be paid the amount  
9 of money payable to GRANTEE as of the date of such termination, in accordance with the terms  
10 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**

**GRANTEE,  
CITY OF FRESNO**

BY:   
ERNEST "BUDDY" MENDES

BY:   
Scott Mozier


TITLE: CHAIRMAN  
FEDERAL I.D. NO. 77-0159920

TITLE: Director Public Works  
TAX ID NO. 94-6000338

REVIEWED AND RECOMMENDED  
FOR APPROVAL

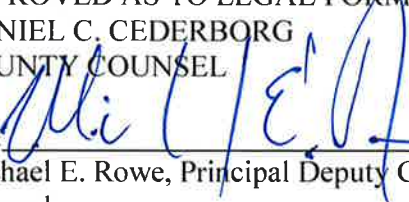
APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

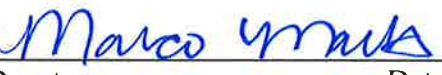
BY:   
MIKE LEONARDO  
EXECUTIVE DIRECTOR  
FRESNO COUNTY TRANSPORTATION  
AUTHORITY

BY:   
Brandon M. Collet  
Senior Deputy City Attorney


APPROVED AS TO LEGAL FORM  
DANIEL C. CEDERBORG  
COUNTY COUNSEL

ATTEST:  
YVONNE SPENCE, MMC CRM  
City Clerk

BY:   
Michael E. Rowe, Principal Deputy County  
Counsel

BY:  Deputy Date  
Marco Martinez  
7/30/19

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

BY: 

As a V.P. staff  
personnel would  
of self