

To: Board of Directors

Date: October 10, 2013

From: Anne Muzzini, Director of Planning & Marketing

Reviewed by:

Subject: Alamo Creek T-1 Agreement for Service

Summary of Issues:

The Operations and Scheduling Committee discussed developing a proposal for the County to operate flexible service within the Alamo Creek T-1 area. Staff developed a proposal based on the parameters discussed and has since met with County staff to refine the terms of an agreement.

The service envisioned is demand response for individuals traveling to and from the Alamo Creek T-1. County Connection would operate as a contractor to the County and all costs would be covered by the fees collected from homeowners. The service would not have a fare as the residents are paying 100% of the operating cost. We would run the service with one van and trips would be dispatched by First Transit. Hours of operation would be from 6am to 10am and from 3pm to 7pm. The term of the agreement will be one year. During this time the County will be able to determine the success of the program.

The service will be open to the general public as long as the trip originates or ends within the Alamo Creek T-1 area. The service area has been defined as a 1.5 mile corridor along Camino Tassajara between Alamo Creek T-1 and Highway 680; and along Highway 680 to Walnut Creek and Dublin BART stations. Because it is difficult to fulfill demand going in opposite directions (Dublin and Walnut Creek), initially, priority will be given to the Walnut Creek BART station corridor. The service will be configured to reflect demand.

The draft agreement attached is being reviewed by the County attorney.

Recommendation:

The O&S committee recommends that the Board authorize the General Manager to enter into an agreement with the County for a one van dial a ride that serves the Alamo Creek T-1 conditional upon the attorney's approval of form.

TRANSPORTATION SERVICE AGREEMENT
County Service Area (CSA) T-1 Project

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This TRANSPORTATION SERVICE AGREEMENT (Agreement) is entered into effective this ____ day of _____, 2013, between the CENTRAL CONTRA COSTA TRANSIT AUTHORITY (“CCCTA”), a joint exercise of powers entity created, existing and in good standing under California Government Code Sections 6500, *et seq.*, and the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (“County”).

RECITALS

THE PARTIES ENTER THIS AGREEMENT on the basis of the following facts, understandings and intentions:

A. The County Service Area (CSA) T-1 was formed on March 24, 2006 as a dependent special district of the County. The CSA was formed for the purpose of financing extended public transit services for the residents within the CSA T-1 boundaries (see attachment 1 for the map of CSA T-1).

B. The County wishes to implement a demand responsive, flexible “CSA T-1 Free Shuttle” in order to serve and benefit the residents of CSA T-1 properties by funding the transit fares for the shuttle service with the funds collected from the residents within the CSA T-1 boundaries.

C. CCCTA has determined that it is in the public interest and within the scope of CCCTA’s powers to provide public transit services, specifically the proposed “CSA T-1 Free Shuttle,” and is willing to operate this service as a one-year demonstration project provided that all costs will be paid by County.

D. The County desires to give CCCTA full operational and managerial discretion consistent with the terms of this Agreement and applicable law over the means of providing the public transportation services contemplated by this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties, the parties agree as follows:

1. Term. The term of this Agreement shall begin January 1, 2014 and remain in effect until December 31, 2015, unless earlier terminated by either party as provided for in Section 16. No later than _____ days before expiration of the Agreement, the parties will meet to review the effectiveness of this demonstration project and to determine the future continuation of service.

2. CSA T-1 Free Shuttle. CCCTA agrees to operate public transit as follows (the "CSA T-1 Free Shuttle"):

a. The free shuttle will operate weekday from 6 a.m. to 10 a.m. and 3 p.m. to 7 p.m in the service corridors between CSA T-1 properties to the Walnut Creek BART station and the Dublin/Pleasanton BART station [Show service corridors on Attachment 1].

b. During the peak periods (from 6 a.m. to 9 a.m. and 4 p.m. to 7 p.m.), the shuttle stops are only within CSA T-1 boundaries, Walnut Creek Bay Area Rapid Transit (BART) station, Bishop Ranch, Dublin/Pleasanton BART station, and Sycamore Valley Road Park and Ride lot. It is difficult for a single shuttle to travel to and from CSA T-1 properties to Walnut Creek BART station and CSA T-1 properties to Dublin/Pleasanton BART station within a single peak period. Initially, the priority will be to provide service from the CSA T-1 properties to Walnut Creek BART station corridor. CCCTA will monitor the demand and make the necessary adjustments based on demand.

c. During the off-peak periods (from 9 a.m. to 10 a.m. and 3 p.m. and 4 p.m.) service, the shuttle may stop at other locations within a 1.5 miles corridor along Camino Tassajara and I-680. These other locations can include, but are not limited to, government buildings, medical facilities, recreation destinations, shopping centers, work, etc. To be eligible, these locations will have to be at locations that allow the shuttle driver to complete these trips within the off-peak periods.

d. The CSA T-1 Free Shuttle will be a demand responsive, flexible public transit service for travel from or to CSA T-1 properties that is open to the public. The exact routes will be determined by demand. Riders must be traveling from or to CSA T-1 properties. Riders will contact CCCTA to request and reserve service at least ____ hours in advance. Based on the demand, CCTA will determine the most efficient route.

3. Marketing. CCCTA will develop a marketing plan for the CSA T-1 Free Shuttle Service. CCCTA will create a direct mail flyer to CSA T-1 residents describing the CSA T-1 Free Shuttle. Prior to finalizing and mailing the direct mail flyer, CCCTA will submit a draft to the County for approval. County will respond back with any comments within 30 days. An initial kick-off may include incentives, such as gift cards, for those willing to try the services. CCCTA will also market this service on their website.

4. Compensation. In consideration for providing the CSA T-1 Free Shuttle, County agrees to pay CCCTA \$159,000 a year, consisting of \$156,000 for shuttle services and \$3,000 for marketing. The \$156,000 for shuttle services is based on 10 hours per weekday for 260 weekdays at \$60 per hour. The 10 hours per weekday is based on 8 hours of service time plus 2 hours of deadhead. The deadhead is for bus travel to or from the CCCTA garage and a terminus point where the CSA T-1 Free Shuttle begins or ends.

5. Holidays. Service will not operate on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day.

6. Buses

a. *Maintenance*. CCCTA shall provide, or cause to be provided, at its sole discretion, buses in good condition and repair for the performance of the services contemplated by this Agreement. CCCTA shall service and perform preventative maintenance on the buses pursuant to its standard operating policies. Buses shall be neat and clean.

b. *Accessibility*. All vehicles provided for service under this Agreement shall be fully accessible to persons with disabilities as required under the Americans With Disabilities Act (ADA) of 1990.

7. Drivers. CCCTA shall provide the number of drivers necessary to perform the services required under this Agreement. CCCTA shall require that the drivers have training consistent with, and experience similar to, drivers of similar CCCTA routes. Drivers shall hold valid California Class B motor vehicle licenses.

8. Manner of Payment. The County agrees to compensate CCCTA for the CSA T-1 Free Shuttle as outlined in Section 2 on a monthly basis in twelve equal installments. CCCTA shall invoice County on a monthly basis for amounts due. County shall pay the amounts due within 45 days of receipt of CCCTA's invoice.

9. Fare Structure. This will be a free shuttle service that is open to the public for travel to and from the CSA T-1 properties.

10. Monitoring Performance. CCCTA will monitor the performance of the CSA T-1 Free Shuttle monthly and meet with the County as needed to review and consider possible modifications to the CSA T-1 Free Shuttle, if appropriate. On the 15th of each month, CCCTA will submit the following data from the prior month:

- a. Total passengers per run per day
- b. Ridership by destination
- c. Available seats
- d. Operation cost
- e. Vehicle service hours (VSH)
- f. Vehicle service miles (VSM)

11. Compliance with Laws. CCCTA shall comply with all laws, regulations and orders of any federal, state, county, regional or municipal authority applicable to the service.

12. Indemnification and Hold Harmless. CCCTA shall indemnify and hold harmless the County, its officers, agents or employees against any and all liability, losses, damages or expenses for injury to or death of any person, or damage to or loss of property, including but not limited to the County's property, to the extent caused by the negligent acts or omissions or willful misconduct of CCCTA or its agents or employees in providing the transportation services described in this Agreement. This provision shall not apply to the extent that such losses, liabilities, damages, expenses or claims are caused by the negligence or willful misconduct of the County or its officers, agents or employees. This provision shall survive termination of this Agreement.

13. Independent Contractor. In performing under this Agreement, CCCTA shall act at all times as an independent contractor. Nothing contained herein shall be construed or applied so as to create the relationship of principal and agent, or of employer and employee, between the County and CCCTA or its agents or employees.

14. Notices. All required or permitted payments, reports, demands and notices may be sent by ordinary mail. Notices that are mailed shall be deemed delivered two (2) business

days after deposited in the mail. Notices may be personally delivered and shall be deemed delivered at the time delivered to the appropriate address set forth below. Until notified otherwise in writing, CCCTA shall send or deliver all such communications relating to this Agreement to the following address:

Contra Costa County Public Works Department
255 Glacier Drive
Martinez, CA 94553
Attention: Jason Chen, Associate Civil Engineer

And, the County shall send all such communications to the following address:

Central Contra Costa Transit Authority
2477 Arnold Industrial Way
Concord, CA 94520
Attention: Anne Muzzini, Director of Planning and Technical Services

15. Records and Audit of Financial Records: CCCTA shall maintain true and complete records in connection with the service and all transactions related thereto, and shall retain all such records for at least thirty-six (36) months after the end of the calendar year in which the service is performed. The County may from time to time and at any time during the foregoing period of record retention make an audit of all records of CCCTA relating to the service; but only for the purpose of assessing the accuracy of reports or information received from CCCTA.

16. Termination of Agreement. Either party may terminate this Agreement by giving written notice of termination to the other, which shall specify the effective date of termination. The notice of termination shall be given at least 30 days before its effective date. Upon termination, CCCTA shall submit a written closing statement to the County for all amounts due from the County for services provided up to the effective date of termination. County shall pay said account within 45 days of receipt of the closing statement. As of the effective date of termination, CCCTA shall be released from any obligations under this Agreement to provide the CSA T-1 Free Shuttles.

17. No Third Party Beneficiaries. This Agreement is not for the benefit of any person or entity other than the parties, and shall not be construed to confer any rights to third parties.

18. No Assignment. Neither party may assign any rights or transfer any obligations under this Agreement without the prior written consent of the other party.

19. Entire Agreement. This Agreement is the entire agreement of this matter between the parties and supersedes all prior negotiations and understandings with respect thereto, including the 2006 Agreement. CCCTA and the County each acknowledges that it has not relied upon any promise, representation or warranty not expressly set forth in this Agreement in executing this Agreement. If any provision of this Agreement is void or otherwise unenforceable, the remainder of the Agreement shall continue in full force and effect. Changes affecting the obligations of the parties set forth in this Agreement shall be by written amendment signed by both parties.

20. Severability. Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

21. Headings. The descriptive headings used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of its provisions.

22. Time of Essence. Time is of the essence in this Agreement.

23. Waiver. No waiver by either party of any default or breach of any covenant by the other hereunder shall be implied from any omission to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver and then said waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. No waiver of any provision under this Agreement shall be effective unless in writing and signed by the waiving party.

24. Attorneys' Fees. In the event either of the parties brings an action or legal proceeding due to an alleged breach of this agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs as determined by a court of competent jurisdiction.

25. Controlling Law. This Agreement and all matters relating to it shall be governed by the laws of the State of California.

26. Authority. All parties executing this Agreement represent and warrant that they are authorized to do so.

IN WITNESS WHEREOF, the parties have hereunto set their hands the date and year first above written.

CENTRAL CONTRA COSTA TRANSIT AUTHORITY

By: Rick Ramacier, General Manager

Date: _____

APPROVED AS TO FORM:

By: Madeline Chun, Legal Counsel
Central Contra Costa Transit Authority

CONTRA COSTA COUNTY PUBLIC WORKS DEPARTMENT

By: Julia R. Bueren, Public Works Director

Date: _____

APPROVED AS TO FORM:

RESOLUTION NO. 2014-010

**CENTRAL CONTRA COSTA TRANSIT AUTHORITY
BOARD OF DIRECTORS**

* * *

**AUTHORIZING THE GENERAL MANAGER TO ENTER INTO AN AGREEMENT
WITH CONTRA COSTA COUNTY FOR OPERATION
OF ALAMO CREEK T-1 TRANSIT SERVICES**

WHEREAS, the County of Contra Costa and the Cities of Clayton, Concord, the Town of Danville, Lafayette, Martinez, the Town of Moraga, Orinda, Pleasant Hill, San Ramon and Walnut Creek (hereinafter “Member Jurisdictions”) have formed the Central Contra Costa Transit Authority (“County Connection”), a joint exercise of powers agency created under California Government Code Section 6500 *et seq.*, for the joint exercise of certain powers to provide coordinated and integrated public transportation services within the area of its Member Jurisdictions; and

WHEREAS, Contra Costa County established a County Service Area (CSA) for the Alamo Creek development hereinafter referred to as the Alamo Creek T-1 for the purpose of funding public transit service for the residents and has been collecting fees for the provision of transit service for the residents; and

WHEREAS, the County wishes to implement a demand responsive, flexible “Alamo Creek T-1 Free Shuttle” in order to serve the residents of the Alamo Creek T-1 properties by contracting with County Connection; and

WHEREAS, County Connection has determined that it is in the public interest and within the scope of their powers to provide the proposed public transit services for the Alamo Creek T-1 area; and

WHEREAS, County Connection is willing to provide service on a one year demonstration basis, provided that the cost of the service, estimated at \$159,000 annually, will be paid by the County ; and

WHEREAS, it is envisioned that all costs to provide the service will be paid by the County using Alamo Creek T-1 fees collected from the residents of the area; and

WHEREAS, the Operations & Scheduling Committee recommends that the Board approve an agreement with the County for the operation of the Alamo Creek T-1 Free Shuttle in accordance with the terms and conditions negotiated and presented by staff;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Central Contra Costa Transit Authority that the General Manager, or his designee, is hereby authorized to enter into an Agreement with Contra Costa County, in a form approved by Legal Counsel, for the operation of the Alamo Creek T-1 Free Shuttle, substantially based upon the terms and conditions that have been reviewed and presented to the Board.

Regularly passed and adopted this 17th day of October by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Bob Simmons, Chair, Board of Directors

ATTEST: _____
Lathina Hill, Clerk to the Board