

**COOPERATIVE AGREEMENT NO.
08C.05**

**BETWEEN THE STAKEHOLDER
AGENCIES**

**FOR THE DEPLOYMENT,
MANAGEMENT, OPERATIONS AND
MAINTENANCE OF SYSTEMS FOR THE
INNOVATIVE DEPLOYMENTS TO
ENHANCE ARTERIALS (IDEA) GRANT
CENTRAL CONTRA COSTA TRANSIT
SIGNAL PRIORITY (TSP) SYSTEM
PROJECT IN THE CITIES OF WALNUT
CREEK AND CONCORD**

THIS COOPERATIVE AGREEMENT
(AGREEMENT) is entered into as of

September __, 2021, by and between the
CONTRA COSTA TRANSPORTATION
AUTHORITY (CCTA), CITY OF WALNUT
CREEK (WALNUT CREEK), CITY OF
CONCORD (CONCORD) and the CENTRAL
CONTRA COSTA COUNTY CONNECTION
(COUNTY CONNECTION),
(STAKEHOLDER AGENCIES).

RECITALS

A. The STAKEHOLDER AGENCIES
desire to implement technological
system improvements with the goals to
reduce transit travel time, improve
transit reliability and monitor signal
operations as described in the attached
Exhibits which are incorporated by
reference herein (PROJECT): A) Project
Concept of Operations; B) TSP System
Vendor Request for Proposal (RFP)
Scope-of-Work; C) TSP System
Requirements; and D) City of Concord
Signal Monitoring System
Requirements.

- B. The Metropolitan Transportation
Commission (MTC) has provided grants
and technical assistance for planning,
systems engineering and procurement
activities to support the delivery of the
PROJECT through the IDEA Grant
Technical Assistance Challenge Grant
Program.
- C. The PROJECT will include the
deployment of a new TSP system and
related software and hardware
improvements enabling certain signals
in the cities of WALNUT CREEK and
CONCORD to provide COUNTY
CONNECTION transit vehicles an early
green phase or a green phase extension
when certain conditions are met.
- D. Network hosting and support of the TSP
system will follow deployment and will
include activities needed to ensure
proper operation of the system such as
hosting, warranties, service level
agreements, system updates, equipment
maintenance/replacement, and repair
provisions (Hosting and Support Phase).
- E. Operation and maintenance include
activities performed by CONCORD,
WALNUT CREEK and COUNTY
CONNECTION to maintain their own
traffic signal systems, communication
links, transit dispatch system (e.g.
Clever Devices), buses, and equipment
necessary for the TSP system.
- F. Subject to funding availability after the
TSP system is deployed and its
operations considered, the PROJECT
improvements may also include a traffic
signal monitoring system to be deployed
and operated by CONCORD.
- G. WALNUT CREEK and CONCORD
have each entered into separate funding

agreements with MTC that provide them with non-federal funding for the PROJECT and specifying certain obligations for each.

- H. The TSP system as defined does not include upgrades to signal controllers, communications systems, or licenses associated with central traffic signal systems that may be necessary for the TSP system.

MTC IDEA Grant funds may be used to provide these improvements for WALNUT CREEK and CONCORD by mutual agreement by the STAKEHOLDER AGENCIES.

Remaining MTC IDEA Grant funds will be available to CCTA and COUNTY CONNECTION under separate agreements with WALNUT CREEK and CONCORD for TSP system deployment and management costs.

- I. STAKEHOLDER AGENCIES represent that they are ready and able to provide the staff time required to support delivery and management of the TSP system, as provided for in this AGREEMENT. Staff charges are not eligible for reimbursement by the MTC IDEA Grant, except for services provided by consultants to assist CCTA staff in the procurement, deployment and management of TSP system.
- J. CCTA will procure and manage the vendor contracts to deploy the TSP system and to provide subsequent network hosting and support services in accordance with this AGREEMENT, contingent upon funding being provided by WALNUT CREEK and CONCORD.

- K. COUNTY CONNECTION, WALNUT CREEK and CONCORD (OPERATING AGENCIES) will support CCTA in the procurement and deployment of the TSP system, in accordance with this AGREEMENT.

Now therefore, the Parties incorporate the recitals into this Agreement and further agree as follows;

SECTION I

PROJECT DEPLOYMENT, MANAGEMENT, OPERATIONS, AND MAINTENANCE

A. WALNUT CREEK AND CONCORD AGREE:

- 1) To provide the staff time required to support deployment and management of the TSP system, as provided for in this AGREEMENT.
- 2) To each enter into a funding agreement with CCTA, which agreement shall be in a form acceptable to CONCORD and WALNUT CREEK's legal counsel, prior to selection of the TSP vendor, to fund the deployment, hosting and support of the TSP system using MTC's IDEA Grant funds.
- 3) To each enter into a funding agreement with COUNTY CONNECTION, which agreement shall be in a form acceptable to CONCORD and WALNUT CREEK's legal counsel, in a timely manner to fund transit system improvements necessary for the deployment and operation of the, TSP system using MTC's IDEA Grant funds, as determined to be necessary through the procurement process and mutual

agreement of the STAKEHOLDER AGENCIES.

- 4) To cooperate in the review, approval, and support of CCTA's procurement documents, contract award, and any additional assistance needed in the contracting for TSP system deployment and hosting/support.
- 5) To participate in discussions with the TSP vendor and relevant others to plan for PROJECT deployment and TSP system configuration.
- 6) To allow necessary access to city communications networks and integration of the TSP system with city traffic signal systems. This may require access to traffic signal system equipment and include housing, networking and powering a computer server within each agencies' office, server room or traffic management center, and each city may impose reasonable conditions upon such access as necessary to preserve the security and operations of its systems.
- 7) To provide access to a broadband internet connection for use by the TSP system at own office, server room, or traffic management center.
- 8) To upgrade their communications and traffic signal systems to permit TSP system operations at selected PROJECT intersections, subject to funding being provided for this purpose from the IDEA Grant funds and with the mutual agreement of the STAKEHOLDER AGENCIES.
- 9) To make reasonable efforts to maintain city communications and traffic signal systems in a state of good repair and

operate them as is necessary for the TSP system to function.

- 10) To inform COUNTY CONNECTION and CCTA of communications outages or other system issues, which may impact the operation of the TSP system.

- 11) To inform COUNTY CONNECTION and CCTA promptly of any desired TSP system configuration changes and potentially to make such configuration changes directly in the TSP system.

These configuration changes may include, but are not limited to, changes in transit vehicle detection zones, parameters dictating the logic of when the TSP system requests traffic signal priority, referred to as the Decision To Request Priority (DTRP), and other parameters for TSP system operation.

- 12) To configure their own traffic signal controllers in such a way as to grant eligible TSP system requests for signal priority according to reasonable conditions, referred to as the Decision to Grant Priority (DTGP), subject ultimately to each city's decision-making regarding its own signals' operations.

- 13) To inform COUNTY CONNECTION and CCTA promptly of any planned changes to their own traffic signal system regarding the DTGP or other changes affecting the TSP system.

- 14) To inform COUNTY CONNECTION and CCTA of anticipated changes to PROJECT area roadway environment or operations that may impact TSP system operation including, but not limited to, traffic signal system improvements, traffic signal timing changes, roadway

geometry changes and changes in roadway speed limits, with reasonable advance notice.

- 15) To respond promptly to COUNTY CONNECTION and CCTA requests or queries regarding the TSP System.

B. CCTA AGREES:

- 1) To provide the staff time required to support the deployment and management of the TSP system, as provided for in this AGREEMENT. CCTA may also seek MTC IDEA Grant funds from CONCORD and WALNUT CREEK for consultant support for the tasks listed in this section, subject to mutual agreement of STAKEHOLDER AGENCIES.
- 2) To manage the procurement of a vendor for two distinct project phases, working cooperatively with the OPERATING AGENCIES and MTC:
 - a. The first project phase is to provide for the planning, furnishing, configuring, deploying, testing of all elements (hardware, software and services) of the TSP system except CONCORD and WALNUT CREEK traffic signal communications and controller elements; and
 - b. The second project phase is to provide for the hosting, operation and maintenance of the TSP system, except for CONCORD and WALNUT CREEK traffic signal communications and controller elements, with any applicable hosting, warranties, service

level agreements, system updates, equipment maintenance/replacement, and repair provisions (Hosting and Support Phase).

- 3) To manage the TSP vendor contract for both the first and second project phases in cooperation with the OPERATING AGENCIES.
- 4) To include in all vendor contracts and their subcontractors' contracts, indemnification clauses similar to that found in Section II paragraph 4 of this AGREEMENT, to include the STAKEHOLDER AGENCIES as additional insureds in the insurance policies of all vendors.
- 5) To execute and manage the Hosting and Support Phase with the vendor, subject to funding being provided by CONCORD and WALNUT CREEK, in order to maintain the TSP system for the duration of this AGREEMENT or the useful life of the system, whichever is sooner.
- 6) To serve as the primary administrator of the TSP system and its configuration settings. This should include managing any permissions for other agencies to make TSP system configuration settings, changes including, but not limited to those for detection zones, DTRP and other settings regarding TSP system operation.
- 7) To inform OPERATING AGENCIES promptly of any plans to adjust transit vehicle detection zones, DTRP or any other TSP system configuration settings that may impact CONCORD and WALNUT CREEK traffic signal operations or systems.

- 8) To promptly respond to requests by the OPERATING AGENCIES for changes to TSP system configuration settings or other requests impacting the TSP system.
- 9) To implement a public awareness program to inform the public and/or decision makers of the TSP system.

C. COUNTY CONNECTION AGREES:

- 1) To provide the staff time required to support CCTA in its deployment and management of the TSP system, as provided for in this AGREEMENT.
- 2) To cooperate in the review, approval, and support of CCTA's TSP system procurement documents, contract(s) award, and any additional support needed in the contracting for TSP system deployment and operation.
- 3) To participate in further discussions with the TSP vendor and others to plan for project implementation and inform TSP system configuration.
- 4) To provide access to a broadband internet connection for use by the TSP system at own office, server room, traffic management center, and/or buses, as needed, based on the selected TSP system.
- 5) To allow necessary access to its communications networks and integration of its transit management systems (i.e., CleverCAD CAD/AVL system, IVN, etc.) with the TSP system. This may require mounting and wiring TSP system hardware and/or installing software to transit system bus equipment as well as housing, networking and powering a computer server within its

offices, server room or traffic management center. COUNTY CONNECTION may impose reasonable conditions upon such access as is necessary to preserve the security and operations of its systems.

- 6) To allow improvements by the TSP vendor to transit and/or communications systems if mutually determined by the STAKEHOLDER AGENCIES to be necessary for the deployment or operation of the TSP system, subject to funding being provided from the MTC IDEA Grant and ultimately to COUNTY CONNECTION's decision-making regarding its own operations and assets.
- 7) To manage any increased transportation management and/or communication system use incurred as a result of the PROJECT that are not assumed by the TSP vendor, subject to funding for new system costs being provided from the MTC IDEA Grant. To make reasonable efforts to maintain its transit management systems, including communications systems, in a state of good repair and operation as necessary to operate the TSP system.
- 8) To promptly inform CCTA and other OPERATING AGENCIES of communication outages or other transportation management system issues, which may impact the operation of the TSP system.
- 9) To promptly inform CCTA and other OPERATING AGENCIES of any plans to adjust transit schedules, transit routes, and bus stops.

SECTION II

MISCELLANEOUS PROVISIONS

THE PARTIES MUTUALLY AGREE:

1. Cooperation. To cooperate, under the terms of this AGREEMENT, in the support, review, and approval of the systems engineering, procurement, implementation and operations of the PROJECT.
2. Compliance with Laws. The STAKEHOLDER AGENCIES shall each observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies having jurisdiction over the scope of the PROJECT or any part thereof, including, but not limited to, all laws and regulations regarding public works projects, the provisions of the California Occupational Safety and Health Act, and all federal, state, municipal, and local safety regulations and will incorporate similar language in any vendor agreements they enter.
3. No Third Party Beneficiaries. Nothing in the provisions of this AGREEMENT is intended to create duties or obligations to or rights in third parties, or affect the legal liability of either party to the AGREEMENT by imposing any standard of care with respect to the development, design, construction, operation, improvement or maintenance of State highways and public facilities different or greater than the standard of care imposed by law.
4. Indemnification.
 - a. Neither CCTA, nor its directors, officers, officials, and employees, shall be responsible for any damage, loss, expense, costs or liability occurring by any act or omission by the other STAKEHOLDER AGENCIES under or in connection with any systems breach, work, authority or jurisdiction delegated to STAKEHOLDER AGENCIES under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, STAKEHOLDER AGENCIES shall fully defend, indemnify and save harmless CCTA, and its directors, officers, officials, and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of any act or omission by STAKEHOLDER AGENCIES under or in connection with any work, authority or jurisdiction delegated to STAKEHOLDER AGENCIES under this AGREEMENT, except those arising by reason of the sole negligence or willful misconduct of CCTA, its directors, officers, officials, or employees.
 - b. Neither CONCORD, nor its directors, officers, officials, and employees, shall be responsible for any damage, loss, expense, costs or liability occurring by any act or omission by the other

STAKEHOLDER AGENCIES under or in connection with any work, authority or jurisdiction delegated to STAKEHOLDER AGENCIES under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, STAKEHOLDER AGENCIES shall fully defend, indemnify and save harmless CONCORD, its directors, officers, officials, and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of any act or omission by STAKEHOLDER AGENCIES under or in connection with any work, authority or jurisdiction delegated to STAKEHOLDER AGENCIES under this AGREEMENT, except those arising by reason of the sole negligence or willful misconduct of CONCORD, its directors, officers, officials, or employees.

- c. Neither WALNUT CREEK, nor its directors, officers, officials, or employees, shall be responsible for any damage, loss, expense, costs or liability occurring by any act or omission by the other STAKEHOLDER AGENCIES under or in connection with any work, authority or jurisdiction delegated to STAKEHOLDER AGENCIES under this

AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, STAKEHOLDER AGENCIES shall fully defend, indemnify and save harmless WALNUT CREEK, and its directors, officers, officials, and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of any act or omission by STAKEHOLDER AGENCIES under or in connection with any work, authority or jurisdiction delegated to STAKEHOLDER AGENCIES under this AGREEMENT, except those arising by reason of the sole negligence or willful misconduct of WALNUT CREEK, its directors, officers, officials, or employees.

- d. Neither COUNTY CONNECTION, nor its directors, officers, officials, or employees, shall be responsible for any damage, loss, expense, costs or liability occurring by any act or omission by the other STAKEHOLDER AGENCIES under or in connection with any work, authority or jurisdiction delegated to STAKEHOLDER AGENCIES under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, STAKEHOLDER AGENCIES shall fully defend,

indemnify and save harmless COUNTY CONNECTION, its directors, officers, officials, and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of any act or omission by STAKEHOLDER AGENCIES under or in connection with any work, authority or jurisdiction delegated to STAKEHOLDER AGENCIES under this AGREEMENT, except those arising by reason of the sole negligence or willful misconduct of COUNTY CONNECTION, its directors, officers, officials, or employees.

5. Signal Integration. In the event CONCORD or WALNUT CREEK installs a new signal on the PROJECT segment during the term of this AGREEMENT, that respective agency is responsible for integrating the new signal with the TSP system.
6. Term. Except for the obligations for indemnification and dispute resolution, which shall survive termination or expiration of this AGREEMENT, obligations under this AGREEMENT will be in effect for ten (10) years from the date it is executed.
7. Dispute Resolution. The parties shall work together in the spirit of good faith and cooperation to successfully implement this AGREEMENT. To the extent there are disagreements between the STAKEHOLDER AGENCIES, those disagreements shall immediately

be raised between the agencies. Prior to initiating any legal action, the parties hereto agree to meet in good faith to attempt to resolve any dispute, including, but not limited to consulting with any Technical Advisory Committee (TAC) that is established to assist in project management. TAC will consist of executive managers, or their designees of the STAKEHOLDER AGENCIES and an MTC liaison to be assigned and will meet quarterly or as needed. In the event the parties cannot resolve the dispute through the TAC, they will make a thorough good faith effort to resolve such issues through a mediation process conducted by an impartial third party. The parties shall jointly select and engage the efforts of a mediator to help resolve the dispute. The parties shall share the costs of the mediator equally. If the issue still remains unsolved, either party may bring a legal action seeking resolution of the disagreement. However, any and all legal actions may only be brought if the preceding dispute resolution process has been satisfied.

8. Termination.
 - a. In the event a good faith dispute cannot be resolved through the dispute resolution process described in Section II 7 of this AGREEMENT, either STAKEHOLDER AGENCY may terminate this AGREEMENT upon sixty (60) days' prior written notice to the other STAKEHOLDER AGENCIES. If STAKEHOLDER AGENCY desires to terminate this AGREEMENT under this

provision, such written notice shall be sent by U.S. Postal Service certified mail to each STAKEHOLDER AGENCY at the address in their signature block.

- b. In the event that this AGREEMENT is terminated by either party before the PROJECT has been completed, the terminating Agency(ies) shall pay only those reasonable costs incurred by the remaining STAKEHOLDER AGENCY for work that could not have been suspended at the time of the notice of termination. Any costs will be reimbursed to the remaining STAKEHOLDER AGENCY for eligible costs incurred following termination that reasonably were incurred at the time of termination and such additional eligible costs necessary to bring any portion of the outstanding work to a reasonable point of completion following the notice of termination. If there is any question regarding the work to be completed, the parties will discuss the outstanding work and concur on the stage at which the incomplete work will end following the receipt of the notice of termination.
- c. Termination Due to Lack of Sufficient Funds. STAKEHOLDER AGENCY may terminate this AGREEMENT upon thirty (30) days' notice if the applicable legislative body fails to

appropriate funds to pay for the obligations provided hereunder.

- 9. Severability. If any term or provision of this AGREEMENT, or the application of any term or provision of this AGREEMENT to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this AGREEMENT or the application of this AGREEMENT to other situations shall remain in full force and effect. Notwithstanding the foregoing, if any term or provision of this AGREEMENT or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the parties hereto agree to work in good faith and fully cooperate with each other to amend this AGREEMENT to carry out its intent.
- 10. Venue. This AGREEMENT and all work performed thereunder shall be interpreted under and pursuant to the laws of the State of California. The parties agree that the jurisdiction and venue of any dispute arising under this AGREEMENT shall be the Superior Court of Contra Costa County.
- 11. Assignment. Neither party may assign or delegate any of its rights or obligations hereunder without first obtaining the written consent of the other STAKEHOLDER AGENCIES.

12. Records Retention. Each party agrees to keep and maintain (and to require all contractors and subcontractors connected with performance of this AGREEMENT to keep and maintain records) showing actual time devoted and all costs incurred in the performance of all work subject to this agreement until 3 years after the accepted completion of the project, or until such later date as is required under applicable law; provided, however, that if any actions brought under the dispute resolution provisions of this AGREEMENT or lawsuits arising from this AGREEMENT have not been finally resolved by the foregoing deadline, then any records which pertain to any such action shall be maintained until such actions have been finally resolved.

13. Effective Date. This AGREEMENT shall commence as of the date entered and shall continue in effect until the parties reach a mutually agreeable date for termination of the AGREEMENT after all work required by this AGREEMENT have been completed.

14. Successors and Assigns. All of the terms, provisions and conditions of this AGREEMENT hereunder, shall be binding upon and inure the parties hereto and their respective successors, assigns and legal representatives.

15. Conflict of Interest. By signing this AGREEMENT, STAKEHOLDER AGENCIES covenant that each presently has no interest, direct or indirect, which would conflict in any manner or degree with the performance of the services called for under this AGREEMENT. STAKEHOLDER

AGENCIES further covenant that in the performance of this AGREEMENT no person having any such interest shall be employed by the STAKEHOLDER AGENCY.

16. Entire Agreement. This AGREEMENT represents the entire AGREEMENT of the parties with respect to the subject matter hereof, and all such agreements entered into prior hereto are revoked and superseded by this AGREEMENT, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This AGREEMENT may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this AGREEMENT shall be void and of no effect.

17. Counterpart. This AGREEMENT may be executed in any number of original counterpart signature pages, and each counterpart signature page shall be attached to and incorporated in the original AGREEMENT.

18. Authority. By signing this AGREEMENT, each signatory warrants and represents that he/she executed this AGREEMENT in his/her authorized capacity and that by his/her signature on this AGREEMENT, he/she or, if acting on behalf of an entity, the entity upon behalf of which he/she acted, executed this AGREEMENT.

Signed by:

CONTRA COSTA TRANSPORTATION
AUTHORITY

E-SIGNED by Timothy Haile
on 2021-09-17 07:52:56 GMT

September 17, 2021

Timothy Haile, Executive Director

Date

Attest:

E-SIGNED by Tarienue Grover
on 2021-09-17 15:39:00 GMT

September 17, 2021

Tarienue Grover, Clerk of the Board

Date

Approved as to form and content:

E-SIGNED by David H. McCray
on 2021-09-17 15:40:38 GMT

September 17, 2021

David H. McCray, Authority Counsel

Date

Address:

Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

Signed by:

CITY OF CONCORD

Valerie Barone, City Manager

Date

Attest:

Joelle Fockler, MMC City Clerk

Date

Josh Clendenin, City Attorney

Date

Address:

City of Concord

1950 Parkside Drive, MS/51

Concord, CA 94519

Signed by:

CITY OF WALNUT CREEK

Dan Buckshi, City Manager

Date

Address:

City of Walnut Creek

1666 N Main St.

Walnut Creek, CA 94596

Signed by:

COUNTY CONNECTION

Rick Ramacier, General Manager

Date

Address:

County Connection

2477 Arnold Industrial Way

Concord, CA 94520