



APPENDIX A

Agenda Item #7a

- Funding Agreement No. 629 Between CCTA and ECCTA

Board of Directors Meeting

Wednesday March 22, 2023

**FUNDING AGREEMENT NO. 629
BETWEEN
CONTRA COSTA TRANSPORTATION AUTHORITY
AND
EASTERN CONTRA COSTA TRANSIT AUTHORITY**

This Agreement is made and entered into on _____, 2023 by and between the Eastern Contra Costa Transit Authority, dba Tri Delta Transit, hereinafter referred to as ("ECCTA"), and the **CONTRA COSTA TRANSPORTATION AUTHORITY**, hereinafter referred to as ("AUTHORITY"). ECCTA and AUTHORITY are collectively referred to herein as the "Parties."

RECITALS

1. AUTHORITY is the authorized agency to serve as the Local Access Fund Administrator (LAFA) to administer the Transportation Network Company (TNC) Access for All Fund, herein referred to as ("Access Funds"), allocated from the California Public Utilities Commission (CPUC) Access for All Program to establish a program relating to the accessibility of on-demand transportation services for persons with disabilities, including wheelchair users who need a wheelchair accessible vehicle (WAV).
2. ECCTA, identified by the Authority to serve as the Access Provider for the Access for All Program, currently operates an on-demand shared WAV shuttle service, called Tri MyRide, that provides rides within designated service areas in the Cities of Antioch and Oakley, and the Pittsburg/Bay Point communities, and ECCTA is interested in purchasing additional WAV shuttles in order to expand the service area to other parts of eastern Contra Costa County.
4. AUTHORITY wishes to provide ECCTA Access Funds, in an amount not to exceed \$400,000, to assist ECCTA with the purchase of the new WAV shuttles.

NOW, THEREFORE, in consideration of the foregoing, the AUTHORITY and ECCTA do hereby agree as follows:

SECTION I

AUTHORITY AGREES:

1. To reimburse ECCTA for the PROJECT up to \$400,000 no later than 30 days from receiving an invoice from ECCTA evidencing the purchase of up to four (4) WAVs.

SECTION II

ECCTA AGREES:

1. To enter into a contract with a manufacturer of WAV shuttles for delivery of up to four (4)

WAV shuttles for deployment into new service areas in eastern Contra Costa County, and to adhere to service reporting requirements for the Access Provider, as provided by CPUC's TNC Access For All Program – Program Overview & Requirements for Access Fund Administrators (“Program Overview & Requirements”) and submit the referenced reports to CCTA quarterly for so long as the WAV shuttle are in service or as otherwise determined by the CPUC referred to as the (“PROJECT”). Additional information is included in Exhibit A.

2. To submit invoices to **AUTHORITY** as described in this Agreement for incurred costs related to the purchase of the WAV vehicles as part of the **PROJECT**.

SECTION III

IT IS MUTUALLY AGREED:

1. (a) **ECCTA** will procure the manufacture and delivery of four (4) WAV shuttles which will be used to expand the geographical service area of the Tri MyRide service provided by **ECCTA**.

(b) That Authority's obligation to reimburse **ECCTA** for the **PROJECT** shall not exceed \$400,000. **ECCTA** is responsible for any and all additional costs incurred beyond the \$400,000.

(c) **ECCTA** will report performance metrics as required by the CPUC during the duration that the WAV shuttles are in service or a time to be determined by the CPUC, per the Program Overview & Requirements.

2. Term: This Agreement will remain in effect through December 31, 2024.

3. Discharge: This Agreement shall be subject to discharge as follows:

a. Either Party may terminate this Agreement at any time, other than for breach, by giving written notice of termination to the other Party which shall specify both the cause and the effective date of termination. Notice of termination under this provision shall be given at least ninety (90) days before the effective date of such termination.

b. This Agreement may be canceled by a Party for breach of any obligation, covenant or condition hereof by the other Party, upon notice to the breaching Party. With respect to any breach which is reasonably capable of being cured, the breaching Party shall have 30 days from the date of the notice to initiate steps to cure. If the breaching party diligently pursues cure, such party shall be allowed a reasonable time to cure, not to exceed sixty (60) days from the date of the initial notice, unless a further extension is granted by the non-breaching Party. On cancellation, the non-breaching party retains the same rights as a Party exercising its right to terminate under the provisions of paragraph 3(a), except that the canceling Party also retains any remedy for breach of the whole contract or any unperformed balance.

c. By mutual consent of both PARTIES, this Agreement may be terminated at any time.

d. In the event of termination, **ECCTA** shall submit an invoice to **AUTHORITY** for an amount representing the actual cost incurred for the **PROJECT** up to date of termination for which **ECCTA** has not been previously reimbursed. In no event shall the maximum expenditure allowed under this Agreement, as it may be adjusted by a written amendment signed by both parties, be exceeded.

4. Indemnity: It is mutually understood and agreed, relative to the reciprocal indemnification of **AUTHORITY** and **ECCTA**:

a. That neither **AUTHORITY**, nor any officer or employee thereof, shall be responsible for, and **ECCTA** shall fully indemnify and hold harmless **AUTHORITY** against, any damage or liability occurring by reason of anything done or omitted to be done by **ECCTA** under or in connection with any work, authority or jurisdiction by **ECCTA** under the Agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, **ECCTA** shall fully indemnify and hold the **AUTHORITY** harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by **ECCTA** under this Agreement or in connection with any work, authority, or jurisdiction delegated to **ECCTA** under this Agreement.

b. That neither **ECCTA**, nor any officer or employee thereof, shall be responsible for, and **AUTHORITY** shall fully indemnify and hold harmless **ECCTA** against, any damage or liability occurring by reason of anything done or omitted to be done by **AUTHORITY** under or in connection with any work, authority or jurisdiction by **AUTHORITY** under the Agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, **AUTHORITY** shall fully indemnify and hold the **ECCTA** harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by **AUTHORITY** under this Agreement or in connection with any work, authority, or jurisdiction delegated to **AUTHORITY** under this Agreement.

5. Notices: Any notice which may be required under this Agreement shall be in writing, shall be effective when received, and shall be given by personal service, or by certified or registered mail, return receipt requested, to the addresses set forth below, or to such addresses which may be specified in writing to the parties hereto.

Rashidi Barnes
Chief Executive Officer
Eastern Contra Costa Transit Authority
801 Wilbur Ave.
Antioch, CA 94509

Timothy Haile
Executive Director
Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

6. Additional Acts and Documents: Each Party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement.

7. Integration: This Agreement represents the entire agreement of the **PARTIES** with respect to the subject matter hereof. 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.

8. Amendment: 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.

9. Independent Agency: **AUTHORITY** renders its services under this Agreement as an independent agency. None of the **AUTHORITY's** agents or employees shall be agents or employees of the **ECCTA**.

10. Assignment: This Agreement may not be assigned, transferred, hypothecated, or pledged by any Party without the express written consent of the other Party.

11. Binding on Successors, etc.: This Agreement shall be binding upon the successor(s), assignee(s) or transferee(s) of the **AUTHORITY** or **ECCTA** as the case may be. This provision shall not be construed as an authorization to assign, transfer, hypothecate or pledge this Agreement other than as provided above.

12. Severability: Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either Party to enter into or carry out, such determination 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**.

13. Limitation: All obligations of **AUTHORITY** under the terms of this Agreement are expressly subject to the **AUTHORITY's** continued authorization to collect and expend the proceeds provided by **Access Funds**. If for any reason the **AUTHORITY's** right to collect or expend such Access Funds is terminated or suspended in whole or part, the **AUTHORITY** shall promptly notify **ECCTA**, and the **PARTIES** shall consult on a course of action to determine how to accomplish the **PROJECT** or if this Agreement should be terminated. If, after sixty (60) working days of the termination or suspension of sales tax proceeds authority, a course of action is not agreed upon by the **PARTIES**, this Agreement shall be deemed terminated by mutual or joint consent; provided, that any obligation to fund from the date of the notice shall be expressly limited by and subject to (i) the lawful ability of the **AUTHORITY** to expend sales tax proceeds for the purposes of the Agreement; and (ii) the availability, taking into consideration all the obligations of the **AUTHORITY** under all outstanding contracts, agreements to other obligations of the **AUTHORITY**, of funds for such purposes.

14. No Third Party Beneficiaries: This Agreement is not for the benefit of any person or entity other than the parties.

15. Dispute Resolution: The Parties shall work together in the spirit of good faith and cooperation to successfully implement this Agreement. Should a substantive disagreement arise between the Parties, the disagreement shall immediately be raised between the Parties. Prior to initiating any legal action, the Parties agree to meet in good faith to attempt to resolve any dispute, including but limited to meetings between executive management and participating in mediation. The Parties shall jointly select and engage the effort of a mediator to help resolve the dispute. The Parties shall equally share the costs of the mediator. If the issue is still unresolved, 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.

16. 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.

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 into this original Agreement.

**EASTERN CONTRA COSTA TRANSIT
AUTHORITY**

**CONTRA COSTA TRANSPORTATION
AUTHORITY**

By: _____

By: _____
Federal Glover, Chair

ATTEST:

By: _____

By: _____
Tarienne Grover, Clerk of the Board

APPROVED as to form:

By: _____

By: _____
Fennemore Wendel, Legal Counsel

FUNDING AGREEMENT NO. 629
between
The Contra Costa Transportation Authority
and
The Eastern Contra Costa Transit Authority

EXHIBIT A

DESCRIPTION OF THE PROJECT

Background

The Eastern Contra Costa Transit Authority (ECCTA), also referred to as Tri Delta Transit, currently operates an on-demand shared ride service called Tri MyRide that takes passengers from their starting point to where they want to go within a service area. Currently, Tri MyRide uses Wheelchair Accessible Vehicles (WAV) shuttles to provide limited service to certain areas of Pittsburg/Bay Point and Antioch/Oakley. The Fares for all rides cost \$2.00 each and can be purchased by either cash or Clipper Card (on-board) or via a Credit or Debit card on the Tri MyRide app. Through the app, riders can confirm their trip, pickup and drop-off location, book, board, pay and ride. Riders without access to a smartphone or unable to use the app may book a ride by calling number. Trips are required to begin and end anywhere within the designated service area. Current service metrics reported by the Tri MyRide program includes: Total Passengers, Passenger/Revenue Hour, Average Ride Duration (min), Average Ride Distance (Mile), Deviation Estimated Time Arrival (ETA) vs Actual, Average Walk Distance (Feet), and Aggregation (%). Tri Delta Transit has expressed the desire to expand the service into new service areas and in order to accomplish that, will need to purchase additional WAV.

The Contra Costa Transportation Authority (Authority) serves as the Local Access Fund Administrator (LAFA) in Contra Costa County administering the California Public Utilities Commission's (CPUC's) Transportation Network Companies (TNC) Access Funds. The Access Funds are used to increase on-demand wheelchair accessible transportation to meet the needs of persons with disabilities. Eligible expenses relating to WAV vehicles include the vehicle lease/rental/purchase costs, rental subsidies for Driver, Inspections, Maintenance/Services as well as include the broader categories of Partnership, Marketplace, and Operating cost.

Scope of Work

ECCTA plans on purchasing four (4) WAV shuttles and place such shuttles in the Tri MyRide program to provide service within the expanded service area in eastern Contra Costa County within the Pittsburg/Bay Point and Antioch, to be determined by ECCTA. The cost of purchasing the shuttles, up to \$400,000, will be reimbursed by the Authority. ECCTA is expected to provide service metric and other reporting as required by CPUC every quarter during the periods that the shuttles are in operation or as determined by CPUC and AUTHORITY.

Quarterly Reporting Obligation

The items below are some reporting requirements by Access Providers (excerpt from the TNC Access for All Program – Program Overview & Requirements for Access Fund Administrators (AFAs), starting on page 25. Please refer to the referenced document for complete information.

1. **Number of Unique WAVs in Operation (Excel)** – by quarter and aggregated by hour of the day and day of the week. “In operation” is defined when a WAV: (a) is available to receive a trip request in that quarter/hour/day or (b) has accepted a trip request in that quarter/hour/day.
2. **Number and percentage of WAV trips completed, not accepted, cancelled by passenger, cancelled due to passenger no-show, and cancelled by driver (Excel)** – by quarter and aggregated by hour of the day and day of the week.
3. **Completed WAV trip request response times (Excel)** - in deciles, as well as broken out by Period A (time elapsed from when a trip is requested until the trip is accepted) and B (time elapsed from when a trip is accepted until the vehicle arrives).⁴⁴ Response time is the elapsed time between when a trip is requested and when the passenger is picked-up (Period A plus Period B). For example, the Access Provider shall report that 10 percent of all trip requests originating in a geographic area and quarter were fulfilled in X response time minutes, 20 percent were fulfilled in X response time minutes, etc. In addition, the Access Provider shall report that the Period A time was X minutes for 10 percent of completed trips, that the Period B time was X minutes for 10 percent of completed trips, etc. Accordingly, to verify the Access Provider’s WAV response times, the Access Provider shall provide WAV trip response times in deciles, as well as Periods A and B in deciles, by quarter.
4. **Trip Completion Rate (Excel)** – % completed WAV Trip Requests. Calculated by dividing total trips completed by total requested unique trips, multiplied by 100%.
5. **Evidence of outreach (Excel and PDF)** - to publicize and promote available WAV services to disability communities, how the partnership promoted WAV services, and marketing or promotional materials of those activities.
6. **Certification of Driver Training (PDF)** – Certification that all WAV drivers operating on its platform have completed driver training on transporting peoples with disabilities within the past three years, including sensitivity training, passenger assistance techniques, accessibility equipment use, door-to-door service, and safety procedures.

7. **Report of WAV Driver Training Programs (Excel)** – List of driver training programs completed and number of WAV drivers that completed each training in that quarter.
8. **Certification of Inspection (PDF)** - that all WAVs operating on its platform have been inspected and approved to conform with the ADA Accessibility Guidelines for Transportation Vehicles⁴⁵ within the past year.
9. **Number of complaints (Excel)** - received related to WAV driver or WAV services, categorized as follows: securement issues, driving training, vehicle safety and comfort, Service animal issue, stranded passenger, and others.
10. **Funds Expended (Excel)** – See Appendix A: Eligible WAV Expenses.
11. **Contract Information (Excel)** – Identify the parties to the contract, the duration, the amount spent on the contract, and how the amount was determined.
12. **Safety Protocol Declaration Form** – Certify under penalty of perjury to comply with Safety Protocols.⁴⁶

Refer to the TNC Access for All Program – Program Overview & Requirements for Access Fund Administrators (AFAs), as needed, for definitions of the terms. Additional reporting obligations may be required, as needed or provided, by CPUC or Authority.