

**CALIFORNIA DEPARTMENT OF TRANSPORTATION,
CALIFORNIA HIGHWAY PATROL,
AND
VENTURA COUNTY TRANSPORTATION COMMISSION (VCTC)**

**MEMORANDUM OF UNDERSTANDING REGARDING OPERATION
OF A FREEWAY SERVICE PATROL PROGRAM**

This Memorandum of Understanding is entered into this ____ day of _____ 2022 by and between the State of California, as represented by and through the Department of Transportation (hereinafter CALTRANS), the California Highway Patrol (hereinafter CHP), and the Ventura County Transportation Commission (hereinafter VCTC).

GENERAL

This Memorandum of Understanding (MOU) pertains to the development and operation of a Freeway Service Patrol (FSP) program in Ventura County, as related to the State of California's congestion management strategies. In 1992, the Freeway Service Patrol Act was enacted that provides for the implementation of a freeway patrol system as referenced in California Streets and Highways Code Section 2560-2565. FSP will assist in transportation system management efforts, provide traffic congestion relief, reduce traffic accidents, and expedite the removal of freeway impediments, all of which will have the added benefit of improving air quality.

The FSP activities shall be integrated with the existing incident and traffic management operations to maximize public benefit.

Section 2401 of the California Vehicle Code (CVC) states that the Commissioner of the California Highway Patrol shall make adequate provisions for patrol of the highway at all times of the day and night. This section is interpreted to mean the Commissioner is given broad discretion in determining the means of providing adequate patrol, including the use of FSP vehicles.

Streets and Highways Code Section 2561, subdivision (c) defines “freeway service patrol” as a “program managed by the Department of the California Highway Patrol, the [California Department of Transportation] and a regional or local entity which provides emergency roadside assistance on a freeway in an urban area.”

Section 21718(a) (7) of the CVC is a provision which specifically allows the CHP to be responsible for FSP stopping on freeways for the purpose of rapid removal of impediments to traffic.

Article 3, Section 90, of the Streets and Highways Code, states that CALTRANS shall have possession and control of all state highways.

In stipulated in Article 3, Section 91, of the Streets and Highways Code, CALTRANS has the responsibility to improve and maintain the state highways. CALTRANS also has the responsibility for traffic system management and removing impediments from the highways.

Per Article 3, Section 92, of the Streets and Highways Code, CALTRANS may do any act necessary, convenient, or proper for the construction, improvement, maintenance, or use of all highways which are under its jurisdiction, possession, or control.

Together, the CHP and CALTRANS have agreed to jointly operate Transportation Management Centers (TMC) and FSP programs to improve the efficiency of the transportation system and to expedite the removal of stranded or disabled vehicles on urban freeways.

VCTC and CALTRANS are responsible for entering into a fund transfer agreement which includes provision for the transfer of funds to VCTC to fund the FSP contracts.

This MOU constitutes an operational guide to the obligations, responsibilities, and goals of the parties involved. It is not intended to authorize funding. Funding commitments are covered by the above referenced fund transfer agreement by and between CALTRANS and VCTC.

I. CALTRANS RESPONSIBILITIES:

- a. CALTRANS shall provide a portion of funding for the VCTC FSP program, as provided in the CALTRANS/VC SAFE fund transfer agreement, and the resources needed by the CHP to carry out CHP responsibilities.
- b. CALTRANS shall supply all reasonable information required for evaluation of the FSP effectiveness in reducing congestion, accidents, and improving air quality periodically or upon request of CHP or VCTC.

II. CHP RESPONSIBILITIES:

- a. CHP shall be responsible for oversight of all the daily field operations associated with the tow contractor's services and the quality of those services. CHP shall also promptly report any problems or concerns about the contractor's services to VCTC.
- b. CHP shall dispatch FSP vehicles based on information regarding the need for services received at the CHP Ventura Communications Center and within the FSP contractor's scope of services. Additionally, CHP shall record the information on the Computer Aided Dispatch system, when appropriate.
- c. CHP shall provide training to all FSP contractors and operators, including any training materials. The FSP contractors and operators shall be trained, prior to providing FSP service, with training updates occurring on an as needed basis.

- d. CHP shall investigate complaints from the public regarding FSP contractor/operator conduct and operation and will further report to VCTC its findings and recommendations for appropriate action.
- e. CHP shall perform all necessary driver license and background checks on all FSP owners, operators, and drivers.
- f. CHP shall inspect all tow trucks prior to the start of a new contract and will perform inspections annually and as needed.
- g. CHP shall provide information to VCTC regarding FSP related data for use in verifying contractor invoices.

III. VCTC RESPONSIBILITIES:

- a. VCTC shall provide a portion of the funding for the FSP program as provided in the CALTRANS/VC SAFE fund transfer agreement, including any later amendments.
- b. VCTC shall develop, advertise, award, and administer the FSP contracts for the Ventura County FSP Program.
- c. VCTC, using data supplied by CALTRANS and the CHP and collected through the program, shall periodically provide FSP statistics for use by all three agencies.

IV. JOINT RESPONSIBILITIES:

- a. CALTRANS, VCTC, and CHP shall jointly and cooperatively define the FSP program, as well as the appropriate FSP level of service and the equipment requirements necessary to operate and manage the program.
- b. CHP and CALTRANS may only use the FSP program system within the limits of the FSP operators' contract and resources available for traffic system management purposes, as described in this agreement. The prime purpose will be for incident removal and motorist aid services.
- c. CALTRANS, VCTC and CHP shall provide representation for the FSP Technical Advisory Committee which will guide program development, implementation, operation, evaluation, and public relations.
- d. The FSP Technical Advisory Committee shall consist of representatives from VCTC, CHP, and, when appropriate, CALTRANS and non-voting representative(s) from the FSP contractor. The Technical Advisory Committee shall meet on an as needed basis.

V. CROSS INDEMNIFICATION:

- a. Each partner agency shall be responsible for the acts and omissions of its participating officers and employees, and shall defend, indemnify, and save harmless each other partner agency, as well as the boards, officials, appointees, officers, and employees of each, from and against all claims, liabilities, and actions for personal injury, death, harm, and/or property damage arising out of its performance under this Agreement, but only in proportion to and to the extent such claims, liabilities, and actions are directly or proximately caused by the negligent or intentional acts or omissions of the indemnitor agency and/or its participating officers and employees.
- b. Where a partner agency contracts with an independent contractor to directly further the objectives of the Freeway Service Patrol Act and this Agreement, that partner agency promises to require each independent contractor to name the State of California as an additional insured on its insurance policy. In no event shall the independent contractor's coverage amount be less than \$2 million.
- c. Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, the partner agencies may seek reimbursement and/or reallocation of defense costs, settlement payments, and judgements and awards, consistent with such comparative fault. Any dispute relating to defense and indemnity shall be resolved by the partner agencies as a separate matter and final disposition of the subject litigation.

VI. EXECUTION IN COUNTERPARTS:

This MOU may be executed in one or more counterparts, and when all the parties have signed such counterparts, it shall constitute a duplicate original.

By: _____

Date: _____

Tony Tavares
District 7 Director
California Department of Transportation

By: _____

Date: _____

Chief L. M. Maples
Coastal Division Commander
California Highway Patrol

By: _____

Date: _____

Martin Erickson
Executive Director
Ventura County Transportation Commission

APPROVED AS TO FORM:

By: _____

Date: _____

General Counsel, Ventura County Transportation Commission