

**1. GRANT TITLE**  
**ALCOHOL AND DRUG IMPAIRED DRIVER VERTICAL PROSECUTION PROGRAM**

**2. NAME OF AGENCY**  
**FRESNO COUNTY**

**4. GRANT PERIOD**

**3. AGENCY UNIT TO ADMINISTER GRANT**  
**DISTRICT ATTORNEY'S OFFICE**

From: 10/1/16  
 To: 9/30/17

**5. GRANT DESCRIPTION**  
 The County District Attorney's Office will assign specialized personnel to prosecute alcohol and drug impaired driving cases. The DUI prosecutor(s) will handle cases throughout each step of the criminal justice process. The DUI prosecutor(s) will work with the Traffic Safety Resource Prosecutor Program to increase the capabilities of the office by obtaining and delivering specialized training. The DUI prosecutor(s) will share information with peers, law enforcement, and crime lab personnel throughout the county and across the state. The office will accomplish these objectives as a means to prevent impaired driving and reduce alcohol and drug-involved traffic fatalities and injuries.

**6. FEDERAL FUNDS ALLOCATED UNDER THIS AGREEMENT SHALL NOT EXCEED: \$ 566,153.00**

**7. TERMS AND CONDITIONS:** The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement:

- Schedule A (OTS-38b) – Problem Statement, Goals and Objectives and Method of Procedure
- Schedule B (OTS-38d) – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)
- Schedule B-1 (OTS-38f) – Budget Narrative and Sub-Budget Narrative (if applicable)
- Exhibit A – Certifications and Assurances
- Exhibit B\* - OTS Grant Program Manual

\*Items shown with an asterisk (\*), are hereby incorporated by reference and made a part of this agreement as if attached hereto. These documents can be viewed at the OTS home web page under Grants: [www.ots.ca.gov](http://www.ots.ca.gov).

We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**8. APPROVAL SIGNATURES**

**A. GRANT DIRECTOR**

NAME: **Blake J. Gunderson** PHONE: (559)600-4355  
 TITLE: **Assistant District Attorney** FAX: (559)600-4401

ADDRESS: **2220 Tulare Street, Suite 1000  
 Fresno, CA 93721**

E-MAIL: **BGunderson@co.fresno.ca.us**

(Signature)

(Date)

8/31/16

**B. AUTHORIZING OFFICIAL OF AGENCY**

NAME: **Ernest Buddy Mendes** PHONE: (559)600-4000  
 TITLE: **Chairman, Board of Supervisors** FAX: (559)600-1609

ADDRESS: **2281 Tulare Street, Suite 301  
 Fresno, CA 93721**

E-MAIL: **District4@co.fresno.ca.us**

(Signature)

(Date)

Ernest Buddy Mendes 9-27-16

**C. FISCAL OR ACCOUNTING OFFICIAL**

NAME: **Stephen A. Rusconi** PHONE: (559)600-4447  
 TITLE: **Business Manager** FAX: (559)600-4100

ADDRESS: **2220 Tulare Street, Suite 1000  
 Fresno, CA 93721**

E-MAIL: **Srusconi@co.fresno.ca.us**

(Signature)

(Date)

8/30/16

**D. OFFICE AUTHORIZED TO RECEIVE PAYMENTS**

NAME: **Fresno County District Attorney-PA**  
 ADDRESS: **2220 Tulare Street, Suite 1000  
 Fresno, CA 93721**

**9. DUNS NUMBER**

DUNS #: **030363902**  
 REGISTERED ADDRESS & ZIP: **2220 Tulare Street, Suite 1000  
 Fresno, CA 93721-2106**

ATTEST:  
 BERNICE E. SEIDEL, Clerk  
 Board of Supervisors

By Susan Bishop  
 Deputy

EFFECTIVE DATE OF AGREEMENT: 10/1/2016 GRANTEE COUNTY OF FRESNO GRANT NO. DI1701

10. Fin Action No. <u>1</u> Date: <u>7/11/2016</u>	12. TYPE OF AGREEMENT	Initial	<input checked="" type="checkbox"/>	Revision	<input type="checkbox"/>	Cont.	<input type="checkbox"/>
Revision No. _____ Date: _____	PAID MEDIA	PROGRAM INCOME	TASK NO.	F.F.Y.			
			<u>5</u>	<u>2017</u>			

11. Action Taken  
  
Initial approval of 2017 HSP funds obligated.

13. FUNDING DISPOSITION & STATUS	
Fiscal Year	Amount
<u>2016-17</u>	<u>566,153.00</u>
<u>2015-16</u>	
<u>2014-15</u>	
<u>2013-14</u>	
Total	<u>566,153.00</u>
Obligated This Action	566,153.00
Previously Obligated	0.00
Total Amount Obligated	<u>566,153.00</u>
TOTAL FUNDS PROGRAMMED	<u><u>566,153.00</u></u>

14. FUNDING DETAIL - FISCAL YEAR GRANT PERIOD ENDING: 9/30/2017

FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
405d AL	20.616	0521-0890-101 (10/15)	2015	10/15	2015	\$ 339,692.00
405d AL	20.616	0521-0890-002 (BA/16)	2016	BA/16	2016	\$ 226,461.00
-	-	-	-	-	-	\$ -
-	-	-	-	-	-	\$ -
-	-	-	-	-	-	\$ -
-	-	-	-	-	-	\$ -
-	-	-	-	-	-	\$ -
-	-	-	-	-	-	\$ -
<b>TOTAL FEDERAL FUNDS:</b>						<b>\$ 566,153.00</b>

15. GRANT APPROVAL & AUTHORIZATION TO EXPEND OBLIGATED FUNDS

A. APPROVAL RECOMMENDED BY	B. AGREEMENT & FUNDING AUTHORIZED BY
<b>NAME:</b> MARCO COELHO <b>TITLE:</b> Program Coordinator <b>PHONE:</b> (916) 509-3019 <b>E-MAIL:</b> marco.coelho@ots.ca.gov Office of Traffic Safety 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758  Signature _____	<b>NAME:</b> RHONDA L. CRAFT <b>TITLE:</b> Director  Office of Traffic Safety 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758  Signature _____

VERTICAL PROSECUTION  
SCHEDULE A  
GRANT DESCRIPTION  
GRANT NO. DI1701

**1. PROBLEM STATEMENT**

**General Characteristics**

Fresno County is one of California's largest and most diverse counties. Based on California Department of Finance statistics from May 2013 and the July 1, 2014 United States Census Bureau "Quick Facts", Fresno County is the tenth most populous county in California with an estimated population of 965,974 and the sixth largest in size with an area of 6,017.4 square miles. The City of Fresno, which is also the county seat, was named the fifth largest city in California with a 2014 estimated population of 515,986. As of January 7, 2016, the United States Census Bureau "Quick Facts" estimates 27.5 % of Fresno County's population lives below the federal poverty level, as compared to 16.4% of all Californians. The County of Fresno's ethnic diversity is considerably different than the rest of the state. Hispanics comprise over 51.9% of the population compared to 38.6% of the state. Population totals for White, non-Hispanic or Latino is 32.7%, Asian 10.7%, African-American 5.9%, American-Indian & Native Alaskan 3.0%, Native-Hawaiian & Other Pacific Islander 0.3%.

**Fresno County Streets and Highways**

There are over 7,000 miles of maintained roads in Fresno County and approximately 2,500 miles of paved roadway in the city of Fresno. Vehicle miles traveled per day in Fresno County has increased from 22,498,000 in 2004 to 22,982,169 based on the most recent Office of Traffic Safety rankings. The County of Fresno is traversed by four major freeways and includes State Routes 99, 41, 168, 180 and Interstate 5. Since 2000, Fresno County's population has increased 16% from 799,407 to 952,166 [California Department of Finance]. Agriculture is still the primary industry in Fresno County. Fresno County's Ag production value exceeded \$6.58 billion in 2012 [Fresno County Farm Bureau Press Release 6/18/13], making Fresno County the number one agricultural county in the nation [USDA Economic Research Service updated 11/6/13]. About 75% of travel on Fresno County's maintained road system takes place on rural primarily two-lane undivided roads [Fresno County Department of Public Works & Planning].

Fresno County's Traffic Safety Problem: Impaired drivers with alcohol, drugs, or both in their system.

The statistics for all filed DUI cases for 2013, 2014, and 2015 are as follows:

**2013**

Felony Vehicular Manslaughter while intoxicated.....	11
Felony DUI causing bodily injury.....	110
DUI with no injuries [felony & misdemeanor cases combined].....	6103

**2014**

Felony Vehicular Manslaughter while intoxicated.....	10
Felony DUI causing bodily injury.....	122
DUI with no injuries [felony & misdemeanor cases combined].....	5715

**2015**

Felony Vehicular Manslaughter while intoxicated.....	8
Felony DUI causing bodily injury.....	131
DUI with no injuries [felony & misdemeanor cases combined].....	5708

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**Alcohol Impaired Driving**

As a percent of total fatalities, alcohol-impaired driving fatalities increased from 27 percent in 2011 to 28 percent in 2012. This number has remained virtually unchanged in the past three years. California is better than the national average of 31 percent. Alcohol-impaired driving fatalities (fatalities in crashes involving a driver or motorcycle rider (operator) with a blood alcohol concentration (BAC) of 0.08 grams per deciliter (g/dL) or higher) increased from 774 in 2011 to 802 in 2012. [OTS California Traffic Safety Score Card, revised January 2014].

Nationally, in fatal crashes in 2012 the highest percentage of drivers with a BAC level of .08 or higher was for drivers ages 21 to 24 (32%), followed by ages 25 to 34 (29%) and 35 to 44 (25%). [DOT HS 811 870, December 2013].

According to a nationwide study by the National Highway Traffic Safety Administration in 2013-2014, about 1.5 percent of weekend drivers had blood alcohol concentrations at or above the legal limit of .08 breath alcohol concentration (BrAC) and 8.3 percent of drivers had a measurable amount of alcohol in their systems. The proportion of drivers during weekend nighttime hours who are at or above the legal limit of .08 BrAC decreased by 80 percent between 1973 and 2013/2014 and the proportion with any measurable amount of alcohol in their systems dropped by about 77 percent. While the estimates of alcohol prevalence in 2013/2014 are down from 2007 for low (.005 to .049 BrAC), medium (.050 to .079 BrAC) and high (.08+ BrAC) levels, the change is statistically significant only at the medium BrAC levels. [Results of the 2013-2014 National Roadside Survey of Alcohol and Drug Use by Drivers, Executive Summary].

**Drug Impaired Driving**

Based on data from the National Highway Traffic Safety Administration, 38% of all drivers who were killed in motor vehicle crashes in California in 2012 tested positive for legal and or illegal drugs, a percentage that has been increasing since 2006. [OTS California Traffic Safety Score Card, revised January 2014].

According to a nationwide study by the National Highway Traffic Safety Administration in 2013-2014, the proportion of nighttime weekend drivers with illegal drugs in their systems was 15.2 percent in 2013-2014 while the proportion with prescription or over-the-counter medications that could affect driving was 7.3 percent. The proportion of total drug-positive nighttime weekend drivers increased from 16.3 percent in 2007 to 20.0 percent in 2013/2014, a significant increase. The drug showing the greatest increase from 2007 to 2013/2014 was marijuana (THC). The percentage of THC positive drivers increased from 8.6 percent in 2007 to 12.6 percent in 2013/2014, a proportional increase of 47 percent. [Results of the 2013-2014 National Roadside Survey of Alcohol and Drug Use by Drivers, Executive Summary].

In 2012, Fresno County was one of nine counties in California that participated in the nation's first "Statewide Roadside Survey of Alcohol and Drug Use by Drivers". The survey results showed 14 percent of drivers tested positive for drugs that can impair driving, while 7.3 percent of drivers tested positive for alcohol. Of the drugs, marijuana was most prevalent, at 7.4 percent, slightly more than alcohol. Over 1,300 drivers voluntarily agreed to provide breath and/or saliva samples at roadside locations set up in nine California cities. The samples were collected between 10:00 p.m. and 3:00 a.m. on Friday and Saturday nights, the peak times of impaired driving. Breath samples were examined for alcohol, while saliva samples were tested for THC (the active ingredient in

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marijuana); other major illegal drugs, prescription and over the counter (OTC) medications that can adversely affect driving were also tested. [Results of the 2012 California Roadside Survey of Nighttime Weekend Drivers' Alcohol and Drug, Executive Summary].

The Office of Traffic Safety in its statewide collision ranking system cites Fresno County as follows:

AGENCY	YEAR	COUNTY	POPULATION (AVG.)	DVMT
FRESNO COUNTY	2013	FRESNO COUNTY	958,610	22,972,750

TYPE OF COLLISION	VICTIMS KILLED & INJURED	OTS RANKING
Total Fatal and Injury	749	52/55
Alcohol Involved	110	54/55
Had Been Drinking Driver < 21	44	37/55
Had Been Drinking Driver 21 - 34	205	35/55
Motorcycles	14	55/55
Pedestrians	77	52/55
Pedestrians < 15	16	54/55
Pedestrians 65+	10	54/55
Bicyclists	46	55/55
Bicyclists < 15	10	54/55
TYPE OF COLLISION	FATAL & INJURY COLLISIONS	OTS RANKING
Speed Related	121	53/55
Nighttime (9:00pm - 2:59am)	50	54/55
Hit and Run	54	53/55

**A. Traffic Data Summary:**

- **Data:** Using SWITRS data, complete the table below.

Collisions	2011				2012				2013			
	Fatal	Injury	Killed	Injured	Fatal	Injury	Killed	Injured	Fatal	Injury	Killed	Injured
Alcohol-Involved	45	431	50	672	45	299	50	443	36	273	43	448

- **Data:** Using the DMV DUI Management Information System (MIS) report, complete the table below.

	2011		2012		2013	
	Felony	Misdemeanor	Felony	Misdemeanor	Felony	Misdemeanor
Countywide DUI Arrests	147	4338	192	5510	140	4971

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- **Data:** Using your own data, complete the table below. If your data system cannot differentiate DUI cases by alcohol, drug, and combo, report all cases on the alcohol row and include an explanation below the table.

Cases	FFY-2013						FFY-2014						FFY-2015					
	Reviewed		Filed		Guilty		Reviewed		Filed		Guilty		Reviewed		Filed		Guilty	
DUI	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis
Alcohol	*	*	5	12	2	7	*	*	341	3662	151	1826	*	*	363	4888	178	2484
Drug	*	*	122	449	50	126	*	*	91	288	24	52	*	*	49	423	16	135
Combo	*	*	335	5129	135	2549	*	*	95	1424	18	157	*	*	12	104	4	55
Total	*281	*6041	462	5590	187	2682	*272	*5082	527	5374	193	2035	*269	*5262	424	5415	198	2674

\*Based on Fresno County's STAR System [Standard Tracking and Reporting], reviewed cases are unpredictable because they are entered with only one charge. Only upon filing of the criminal complaint will the criminal charges be accurately calculated.

NOTE: The legislative changes to the California Vehicle Code sections 23152 & 23153 adding the additional subsections which occurred on January 1, 2014 (mid FFY-2014) presented extreme challenges pertaining to the query of statistical data for FFY-2014 in Fresno County's STAR System [Standard Tracking and Reporting].

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**2. PERFORMANCE MEASURES**

**A. Goals:**

- 1) Improve the prosecution knowledge and expertise of DUI Alcohol, DUI Drug, and DUI Alcohol/Drug Combination cases.
- 2) Increase the efficiency of DUI Alcohol, DUI Drug, and DUI Alcohol/Drug Combination cases filed and prosecuted.

**B. Objectives:**

- 1) Issue a press release announcing the kick-off of the grant by November 15. The kick-off press releases and media advisories, alerts, and materials must be emailed to the OTS Public Information Officer at [pio@ots.ca.gov](mailto:pio@ots.ca.gov), and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release.
- 2) Create or expand a "Vertical Prosecution Program" with the District Attorney's Office by November 30. The program will facilitate the prosecution of felony Vehicular Manslaughter While Intoxicated; Watson Murder cases not assigned to the Homicide Team; felony DUI causing great bodily injury; and felony DUI recidivists.
- 3) Designate 2 prosecutor position(s) and 1 investigator position(s) to the DUI caseload to prosecute DUI Alcohol and DUI Drug cases. The individual(s) will be dedicated solely to this assignment allowing them to gain expertise in the investigation and prosecution of DUI Alcohol and DUI Drug cases. While employed by the District Attorney's Office, the individual(s) in the grant-funded DUI Vertical Prosecutor position(s) should remain the same throughout the term of the grant.
- 4) Develop and implement a system for gathering, tracking, and reporting all DUI case reviews, filings, and outcomes in the county by December 31, differentiating between: 1) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination Alcohol and Drug cases.
- 5) Report on all DUI case reviews, filings, and outcomes in the county throughout the grant, differentiating between: 1) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination Alcohol and Drug cases.
- 6) Provide comprehensive training in the prosecution of DUI Alcohol and DUI Drug cases, in addition to any information conveyed during quarterly meetings, to 20 prosecutors and 10 investigators.
- 7) Provide comprehensive training in the investigation, report writing, and courtroom testimony for prosecution of DUI Alcohol and DUI Drug cases, in addition to any information conveyed during quarterly meetings, in an effort to reach 50 local law enforcement officers.

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- 8) Coordinate and host four regional roundtable law enforcement meetings (one each quarter, with telephone conference capabilities) to provide information on the DUI Vertical Prosecution Program, interact with law enforcement to identify means to improve DUI investigation and prosecution, and assess technical assistance needs for training on DUI investigation and court testimony. OTS staff, local law enforcement, CHP and probation staff should be included in the roundtable. All four meetings for the year should be scheduled in the first quarter of the grant. A copy of all supporting documentation from each roundtable, to include the agenda, notes, sign-in sheet, handouts, as well as all other presentation materials, will be included with the QPR for each corresponding quarter.
- 9) Coordinate with local law enforcement agencies on the development of an on-call response protocol for the investigation of fatal and major injury DUI vehicle collisions, and to report on response activities.
- 10) Participate in at least one ride-along during a DUI saturation patrol and attend/observe at least one DUI checkpoint. *Note: The funded vertical prosecutor(s) and investigator should participate within the first quarter of the grant. Saturation patrol ride-along and checkpoint observation may be combined into one evening.*
- 11) Send the funded vertical prosecutor(s) and investigator to the NHTSA "Advanced Roadside Impaired Driving Enforcement" (ARIDE) 16 hour POST-Certified training. *Note: The funded vertical prosecutor(s) and investigator(s) should achieve this objective within the first quarter of the grant.*

**3. METHOD OF PROCEDURE**

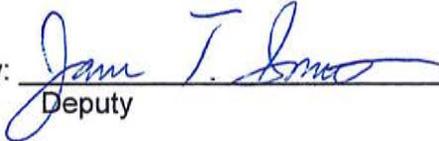
**A. Phase 1 - Program Preparation, Training and Implementation (1<sup>st</sup> Quarter of Grant Year)**

- Recruit and hire all staff for the grant.
- Procure all materials necessary to implement the grant.
- Identify dates and schedule the four Regional Roundtable Meetings (one each quarter), and notify the OTS coordinator of the dates.
- Develop protocols to be used to measure the success of the DUI Prosecution Program.
- Conduct training for all program staff outlining the goals and objectives of the project.
- Cases for prosecution will be referred to the grant-funded Deputy District Attorney(s).
- Transfer all pending DUI cases which qualify under this program so that vertical prosecution may begin.

This approval signature page relates to a State Grant Agreement for the Alcohol and Drug Impaired Vertical Prosecution Program with the California Office of Traffic Safety, which Agreement is made by COUNTY OF FRESNO, a Political Subdivision of the State of California, on behalf of which the FRESNO COUNTY DISTRICT ATTORNEY'S OFFICE is acting. The Grant period runs from October 1, 2016, to September 30, 2017.

EFFECTIVE as of the date set forth in the referenced Agreement.

APPROVED AS TO LEGAL FORM:  
DANIEL C. CEDERBORG, COUNTY  
COUNSEL

By:   
Deputy

REVIEWED AND RECOMMENDED  
FOR APPROVAL: LISA A.  
SMITTCAMP, DISTRICT ATTORNEY

By:   
Deputy

APPROVED AS TO ACCOUNTING  
FORM: VICKI CROW, C.P.A.  
AUDITOR-CONTROLLER/TREASURER-  
TAX COLLECTOR

By:   
Deputy

Organization	28622500
Fund	0001
Subclass	10000
Account	4375