

Donation Agreement and Release of Liability for Donated Trailers

The County of Fresno ("County") is a political subdivision of the State of California that acquired certain travel trailers in response to the current COVID-19 public health emergency, and, pursuant to Government Code § 25372, is willing to donate these travel trailers to non-profit community-based organizations (each a "Recipient") free of charge for the public purpose of supporting public health and human services, including the provision of temporary housing and services for the unhoused population of Fresno County.

As consideration for accepting the Donated Trailers, the undersigned agrees to the following waiver of liability and indemnity provisions:

1. Donated Trailers. County donates to Recipient the following trailer(s):
_____ (the "Donated Trailers")

2. Condition "As Is." County makes no representations, warranties, or guarantees about the Donated Trailers, including any implied warranties of merchantability and/or fitness for any purpose. Recipient accepts the Donated Trailers in "as is" condition. Recipient understands and agrees that County will not provide any instructions, warnings, follow-up services, replacement parts, or repairs.

3. Assumption of Risk. Recipient understands and agrees that there are certain risks of injury that may arise from the possession, use, or misuse of the Donated Trailers, including the risk of injury, disability, or death, or damage to property. Recipient assumes full responsibility for all risks arising directly or indirectly from its possession, use, or misuse of the Donated Trailers, both known and unknown, regardless of the cause.

4. Waiver and Release. Recipient waives and releases any and all claims against County, its agents, employees and elected officials (collectively "County Parties") with respect to any and all injury, disability, death, loss and damage to property resulting from possession, use or misuse of the Donated Trailers, regardless of the cause, and even if caused by negligence, whether passive or active. Recipient agrees not to sue any the County on the basis of these waived and released claims.

5. Section 1542 Waiver. In giving the general release in Section 4, which includes claims which may be unknown to Recipient at present, Recipient acknowledges that Recipient has read and understand Section 1542 of the California Civil Code, which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Recipient expressly waives rights and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, that is similar, comparable or equivalent in effect to Section 1542 of the California Civil Code.

Recipient may hereafter discover facts in addition to or different from those that Recipient now knows or believes to be true with respect to the subject matter of the release under Section 4 hereof, but Recipient shall, with respect to Section 4 hereof, expressly have, upon the Effective

Date, fully, finally and forever released County, including its officers, agents, and employees, from any and all claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

Recipient acknowledges that the foregoing waiver in this Section 5 was separately bargained for and a key element of Section 4 hereof, of which the release contained therein is a part.

Recipient expressly waives and relinquish all rights and benefits under this Section 5, and any law of any other jurisdiction of similar effect with respect to my release of claims, including but not limited to any unknown or unsuspected claims hereof.

_____ Recipient Initials

6. Indemnity. Recipient shall indemnify and hold harmless and defend the County (including its officers, agents, employees, and volunteers) against all claims, demands, injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and liabilities of any kind to the County, the Recipient, or any third party that arise from or relate to the donation of the Trailers by the County to the Recipient (or any of its officers, agents, subcontractors, or employees) under this Agreement. The County may conduct or participate in its own defense without affecting the Recipient's obligation to indemnify and hold harmless or defend the County.

By signing below, Recipient has read and understand the terms of this Agreement. Recipient understands that this Agreement covers each and every Donated Trailer which Recipient is receiving.

RECIPIENT UNDERSTANDS THAT THIS IS A COMPLETE RELEASE OF LIABILITY OF COUNTY.

Recipient

County

[Name]

County Administrative Officer

Date

Date