

**AGENDA
KERN COUNCIL OF GOVERNMENTS**

**KERN COG CONFERENCE ROOM
1401 19TH STREET, THIRD FLOOR
BAKERSFIELD, CALIFORNIA**

**THURSDAY
November 19, 2020
6:30 P.M.**

SPECIAL NOTICE

**Public Participation and Accessibility
November 19, 2020 Transportation Planning Policy Committee
and the Kern Council of Governments Board of Directors Meetings**

On March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20, which includes a waiver of Brown Act provisions requiring physical presence of the Council or the public in light of the COVID-19 pandemic. Based on guidance from the California Governor's Office and Department of Public Health, as well as the County Health Officer, in order to minimize the potential spread of the COVID-19 virus, Kern Council of Governments hereby provides notice that as a result of the declared federal, state, and local health emergencies, and in light of the Governor's order, the following adjustments have been made:

- The meeting scheduled for **November 19, 2020, at 6:30 p.m.** will have limited public access to maintain social distancing. Masks will be required to attend the meeting in person.
- Consistent with the Executive Order, Committee/Board Members may elect to attend the meeting telephonically and participate in the meeting to the same extent as if they were physically present.
- The public may participate in the meeting and address the Committee/Board in person under Public Comments.
- If the public does not wish to attend in person, they may participate in the meeting and address the Committee/Board as follows:

If you wish to comment on a specific agenda item, submit your comment via email to feedback@kerncog.org **no later than 1:00 p.m. November 19, 2020**. Please clearly indicate which agenda item number your comment pertains to. If you wish to make a general public comment not related to a specific agenda item, submit your comment via email to feedback@kerncog.org **no later than 1:00 p.m. November 19, 2020**.

TPPC/Kern COG Board

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DISCLAIMER: This agenda includes the proposed actions and activities, with respect to each agenda item, as of the date of posting. As such, it does not preclude the Committee from taking other actions on items on the agenda which are different or in addition to those recommended.

- I. **ROLL CALL:** Gurrola, B. Smith, Lessenevitch, Vallejo, Crump, McFarland, Mower, Alvarado, Krier, P. Smith, Reyna, Couch, Scrivner

Congestion Management Agency Ex-Officio Members: Kiernan, Alcalá, Navarro, Parra

- II. **PUBLIC COMMENTS:** This portion of the meeting is reserved for persons to address the Council on any matter not on this agenda but under the jurisdiction of the Council. Council members may respond briefly to statements made or questions posed. They may ask a question for clarification; make a referral to staff for factual information or request staff to report back to the Council at a later meeting. **SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD PRIOR TO MAKING A PRESENTATION.**

Disabled individuals who need special assistance to attend or participate in a meeting of the Kern Council of Governments may request assistance at 1401 19th Street Suite 300; Bakersfield CA 93301 or by calling (661) 635-2900. Every effort will be made to reasonably accommodate individuals with disabilities by making meeting materials available in alternative formats. Requests for assistance should be made at least three (3) working days in advance whenever possible.

- III. **CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT:** All items on the consent agenda are considered to be routine and non-controversial by Kern COG staff and will be approved by one motion if no member of the Council or public wishes to comment or ask questions. If comment or discussion is desired by anyone, the item will be removed from the consent agenda and will be considered in the listed sequence with an opportunity for any member of the public to address the Council concerning the item before action is taken. **ROLL CALL VOTE.**

A. **Approval of Minutes – October 15, 2020**

B. **Response to Public Comments**

C. **MEMORANDUM OF UNDERSTANDING – SAN JOAQUIN VALLEY REGIONAL EARLY ACTION PLANNING COMMITTEE FOR HOUSING** (Napier)

Comment: The Governor signed AB 101 into law on July 31, 2019. The legislation established a San Joaquin Valley Multi Agency Working Group consisting of Fresno Council of Governments, Kern Council of Governments, Kings County Association of Governments, Madera County Transportation Commission, Merced County Association of Governments, San Joaquin Council of Governments, Stanislaus Council of Governments, and Tulare County Association of Governments. The San Joaquin Valley Multi Agency Working Group will be the conduit for one-time funding, including grants for planning activities to enable jurisdictions to meet the sixth cycle of the regional housing need assessment (RHNA).

Action: Approve the Memorandum of Understanding for the San Joaquin Valley Regional Early Action Planning Committee for Housing and authorize the Executive Director to sign the MOU.

D. **COMMUNITY SURVEY CONTRACT APPROVAL** (Campbell)

Comment: Community Survey Contract for Fiscal Year 2020-2021 in an amount not to exceed \$65,000. This item has been sent to County Counsel for review.

Action: Approve the contract for the Community Survey between Kern COG and Godbe Research in an amount not to exceed \$65,000 and authorize the Chair to sign.

E. KERN COG FY 2020-2021 OVERALL WORK PROGRAM AND FINANCIAL PLAN AMENDMENT NO. 1 (Palomo)

Comment: Pursuant to Kern COG policy, the Council shall review and approve amendments to the Overall Work Program (OWP) and Financial Plan (budget). Amendment No. 1 represents a net budgetary increase of \$773,226.

Action: Approve Amendment No. 1 to the FY 2020-2021 Overall Work Program and Financial Plan and authorize Chairman to sign Resolution 20-29. ROLL CALL VOTE.

F. Local Clearinghouse: (None)

***** END CONSENT CALENDAR - ROLL CALL VOTE *****

IV. KERN COG'S 2020 REGIONAL AWARD OF MERIT CEREMONY (Napier)

Comment: Request for Board Direction regarding the 2020 Regional Award of Merit Ceremony scheduled for March 4, 2021.

Action: Provide staff direction.

V. TRANSPORTATION AUTHORITY: (None)

VI. CONGESTION MANAGEMENT AGENCY: (None)

VII. KERN MOTORIST AID AUTHORITY: (None)

VIII. MEETING REPORTS: (None)

IX. EXECUTIVE DIRECTOR'S REPORT: (Report on Programs and Projects in Progress)

- A. Warrant Register
- B. Timeline

X. MEMBER STATEMENTS: On their own initiative, Council members may make a brief announcement or brief report on their own activities. In addition, Council members may ask a question of staff or the public for clarification on any matter, provide a reference to staff or other resources for factual information, or request staff to report back to the Council at a later meeting concerning any matter. Furthermore, the Council, or any member thereof, may take action to direct staff to place a matter of business on a future agenda.

XI. CLOSED SESSION: (None)

XII. ADJOURNMENT: NEXT MEETING – The next scheduled meeting will be December 17, 2020 (May be dark).

KERN COUNCIL OF GOVERNMENTS

Minutes of Meeting for October 15, 2020

KERN COG BOARD ROOM
1401 19TH STREET, THIRD FLOOR
BAKERSFIELD, CALIFORNIA

THURSDAY
October 15, 2020
6:30 P.M.

The meeting was called to order by Chairman Smith at 7:12 p.m.

I. ROLL CALL:

Members Present: B. Smith, Vallejo, Crump, Mower, Krier, P. Smith, Reyna, Couch, Scrivner

Congestion Management Agency Ex-Officio Members: Navarro, Alcala, Kersey, Parra

Members Absent: Gurrola, Lessenevitch, McFarland, Alvarado

Others: Heckman, Patteson, Carr, Ariola

Staff: Ahron Hakimi, Rob Ball, Becky Napier, Veronica McCulloch, Bob Snoddy, Raquel Pacheco

- II. PUBLIC COMMENTS:** This portion of the meeting is reserved for persons to address the Council on any matter not on this agenda but under the jurisdiction of the Council. Council members may respond briefly to statements made or questions posed. They may ask a question for clarification; make a referral to staff for factual information or request staff to report back to the Council at a later meeting. **SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD PRIOR TO MAKING A PRESENTATION.**

Chairman Smith asked for public comments. There were no comments.

- III. CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT:** All items on the consent agenda are considered to be routine and non-controversial by Kern COG staff and will be approved by one motion if no member of the Council or public wishes to comment or ask questions. If comment or discussion is desired by anyone, the item will be removed from the consent agenda and will be considered in the listed sequence with an opportunity for any member of the public to address the Council concerning the item before action is taken. **ROLL CALL VOTE.**

A. Approval of Minutes – September 17, 2020

B. Response to Public Comments

C. 2020 Community Transportation Needs Assessment Clean Mobility Options Voucher Consulting Contract Approval (Napier)

Comment: At the August 20, 2020 Board meeting, the Kern COG Board reviewed and approved the grant-funding agreement from CALSTART's Clean Mobility Options a **Notice of Proposed Award** for our 2020 Community Transportation Needs Assessment Voucher in the amount of \$49,924. Providence Strategic Consulting, LLC serves as Kern COG's partner on this project and will be contracted to conduct this needs assessment. Their contract for services has been sent to County Counsel for review.

Action: approve the contract for the CALSTART Clean Mobility Needs Assessment between Kern COG and Providence Strategic Consulting, LLC in an amount not to exceed \$49,924 and authorize the Chair to sign.

D. Local Clearinghouse: None.

***** END CONSENT CALENDAR - ROLL CALL VOTE *****

MOTION BY DIRECTOR CRUMP, SECOND BY DIRECTOR VALLEJO TO APPROVE THE CONSENT CALENDAR, MOTION CARRIED WITH A ROLL CALL VOTE.

IV. STATUS OF THE CALIFORNIA VANPOOL AUTHORITY (CALVANS) (Napier)

Comment: Ms. Napier presented the following information: Good evening Chairman and Members of the Board:

- The California Department of Transportation determined that the Kings County Area Public Transit Agency's vanpool programs should be replicated regionally as a means of addressing the non-traditional transportation needs of California resident.
- On October 21, 2011, certain public entities entered into an agreement to form a Joint Powers Authority known as the "California Vanpool Authority" or "CalVans". In Section 4 of Article IV of the Agreement provision was made for other public entities to join CalVans.
- Kern COG made a written request for inclusion as a member agency of CalVans and on July 19, 2012, the Board of Directors of CalVans voted unanimously to accept Kern COG as a member.
- In March 2020, CalVans released its Fiscal Year 2018/19 Financial Audit. After review of the Financial Report, it was noted that CalVans had a significant loss and did not have enough funds to pay its expenditures.
- During a Technical Advisory Committee meeting, it was discovered that CalVans had received grant-funded vehicles in which they made a "Lease Back" arrangement for \$1 million. According to CalVans staff, this was necessary because funds were needed to pay the expenditures, and this type of arrangement had been done in the past to generate additional funds to operate the program.
- At the April CalVans Board meeting, the Executive Director of the Kings County Area Public Transit Agency spoke concerning the issues outlined above and was told by the Board that this was the first time the Board had been informed there was a deficit, and that the prior and current Executive Director of CalVans had mortgaged assets without Board approval.
- CalVans management made several bad financial decisions including issuing over \$1.6 million in debt not approved by its Board.
- The Joint Powers Agreement states that the Board shall not obligate the Transit Authority to expenditures of funds not appropriated by the legislative bodies of the Member Agencies or received directly from the State or federal government.
- Approximately 21% (\$2,838,154) of the annual budget is associated with loan payments which are charged to the users of the system, resulting in rising rates that are more than twice the standard rates charged by the private sector.
- A Member Agency may withdraw from the Transit Authority by filing its written notice of withdrawal with the Executive Director 180 days before the actual withdrawal. Such a withdrawal shall be effective on the last day of that 180-day period.
- It should be noted that if Kern COG elects to withdraw from CalVans, the services to the riders in Kern County will continue uninterrupted as a result of our withdrawal.

The action request is either:

1. Continue as a Member Agency of the California Vanpool Authority; or
2. Direct staff to prepare written notice to the Executive Director of CalVans withdrawing from the California Vanpool Authority and authorize the Chairman to sign the letter.

Chairman Smith stated that he thought this organization provided a good service to the public and that the Board could wait and consider asking for more information from the Executive

Director of CalVans and ask for details on what the plans are to rectify this situation. Board Member Reyna asked what the benefit was to Kern COG to be a member. Board Member Vallejo stated that they now have a history of not keeping the Board informed. There was discussion about misusing public funds and needing to protect the public.

After further discussion, Executive Director Hakimi stated that if the Board wished to issue the withdrawal letter we would still have 180 days to potentially get more information and could most likely continue membership in CalVans if that was the Board's wishes.

Board Member Vallejo made a motion to direct staff to prepare written notice to the Executive Director of CalVans withdrawing from the California Vanpool Authority and authorize the Chairman to sign the letter; seconded by Board Member Couch; motion carried with a unanimous roll call vote.

V. TRANSPORTATION AUTHORITY (None)

VI. CONGESTION MANAGEMENT AGENCY: (None)

VII. KERN MOTORIST AID AUTHORITY: (None)

VIII. MEETING REPORTS: (None)

IX. EXECUTIVE DIRECTOR'S REPORT:

Executive Director Hakimi made the following report:

- Report on CDAC Meeting – September 29.
- Attended a COG Directors meeting on September 29 where the primary topic of discussion was the California Transportation Plan 2050 and the Valley COG Directors displeasure with the deemphasis on investment in roads and the states opinion that the state highway system is complete and doesn't need further emphasis.

X. MEMBER STATEMENTS: (None)

XI. CLOSED SESSION: EXECUTIVE DIRECTOR EVALUATION.

XII. ADJOURNMENT: Seeing no other comments the meeting adjourned at 7:29 p.m. NEXT MEETING – November 19, 2020.

Respectfully submitted,

ATTEST:

Ahron Hakimi, Executive Director

Bob Smith, Chairman

DATE: _____



III. C. COG

November 19, 2020

TO: Kern Council of Governments Board of Directors

FROM: Ahron Hakimi, Executive Director
By: Becky Napier, Deputy Director - Administration

SUBJECT: KERN COUNCIL OF GOVERNMENTS CONSENT AGENDA ITEM: III. C.
MEMORANDUM OF UNDERSTANDING - SAN JOAQUIN VALLEY REGIONAL
EARLY ACTION PLANNING COMMITTEE FOR HOUSING

DESCRIPTION:

The Governor signed AB 101 into law on July 31, 2019. The legislation established a San Joaquin Valley Multi Agency Working Group consisting of Fresno Council of Governments, Kern Council of Governments, Kings County Association of Governments, Madera County Transportation Commission, Merced County Association of Governments, San Joaquin Council of Governments, Stanislaus Council of Governments, and Tulare County Association of Governments. The San Joaquin Valley Multi Agency Working Group will be the conduit for one-time funding, including grants for planning activities to enable jurisdictions to meet the sixth cycle of the regional housing need assessment (RHNA).

DISCUSSION:

In September 2019, the Kern COG Board was advised that the City Selection Committee appointed Bob Smith as the large city representative, Cathy Prout as the small city representative and the Board of Supervisors appointed Zack Scrivner to represent the County of Kern, as required by the legislation.

Under section 50515.02, subdivision (a), of the Health and Safety Code, the State of California Department of Housing and Community Development (HCD) has made available one hundred twenty-five million dollars (\$125,000,000) in local government planning support grants to regional entities and working groups as outlined by the statute.

On June 26, 2020, the Members of the Working Group approved submission of an application for grant funding to HCD by Fresno Council of Governments (COG) as the fiscal agent on behalf of the Committee. On August 14, 2020, HCD approved the

Application and an allocation of \$10,218,830.75 in grant funds to the Members through Fresno COG. On August 20, 2020, Fresno COG and HCD executed grant funding agreement number 19-REAP-14029.

This Memorandum of Understanding (MOU) is intended to reflect the Members' understanding of the distribution of the Initial Grant and to facilitate the subsequent implementation of activities by the Members in furtherance of the purposes for which the Initial Grant was approved by HCD.

The Members agree to allocate the \$10,218,830.75 of the Initial Grant as follows:

1. Fresno COG will retain \$5,475,000 of the Initial Grant to perform the following tasks:
 - a. Fresno COG shall prepare a comprehensive housing report and policy recommendations for implementation, as stated in the Application. Fresno COG may enter into agreements as necessary to perform its obligations under this provision of the MOU and under the Application and Agreement.
 - b. Fresno COG shall conduct regional planning and coordination, and provide technical assistance, as stated in the Application. Fresno COG may enter into agreements as necessary to perform its obligations under this term of the MOU and under the Application and Agreement.
 - c. Fresno COG shall administer of the Application, Agreement, this MOU, and the Initial Grant, as stated in the Application.
2. Fresno COG shall distribute the remaining \$4,743,830.75 of the Initial Grant directly to each of the Members, as more particularly described in "Exhibit B," in proportion to each Member's relative population using California Department of Finance population estimates updated as of January 2020.

Attached for Board consideration is the MOU between the agencies comprising the San Joaquin Valley Regional Early Action Planning Committee for Housing (Working Group) and Fresno COG. County Counsel has reviewed the Memorandum of Understanding.

Action:

Approve the Memorandum of Understanding for the San Joaquin Valley Regional Early Action Planning Committee for Housing and authorize the Executive Director to sign the MOU.

Attachment: MOU and Exhibits.

MEMORANDUM OF UNDERSTANDING

San Joaquin Valley Regional Early Action Planning Committee for Housing

This memorandum of understanding (“**MOU**”) is made this 19th day of November 2020 (“**Effective Date**”), by and between the agencies (“**Members**”) comprising the San Joaquin Valley Regional Early Action Planning Committee for Housing (“**Committee**”) set forth below:

Fresno Council of Governments

2035 Tulare Street Suite 201
Fresno, CA 93721
Email: tboren@fresnocog.org

Kern Council of Governments

1401 19th Street, Suite 300
Bakersfield, California 93301
Email: ahakimi@kerncog.org

Kings County Association of Governments

339 W D Street
Lemoore, CA 93245
Email: terri.king@co.kings.ca.us

Madera County Transportation Commission

2001 Howard Road, Suite 201
Madera, CA 93637
Email: patricia@maderactc.org

Merced County Association of Governments

369 W 18th Street
Merced, CA 95340
Email: stacie.guzman@mcagov.org

San Joaquin Council of Governments

555 E Weber Avenue
Stockton, CA 95202
Email: achesley@sjcog.org

Stanislaus Council of Governments

1111 “I” Street, Suite 308
Modesto, CA 95354
Email: rpark@stancog.org

Tulare County Association of Governments

210 N Church Street, Suite B
Visalia, CA 93291
Email: tsmalley@tularecog.org

RECITALS

- A. Under section 50515.02, subdivision (a), of the Health and Safety Code, the State of California Department of Housing and Community Development (“**HCD**”) has made available one hundred twenty-five million dollars (\$125,000,000) in local government planning support grants to regional entities and working groups as outlined by the statute.
- B. The Committee is one of the working groups identified in section 50515.02, subdivision (a), of the Health and Safety Code.
- C. On June 26, 2020, the Members approved submission of an application for grant funding (“**Application**”) to HCD by Fresno Council of Governments (“**FCOG**”) as the fiscal agent on behalf of the Committee.

- D. On August 14, 2020, HCD approved the Application and an allocation of \$10,218,830.75 in grant funds (the “**Initial Grant**”) to the Members through FCOG.
- E. On August 20, 2020, FCOG and HCD executed grant funding agreement number 19-REAP-14029 (“**Agreement**”). A true and correct copy of the Agreement is attached hereto as “Exhibit A.”
- F. This MOU is intended to reflect the Members’ understanding of the distribution of the Initial Grant and to facilitate the subsequent implementation of activities by the Members in furtherance of the purposes for which the Initial Grant was approved by HCD.

The Members therefore agree as follows:

1. Allocation of Initial Grant. The Members agree to allocate the \$10,218,830.75 of the Initial Grant as follows:
 - a. FCOG will retain \$5,475,000 of the Initial Grant to perform the following tasks:
 - i. FCOG shall prepare a comprehensive housing report and policy recommendations for implementation, as stated in the Application. FCOG may enter into agreements as necessary to perform its obligations under this provision of the MOU and under the Application and Agreement.
 - ii. FCOG shall conduct regional planning and coordination, and provide technical assistance, as stated in the Application. FCOG may enter into agreements as necessary to perform its obligations under this term of the MOU and under the Application and Agreement.
 - iii. FCOG shall administer of the Application, Agreement, this MOU, and the Initial Grant, as stated in the Application.
 - b. FCOG shall distribute the remaining \$4,743,830.75 of the Initial Grant directly to each of the Members, as more particularly described in “Exhibit B,” in proportion to each Member’s relative population using California Department of Finance population estimates updated as of January 2020.
2. Compliance with the Agreement and MOU. Each Member hereby acknowledges its cognizance of and its understanding of its obligation to comply with the terms and conditions of the Agreement and MOU. Each Member agrees to abide by the terms and conditions of the Agreement and to undertake all actions requested by FCOG pursuant to the Agreement or MOU, in order to facilitate FCOG’s compliance with the terms and conditions of the Agreement.
3. Compliance with the Law. Each Member agrees to comply with all Federal, State, and local laws in the performance of its obligations under this MOU.

4. Sub-Agreements. Copies of all agreements between any Member and any sub-recipient, contractor or subcontractor shall be submitted to FCOG, so that they then may be provided to HCD's Program Manager as required by Exhibit D, section 8, paragraph B of the Agreement.
5. Quarterly Reports. Each Member also shall deliver to FCOG, on a quarterly basis, status reports and accounting records reflecting any expenditure of the Initial Grant by that Member or by a sub-recipient of that Member. Each Member shall deliver its status reports and accounting records within thirty (30) days following the end of the period covered by the document. Each member's quarterly status reports shall, at a minimum, include discussion of any allocations or sub-allocations of the Initial Grant, a description of any project initiated in whole or in part with the Initial Grant and a description of the progress made on any such project.
6. Retention of Records. Each Member shall maintain public records (as that term is defined in Government Code section 6252) (collectively, "**Records**") required under the Agreement, relating to any matter contained in this MOU, or demonstrating that the Initial Grant was used in a manner consistent with the Agreement. Each Member shall make the Records available to FCOG, HCD or the State Auditor upon demand. Each Member shall maintain the Records and make them available for inspection for a period of at least one (1) year following the termination of this MOU or the time specified in Government Code section 8546.7, whichever is later. Records relating to any audit or litigation relevant to this MOU or the Agreement shall be retained by each Member for five years after the conclusion or final resolution of such matter, as required by Exhibit D, section 3, paragraph E of the Agreement.
7. Disallowed Costs. Each Member shall return to FCOG any funds which HCD has disallowed within 90 days following notice to the Member.
8. Indemnity.
 - a. Each Member shall indemnify FCOG, along with FCOG's officers, directors, and employees, for any costs or liabilities (including without limitation for damages, court costs, attorneys' fees, and expert witness fees) arising from, resulting from, or in connection with that Member's actions with respect to subject matter of this MOU or relating in any way to the use of the Initial Grant proceeds by that Member or any sub-recipient, contractor, or subcontractor of that Member.
 - b. Notwithstanding, the obligation to indemnify shall not apply to any costs or liabilities caused solely by the active negligence or willful misconduct of FCOG or any of its officers, directors, and employees.
9. Duration of MOU. This MOU shall be in effect from the Effective Date until December 31, 2024 unless its term is extended by written modification in accordance with the provisions of section 12, paragraph c of this MOU.

10. Subsequent MOUs. The Members understand and agree that subsequent MOUs may be necessary to facilitate the distribution of further grant funding from HCD under section 50515.02, subdivision (a), of the Health and Safety Code. The Members hereby commit to negotiate the terms and conditions of such subsequent MOUs in good faith, in order to achieve concurrence and ensure execution of same in a timely fashion.
11. Notices. All notices provided for or permitted under this MOU must be in writing and delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, or as a PDF attachment to an email sent to the addresses provided for the Members above. Any Member may change its address for receipt of notice by providing notice of that change as provided in this section 11.
 - a. A notice delivered by personal service is effective upon service to the recipient.
 - b. A notice delivered by first-class United States mail is effective three business days after deposit in the United States mail, postage prepaid, addressed to the recipient.
 - c. A notice delivered by an overnight commercial courier service is effective one County business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient.
 - d. A notice delivered by email is effective when sent, if the email is sent between the hours of 8:00 am and 5:00 pm on a business day. If sent outside the hours of 8:00 am and 5:00 pm on a business day, a notice delivered by email becomes effective on the first business day following.
12. General Provisions.
 - a. This MOU is binding upon and shall inure to the benefit of any successors or assigns of the Members.
 - b. This MOU represents the entire understanding of the Members as to those matters contained in this MOU. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in this MOU.
 - c. This MOU may not be modified or altered except by writing signed by all Members.
 - d. No Member may assign, delegate or transfer its rights and duties in this MOU without the written consent of all other Members, except that any Member may enter into one or more sub-agreements with any sub-recipient, contractor, or subcontractor to implement activities in furtherance of the

purposes for which the Initial Grant was approved by HCD without the necessity of obtaining such consent.

- e. Any dispute arising under this MOU, which is not resolvable by informal mediation between or among the Members, shall be adjudicated in a court of law under the laws of the State of California.
- f. For all claims arising from or related to this MOU, nothing in this MOU establishes, waives, or modifies any claims presentation requirements or procedures provided by law, including the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).
- g. This MOU shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this MOU shall only be in California. Any action brought to interpret or enforce this MOU, or any of the terms or conditions hereof, shall be brought and maintained in the Fresno County Superior Court.
- h. If any part of this MOU is found by a court of competent jurisdiction to be unlawful or otherwise unenforceable, the balance of this MOU remains in full force and effect, and the Members shall make best efforts to replace the unlawful or unenforceable part of this MOU with lawful and enforceable terms intended to accomplish the Members' original intent.
- i. Section headings are provided for convenience only and are not part of this MOU.
- j. This MOU does not and is not intended to create any rights or obligations for any person or entity except for the Members.
- k. Each Member represents and warrants that the individual signing this MOU is duly authorized to do so and their signature on this MOU legally binds that Member to the terms of this MOU.
- l. This MOU may be signed in counterparts, each of which is an original, and all of which together constitute this MOU.

[Signature pages follow.]

The Members have caused this MOU to be executed as of the date and year first above written.

Fresno Council of Governments

By:

Tony Boren, Director

Approved as to Legal Form:

By:

Print:

Kern Council of Governments

By:

Ahron Hakimi, Director

Approved as to Legal Form:

By

: _____

Print:

Brian Van Wyk, County Counsel

Kings County Association of Governments

By:

Terri King, Director

Approved as to Legal Form:

By:

Print:

Madera County Transportation Commission

By:

Patricia Taylor, Director

Approved as to Legal Form:

By:

Print:

Merced County Association of Governments

By:

Stacie Dabbs, Director

Approved as to Legal Form:

By:

Print:

Stanislaus Council of Governments

By:

Rosa Park, Director

Approved as to Legal Form:

By:

Print:

San Joaquin Council of Governments

By:

Andrew Chesley, Director

Approved as to Legal Form:

By:

Print:

Tulare County Association of Governments

By:

Ted Smalley, Director

Approved as to Legal Form:

By:

Print:

Exhibit A

Grant funding agreement number 19-REAP-14029

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STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER
19-REAP-14029

PURCHASING AUTHORITY NUMBER (if applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR'S NAME
Fresno Council of Governments

2. The term of this Agreement is:

START DATE
Upon HCD Approval

THROUGH END DATE
12/31/2024

3. The maximum amount of this Agreement is:
\$10,218,830.75

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Authority, Purpose and Scope of Work	3
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	REAP General Terms and Conditions	9
Exhibit E	Special Conditions	0
TOTAL NUMBER OF PAGES ATTACHED		15

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Fresno Council of Governments

CONTRACTOR BUSINESS ADDRESS 2035 Tulare St., #201	CITY Fresno	STATE CA	ZIP 93721
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PRINTED NAME OF PERSON SIGNING <i>TONY BOREN</i>	TITLE <i>Ex. Director</i>
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CONTRACTOR AUTHORIZED SIGNATURE <i>Tony Boren</i>	DATE SIGNED <i>8/20/20</i>
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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME
Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS 2020 W. El Camino Ave., Suite 130	CITY Sacramento	STATE CA	ZIP 95833
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PRINTED NAME OF PERSON SIGNING Shaun Singh	TITLE Contracts Manager, Business & Contract Services Branch
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CONTRACTING AGENCY AUTHORIZED SIGNATURE <i>Shaun Singh</i>	DATE SIGNED <i>9/3/2020</i>
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California Department of General Services Approval (or exemption, if applicable)

Exempt per; SCM Vol. 1 4.04.A.3 (DGS memo dated 6/12/1981)

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority

The Local Government Planning Support Grants Program is established for the purpose of providing regions and jurisdictions with one-time funding, including grants for planning activities to enable jurisdictions to meet the sixth cycle of the regional housing needs assessment. Up to two hundred fifty million dollars (\$250,000,000) shall be distributed under the program in accordance with Health and Safety Code sections 50515.02 and 50515.03. Of this amount, approximately one hundred twenty-five million dollars (\$125,000,000) is available to councils of governments and other regional entities. The Department of Housing and Community Development (Department or HCD) shall administer the Program (referred to herein as the Regional Early Action Planning Grant Program, or "REAP") to councils of governments and other regional entities in accordance with the Notice of Funding Availability ("NOFA") pursuant to Health and Safety Code section 50515.04, subdivision (f).

Pursuant to Health and Safety Code section 50515.02, subdivision (d)(3), a council of governments or a fiscal agent of a multiagency working group, as defined in section 50515.02, may request up to 25 percent of its available funding in advance. This Standard Agreement authorizes the encumbrance of full funds available to the applicant pursuant to the NOFA, subject to all statutory requirements and all applicable provisions including the NOFA, initial application and award for advance payment, subsequent advance payment application and award, application and award for the full remaining fund amount and amendment to this agreement.

The Grantee shall consult with the Department on any amendment or other provision related to the implementation of the Program. The Department decisions related to the administration of the Program shall be final pursuant to Health and Safety Code section 50515.04, subdivision (g).

2. Purpose

In accordance with the authority cited above, the Grantee has been awarded financial assistance in the form of a grant from the Program. The Department has agreed to make the grant for planning activities pursuant to the NOFA and this Agreement. By entering into this Agreement and thereby accepting the award of the Program funds, the Grantee agrees to comply with the terms and conditions

Regional Early Action Planning Grant Program (REAP)

NOFA Date: October 10, 2019

Approved Date: April 9, 2020

Prep. Date: August 12, 2020

EXHIBIT A

of the NOFA, this Agreement, subsequent amendments to this Agreement, the representations contained in the initial advance payment and subsequent full application(s), and the requirements of the authority cited above. Based on all representations made by the Grantee, the Department shall encumber the full amount pursuant the NOFA and provide advance payment and subsequent payments in accordance with Exhibit B. All terms, conditions and other relevant provisions will be subject to amendments as a result of subsequent applications and awards for remaining funds after the initial application up to 25 percent of the full amount described in Exhibit B.

3. **Definitions**

Terms herein shall have the same meaning as defined by the NOFA.

4. **Scope of Work**

Grantee shall use the awarded funds in accordance with the approved Scope of Work as contained in the timeline and budget and related information outlined in the application for 25 percent advance payment and any subsequent applications for partial or full funding. The Scope of Work may be amended in compliance with statutory requirements subject to approval by the Department.

5. **Monitoring**

- A. The Grantee shall maintain books, records, documents, and other evidence that demonstrates the funding was used for the appropriate purposes, as described in the Scope of Work, approved application, subsequent approved applications and all other pertinent documents. These books, records, documents and other evidence shall be made available for audit and inspection by the Department at any point during the term of the agreement and subject to any amendments to this agreement.
- B. The Department may request additional information, as needed, to meet the statutory requirements of the Program and facilitate amendments to this agreement, including but not limited to reporting or audit requirements, progress in implementing advance payment(s), or award of the full amount available to the Grantee.

EXHIBIT A

- C. The Department may monitor expenditures and activities of an applicant, as the Department deems necessary, to ensure compliance with statutory or Department requirements.
- D. The Department may, as it deems appropriate or necessary, request the repayment of funds from an applicant, or pursue any other remedies available to it by law for failure to comply with statutory or Department requirements.
- E. The Department's decision to approve or deny an application or request for funding pursuant to the Program, and its determination of the amount of funding to be provided, shall be final.
- F. Monitoring provisions may be amended and are subject to additional provisions in accordance with this agreement or subsequent amendments.

6. Department Contract Coordinator

The Contract Coordinator of this Agreement for the Department is the Housing Policy Development Manager, or the Manager's designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the Department Contract Coordinator at the following address:

Department of Housing and Community Development
Housing Policy Development Division
Land Use Planning Unit
Attention: REAP Program Manager
2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833
P. O. Box 952050
Sacramento, CA 94252-2050

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Application for Funds

- A. The Department is entering into this Agreement on the basis of, and in reliance on facts, information, assertions and representations contained in any application and award and any subsequent modifications or additions thereto approved by the Department. All awarded applications for funding and any approved modifications and additions thereto are hereby incorporated into this Agreement.
- B. The Grantee warrants that all information, facts, assertions and representations contained in any approved application and approved modifications and additions thereto are true, correct, and complete to the best of the Grantee's knowledge. In the event that any part of an application and any approved modification and addition thereto is untrue, incorrect, incomplete, or misleading in such a manner that would substantially affect the Department's approval, disbursement, or monitoring of the funding and the grant or activities governed by this Agreement, the Department may declare a breach hereof and take such action or pursue such remedies as are provided for breach hereof.

2. Grant and Reimbursement Limit

- A. The maximum total amount encumbered to the Grantee pursuant to this Agreement shall not exceed \$10,218,830.75.
- B. This Agreement authorizes an initial advance payment(s) for eligible activities as described in the application.
- C. This Agreement authorizes subsequent award amounts or advance payment up to the total award amount as described in Section 2A, of this Exhibit, and subject to Department approval.
- D. The Grantee shall submit and follow a schedule for the expenditure of the advance payment, any subsequent payment and the total amount prior to

EXHIBIT B

disbursement of funds. The schedule is subject to Department approval and may be revised as the Department deems necessary.

3. **Grant Timelines**

- A. This Agreement is effective upon approval by the Department representative's signature on page one of the fully executed Standard Agreement, STD 213, (the "Effective Date").
- B. All Grant funds must be expended by December 31, 2023 pursuant to Health and Safety Code section 50515.04(c)(1).
- C. The Grantee shall deliver to the Department all final invoices for reimbursement on or before November 1, 2023, to ensure the Department meets the December 31, 2023 expenditure deadline. Under special circumstances, approved by the Department, the Department may modify the November 1, 2023 deadline and may provide exception, including, but not limited to, advance payment to carry out the terms of this agreement.
- D. It is the responsibility of the Grantee to monitor the project and timeliness of draws within the specified dates.

4. **Allowable Uses of Grant Funds**

- A. The Department shall not award or disburse funds unless it determines that the grant funds shall be expended in compliance with the terms and provisions of the NOFA which includes associated forms and guidelines and this Agreement.
- B. Grant funds shall only be used by the Grantee for project activities approved by the State that involve planning activities in accordance with the NOFA.
- C. Grant funds may not be used for administrative costs of persons employed by the Grantee for activities not directly related to eligible activities.
- D. The Grantee shall use no more than 5 percent of the total grant amount for costs related to administration of the project.

Regional Early Action Planning Grants (REAP)
NOFA Date: October 10, 2019
Approved Date: March 30, 2020
Prep. Date: August 12, 2020

EXHIBIT B

- E. A Grantee that receives funds under this Program may use a subcontractor and Grantee shall be accountable to the Department to ensure subcontractor's performance. The subcontract shall provide for compliance with all the requirements of the Program. The subcontract shall not relieve the Grantee of its responsibilities under the Program.
- F. After the contract has been executed by the Department and all parties, approved and eligible costs for eligible activities may be reimbursed for the project(s) upon completion of deliverables or paid in advance in accordance with the scope of work and subject to the terms and conditions of this Agreement.
- G. Only approved and eligible costs incurred for work after October 1, 2019, continued past the date of execution and acceptance of the Standard Agreement and completed during the grant term will be reimbursable.

5. **Performance**

The Grantee will be subject to amendments to this section as a result of future applications and awards.

6. **Fiscal Administration**

- A. The Grantee will be subject to amendments to this section as a result of subsequent applications and awards, in consultation with the Grantee.
- B. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall immediately terminate and be of no further force and effect. In this event, the State and Contractor shall be relieved of any and all obligations under this Grant Agreement.
- C. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the sole discretion to cancel this Agreement without cause, no liability occurring to the State, or amend the current Grant Agreement and amount allocated to Contractor.

EXHIBIT D

REAP TERMS AND CONDITIONS

1. Reporting

- A. During the term of the Standard Agreement the Grantee shall submit, upon request of the Department, a performance report that demonstrates satisfaction of all requirements identified in this Standard Agreement.
- B. The Grantee will be subject to amendments to this section as a result of subsequent applications and awards.

2. Accounting Records

- A. The Grantee, its staff, contractors and subcontractors shall establish and maintain an accounting system and reports that properly accumulate incurred project costs by line. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.
- B. The Grantee shall establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the scope of work, project timeline and budget. Separate bank accounts are not required.
- C. The Grantee shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the course of the project in accordance with GAAP.
- D. The Grantee agrees that the State or designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Standard Agreement.
- E. Subcontractors employed by the Grantee and paid with moneys under the terms of this Standard Agreement shall be responsible for maintaining accounting records as specified above.

3. Audits

- A. At any time during the term of the Standard Agreement, the Department may
Regional Early Action Planning Grants (REAP)
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Approved Date: April 9, 2020
Prep. Date: August 12, 2020

EXHIBIT D

- perform or cause to be performed a financial audit of any and all phases of the award. At the Department's request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The State of California has the right to review project documents and conduct audits during and over the project life.
- 1) The Grantee agrees that the Department or the Department's designee shall have the right to review, obtain, and copy all records and supporting documentation pertaining to performance of this Agreement.
 - 2) The Grantee agrees to provide the Department or the Department's designee, with any relevant information requested.
 - 3) The Grantee agrees to permit the Department or the Department's designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees who might reasonably have information related to such records and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with statutes, Program guidelines, and this Agreement.
- B. If a financial audit is required by the Department, the audit shall be performed by an independent certified public accountant. Selection of an independent audit firm shall be consistent with procurement standards contained in Exhibit D, Section 8 subsection A. of this Standard Agreement.
- 1) The Grantee shall notify the Department of the auditor's name and address immediately after the selection has been made. The contract for the audit shall allow access by the Department to the independent auditor's working papers.
 - 2) The Grantee is responsible for the completion of audits and all costs of preparing audits.
 - 3) If there are audit findings, the Grantee shall submit a detailed response acceptable to the Department for each audit finding within 90 days from the date of the audit finding report.
- C. The Grantee agrees to maintain such records for possible audit after final payment pursuant to Exhibit D, Section 3, subsection E. below, unless a longer period of records retention is stipulated.

EXHIBIT D

- 1) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period, all records must be retained by the Grantee, contractors and sub-contractors until completion of the action and resolution of all issues which arise from it. The Grantee shall include in any contract that it enters into in an amount exceeding \$10,000.00, the Department's right to audit the contractor's records and interview their employees.
 - 2) The Grantee shall comply with the caveats and be aware of the penalties for violation of fraud and for obstruction of investigation as set forth in California Public Contracts Code section 10115.10.
- D. The determination by the Department of the eligibility of any expenditure shall be final.
- E. The Grantee shall retain all books and records relevant to this Agreement for a minimum of (3) three years after the end of the term of this Agreement. Records relating to any and all audits or litigation relevant to this Agreement shall be retained for five years after the conclusion or resolution of the matter.

4. **Remedies of Non-performance**

- A. Any dispute concerning a question of fact arising under this Standard Agreement that is not disposed of by agreement shall be decided by the Department's Housing Policy Development Manager, or the Manager's designee, who may consider any written or verbal evidence submitted by the Grantee. The decision of the Department's Housing Policy Development Manager or Designee shall be the Department's final decision regarding the dispute, not subject to appeal.
- B. Neither the pendency of a dispute nor its consideration by the Department will excuse the Grantee from full and timely performance in accordance with the terms of this Standard Agreement.
- C. In the event that it is determined, at the sole discretion of the Department, that the Grantee is not meeting the terms and conditions of the Standard Agreement, immediately upon receiving a written notice from the Department to stop work, the Grantee shall cease all work under the Standard Agreement. The Department has the sole discretion to determine that the Grantee meets the terms and conditions after a stop work order, and to deliver a written notice to the grantee to resume work under the Standard Agreement.

EXHIBIT D

- D. Both the Grantee and the Department have the right to terminate the Standard Agreement at any time upon 30 days written notice. The notice shall specify the reason for early termination and may permit the Grantee or the Department to rectify any deficiency(ies) prior to the early termination date. The Grantee shall submit any requested documents to the Department within 30 days of the early termination notice.
- E. A strong implementation component for the funded activity through this Program is required, including, where appropriate, agreement by Grantee and its subcontractors to formally adopt or complete a planning or other activity consistent with the NOFA. The Grantee must carry out provisions to ensure the adoption or completion of activities in accordance with the NOFA, including activities subcontracted to localities. Grantee may be subject to repayment of the grant should the Grantee or any of its subcontractors under this agreement fail to adopt or complete activities set forth in its application, this Agreement or any amendments to this Agreement.
- F. The following shall each constitute a breach of this Agreement:
- 1) Grantee's failure to comply with any term or condition of this Agreement.
 - 2) Use of, or permitting the use of, grant funds provided under this Agreement for any ineligible costs or for any activity not specified and approved under this Agreement.
 - 3) Any failure to comply with the deadlines set forth in this Agreement unless approved by the Program Manager in writing.
- G. In addition to any other remedies that may be available to the Department in law or equity for breach of this Agreement, the Department may at its discretion, exercise a variety of remedies, including but not limited to:
- 1) Revoke existing REAP award(s) to the Grantee;
 - 2) Require the return of unexpended REAP funds disbursed under this Agreement;
 - 3) Require repayment of REAP Funds disbursed and expended under this agreement;
 - 4) Seek a court order for specific performance of the obligation defaulted upon, or the appointment of a receiver to complete the obligations in accordance

EXHIBIT D

with the REAP Program requirements; and

- 5) Other remedies available at law, by and through this agreement. All remedies available to the Department are cumulative and not exclusive.
 - 6) The Department may give written notice to the Grantee to cure the breach or violation within a period of not less than 15 days.
- H. The Grantee may be subject to amendment of this section as a result of subsequent applications and awards.

5. **Indemnification**

Neither the Department nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by the Grantee, its officers, employees, agents, its contractors, its sub-recipients or its subcontractors under or in connection with any work, authority or jurisdiction conferred upon the Grantee under this Standard Agreement. It is understood and agreed that the Grantee shall fully defend, indemnify and save harmless the Department and all of the Department's staff from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by the Grantee, its officers, employees, agents contractors, sub-recipients, or subcontractors under this Standard Agreement.

6. **Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement, or to require at any time, performance by the Grantee of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

7. **Relationship of Parties**

It is expressly understood that this Standard Agreement is an agreement executed by and between two independent governmental entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of an independent party.

8. **Third-Party Contracts**

Regional Early Action Planning Grants (REAP)
NOFA Date: October 10, 2019
Approved Date: April 9, 2020
Prep. Date: August 12, 2020

EXHIBIT D

- A. All state-government funded procurements must be conducted using a fair and competitive procurement process. The Grantee may use its own procurement procedures as long as the procedures comply with all City/County laws, rules and ordinances governing procurement, and all applicable provisions of California state law.
- B. Any contract entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement and shall be applicable to the Grantee's sub-recipients, contractors, and subcontractors. Copies of all agreements with sub-recipients, contractors, and subcontractors shall be submitted to the Department's program manager.
- C. The Department does not have a contractual relationship with the Grantee's sub-recipients, contractors, or subcontractors, and the Grantee shall be fully responsible for monitoring and enforcement of those agreements and all work performed thereunder.

9. Compliance with State and Federal Laws, Rules, Guidelines and Regulations

- A. The Grantee agrees to comply with all state and federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the grant, the Grantee, its contractors or subcontractors, and any other grant activity.
- B. During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, ancestry, national origin, sex, gender, gender identity, gender expression, genetic information, age, disability, handicap, familial status, religion, or belief, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 USC 3601-20) and all implementing regulations, and the Age Discrimination Act of 1975 and all implementing regulations.
- C. The Grantee shall include the nondiscrimination and compliance provisions of this clause in all agreements with its sub-recipients, contractors, and subcontractors, and shall include a requirement in all agreements that each of them in turn include the nondiscrimination and compliance provisions of this

EXHIBIT D

clause in all contracts and subcontracts they enter into to perform work under REAP.

- D. The Grantee shall, in the course of performing project work, fully comply with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
- E. The Grantee shall adopt and implement affirmative processes and procedures that provide information, outreach and promotion of opportunities in the REAP project to encourage participation of all persons regardless of race, color, national origin, sex, religion, familial status, or disability. This includes, but is not limited to, a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, as required by 24 CFR 92.351.

10. Litigation

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. The Grantee shall notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action consistent with the terms of this Agreement and the interests of the Department.

11. Changes in Terms/Amendments

- A. The Grantee may be subject to amendments to this section as a result of subsequent applications and awards.
- B. This Agreement may only be amended or modified by mutual written agreement of both parties.

12. State-Owned Data

- A. Definitions

EXHIBIT D

1) Work:

The work to be directly or indirectly produced by the Grantee, its employees, or by and of the Grantee's contractor's, subcontractor's and/or sub-recipient's employees under this Agreement.

2) Work Product:

All deliverables created or produced from Work under this Agreement including, but not limited to, all Work and Deliverables conceived or made, either solely or jointly with others during the term of this Agreement, which relates to the Work commissioned or performed under this Agreement. Work Product includes all deliverables, inventions, innovations, improvements, or other works of authorship Grantee and/or Grantee's contractor subcontractor and/or sub-recipient may conceive of or develop in the course of this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret or other legal protection.

3) Inventions:

Any ideas, methodologies, designs, concept, technique, invention, discovery, improvement or development regardless of patentability made solely by the Grantee or jointly with the Grantee's contractor, subcontractor and/or sub-recipient and/or Grantee's contractor, subcontractor, and/or sub-recipient's employees with one or more employees of the Department during the term of this Agreement and in performance of any Work under this Agreement, provided that either the conception or reduction to practice thereof occurs during the term of this Agreement and in performance of Work issued under this Agreement.

B. Ownership of Work Product and Rights

- 1) All work Product derived by the Work performed by the Grantee, its employees or by and of the Grantee's contractor's, subcontractor's and/or sub-recipient's employees under this Agreement, shall be owned by the Department and shall be considered to be works made for hire by the Grantee and the Grantee's contractor, subcontractor and/or subrecipient for the Department. The Department shall own all copyrights in the work product.
- 2) Grantee, its employees and all of Grantee's contractor's, subcontractor's and sub-recipient's employees agree to perpetually assign, and upon creation of each Work Product automatically assign, to the Department, ownership of all United States and international copyrights in each and

EXHIBIT D

every Work Product, insofar as any such Work Product, by operation of law, may not be considered work made for hire by the Grantee's contractor, subcontractor and/or subrecipient from the Department. From time to time upon the Department's request, the Grantee's contractor, subcontractor and/or subrecipients, and/or its employees, shall confirm such assignments by execution and delivery of such assignment, confirmations or assignment or other written instruments as the Department may request. The Department shall have the right to obtain and hold in its name all copyright registrations and other evidence of rights that may be available for Work Product under this Agreement. Grantee hereby waives all rights relating to identification of authorship restriction or limitation on use or subsequent modification of the Work.

- 3) Grantee, its employees and all Grantee's contractors, subcontractors and sub-recipients hereby agree to assign to the Department all Inventions, together with the right to seek protection by obtaining patent rights therefore and to claim all rights or priority thereunder and the same shall become and remain the Department's property regardless of whether such protection is sought. The Grantee, its employees and Grantee's contractor, subcontractor and /or subrecipient shall promptly make a complete written disclosure to the Department of each Invention not otherwise clearly disclosed to the Department in the pertinent Work Product, specifically noting features or concepts that the Grantee, its employees and/or Grantee's contractor, subcontractor and/or subrecipient believes to be new or different.
- 4) Upon completion of all work under this Agreement, all intellectual property rights, ownership and title to all reports, documents, plans, specifications and estimates, produced as part of this Agreement shall automatically vest in the Department and no further agreement will be necessary to transfer ownership to the Department.

13. **Special Conditions**

The State reserves the right to add any special conditions to this Agreement it deems necessary to assure that the policy and goals of the Program are achieved, in consultation with the Grantee.

Exhibit B

Pro-rata Initial Allocations to Each Regional Transportation Planning Agency Based on January 2020 California Department of Finance Population Estimates

REAP PLANNING GRANT INITIAL ALLOCATIONS			MPO DISTRIBUTION
MPO Share by Population*			
Fresno Council of Governments	1,032,227	23.50%	\$1,114,737.62
Kern Council of Governments	927,251	21.11%	\$1,001,370.41
Kings County Association of Governments	156,444	3.56%	\$168,949.28
Madera County Transportation Commission	160,089	3.64%	\$172,885.65
Merced County Association of Governments	287,420	6.54%	\$310,394.79
San Joaquin Council of Governments	782,545	17.81%	\$845,097.40
Stanislaus Council of Governments	562,303	12.80%	\$607,250.45
Tulare County Association of Governments	484,423	11.03%	\$523,145.14
Total	4,392,702	100.00%	\$4,743,830.75



III. D. COG

November 19, 2020

TO: Kern Council of Governments

FROM: Ahron Hakimi
Executive Director

BY: Susanne Campbell
Regional Planner

SUBJECT: KERN COUNCIL OF GOVERNMENTS CONSENT AGENDA ITEM: III. D.
COMMUNITY SURVEY CONTRACT APPROVAL

DESCRIPTION:

Community Survey Contract for Fiscal Year 2020-2021 in an amount not to exceed \$65,000. This item has been sent to County Counsel for review.

DISCUSSION:

The Request for Proposal for the 2018 Community Survey included a clause allowing Kern COG to retain the services of the successful firm for up to four (4) additional fiscal years. On October 6, 2020, Godbe Research submitted a letter of intent (attached) to conduct another Kern COG Community Survey for fiscal year 2020-2021. Godbe Research is assigning the same project manager, Bryan Godbe.

The research objectives for the community survey are to: (a) assess residents' overall opinion of the quality of life in their city or town; (b) survey the importance of issues related to the future quality of life in the county; (c) identify housing preferences; (d) understand the daily commute of the average resident; and (e) identify any differences in opinion due to demographic and/or behavioral characteristics. Selected questions and variables are compared to previous telephone surveys conducted from 2007 through 2020.

The 2020-21 survey will be used to inform the continuing Regional Transportation Planning process. It is anticipated the current survey will be conducted in the spring of 2021. This project was approved in the 2020-2021 Overall Work Program.

ACTION

Approve the contract for the Community Survey between Kern COG and Godbe Research in an amount not to exceed \$65,000 and authorize the Chair to sign.



October 6, 2020

Ms. Susanne Campbell
 Regional Planner/Rideshare Coordinator
 Kern Council of Governments
 1401 19th Street
 Suite 300
 Bakersfield, CA 93301

Dear Ms. Campbell:

Godbe Research is pleased to submit this letter of interest to conduct our 14th Annual Community Survey for the Kern Council of Governments (Kern COG) for fiscal year 2020 – 2021 (FY 20/21). Based on our review of the methodology, scope and fees for the most recent Annual Community Survey events using a hybrid Internet and telephone survey methodology as well as an email and text recruitment for the Internet version of the survey and cell phone and landline calls for the telephone version of the survey, we have provided cost options below (by survey length) for the FY 20/21 Annual Community Survey.

Please note that these costs have increased slightly for the FY 20/21 survey process with minor increases in the Listed Telephone Sample and Email Sample line items only. The costs the longest survey length are at the maximum budget amount of \$65,000, however, the past three Annual Community Survey events (FY 19/20, FY 18/19 and FY 17/18) had a survey of 22-minutes in length and we envision a similar survey length for FY 20/21. Having said this, the cost options provided below can accommodate a survey length of up to 25-minutes based on the not to exceed amount of \$65,000 in our contract with Kern COG.

Hybrid Survey of 1,200 (n=1,200) Kern County Residents

<u>Project Task</u>	<u>18-min.</u>	<u>20-min.</u>	<u>22-min.</u>	<u>25-min.</u>
Listed Telephone Sample	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
Email Sample Purchase	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00
Third Party Cell/Email Matching	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00
Internet Programming/Testing	\$4,500.00	\$4,750.00	\$5,000.00	\$5,250.00
Telephone CATI Programming	\$1,350.00	\$1,500.00	\$1,650.00	\$1,800.00
Internet Version Recruitment	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
Internet Version Hosting	\$500.00	\$500.00	\$500.00	\$500.00
Spanish Translation/Programming	\$950.00	\$1,050.00	\$1,150.00	\$1,250.00
Telephone Interviewing	\$24,000.00	\$27,000.00	\$30,000.00	\$33,000.00
Spanish Interviewing Fee	\$1,750.00	\$2,250.00	\$2,750.00	\$3,250.00
Data Processing	\$1,000.00	\$1,100.00	\$1,200.00	\$1,300.00
Research Fee	\$9,000.00	\$9,000.00	\$9,000.00	\$9,000.00
Project Management	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00
<u>Misc./Travel Expenses</u>	<u>\$750.00</u>	<u>\$750.00</u>	<u>\$750.00</u>	<u>\$750.00</u>
Annual Community Survey Total	\$52,700.00	\$56,800.00	\$60,900.00	\$65,000.00



GODBE RESEARCH
Gain Insight

Godbe Research is ready and excited to begin the FY 20/21 Annual Community Survey according to Kern COG's schedule. As always, we look forward to working with Kern COG on another successful Annual Community Survey process. If you have any questions or would like any additional information, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CHester'.

Charles Hester
Vice President

CONTRACT

CONTRACT BETWEEN THE KERN COUNCIL OF GOVERNMENTS AND

GODBE RESEARCH

THIS CONTRACT, made and entered into on _____, by and between the Kern Council of Governments, hereinafter referred to as "Kern COG," and, Godbe Research, hereinafter referred to as "Consultant."

RECITALS:

WHEREAS, pursuant to the Joint Powers Agreement of November 4, 1970, creating Kern COG and the amended Joint Powers Agreement of May 1, 1982, Kern COG is authorized and empowered to employ consultants and specialists in the performance of its duties and functions; and

WHEREAS, Consultant represents it is qualified and willing to provide such services pursuant to the terms and conditions of this contract;

AGREEMENT:

I. Contract Organization and Content

This contract is fully comprised of these terms and the attached exhibits: Exhibit "A"; Scope of Work, Exhibit "B"; Schedule, Exhibit "C" Budget/Cost Proposal; and Exhibit "D" Debarment and Suspension Certification; all of which are incorporated herein by this reference.

II. Statement of Work

The work to be conducted by Consultant is specified in Scope of Work identified in the Consultant's proposal, dated October 6, 2020, for the delivery of products as specified in the Scope of Work, attached hereto as Exhibit "A," according to the Schedule, attached hereto as Exhibit "B," and Budget/Cost Proposal, attached hereto as Exhibit "C." During the performance of this contract, the representative project managers for Kern COG and Consultant will be:

Kern COG: Susanne Campbell, Regional Planner
Consultant: Bryan Godbe, Project Manager

III. Term

Time is of the essence in this contract. The term of this contract is the execution date through June 2021 unless an extension of time is granted in writing by Kern COG. The various phases involved in this project shall be completed as indicated in Exhibit "B," Schedule.

Consultant services and reimbursements beyond June 30, 2021, are subject to the inclusion and funding agency approval of this project in Kern COG's 2020-2021 fiscal year Overall Work Program (OWP). If the project or OWP is not approved, this contract is terminated, effective the ending date of the last approved Kern COG OWP.

IV. Assignability

Consultant shall not assign any interest in this contract, and shall not transfer the same, without the prior written consent of Kern COG.



V. Contract Changes

No alteration or deviation of the terms of this contract shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein, shall be binding on any of the parties.

Kern COG may request, at any time, amendments to this contract and will notify Consultant in writing regarding changes. Upon a minimum of ten (10) days' notice, Consultant shall determine the impact on both time and compensation of such changes and notify Kern COG in writing. Upon agreement between Kern COG and Consultant as to the extent of these impacts on time and compensation, an amendment to this contract shall be prepared describing such changes. Such amendments shall be binding on the parties if signed by Kern COG and Consultant, and shall be effective as of the date of the amending document, unless otherwise indicated.

VI. Contract Costs and Reimbursements

A. Maximum Contract Amount/Budget Amendments:

For services rendered, Consultant may bill and receive up to \$65,000, to be billed in accordance with Exhibit "C," Budget/Costs. The total sum billed under this contract may not exceed the specified amount, including all costs, overhead, and fixed fee expenses. Such billings, up to the specified amount, shall constitute full and complete compensation for Consultant's services. Any amendments to the individual categories within the budget must be approved in writing in advance by Kern COG.

B. Progress Payments and Reports:

Progress payments are authorized under this contract. Progress billings in arrears may be submitted as often as monthly. Written progress reports shall accompany each billing and shall specify, by task, the percentage of contract work completed to date and since the date of the preceding billing, if any. Consultant shall be paid within 30 days following the receipt and approval of each billing by Kern COG. If Kern COG disputes any portion of a request for payment, Kern COG shall pay the undisputed portion of such request as provided herein and shall promptly notify Consultant of the amount in dispute and the reason therefore.

C. Billing Format and Content:

Requisitions for payment shall refer to Work Element number 601.3 as identified on the FY 2020-2021 Overall Work Program, or as may be specified in a written notice by Kern COG. Specific budget category detail is given below:

1. Direct Labor and Fringe Benefits: All direct labor charges should be billed by class of employee, rate per hour and number of hours. (Anticipated personnel cost-of-living or merit increase, if any, should be reflected in the budget).
2. Other Direct Costs: All direct costs billed must be specifically identified. Any travel costs may not exceed the per diem (\$65/day meals; \$225/day accommodations) and mileage rates shall be reimbursed at the IRS established standard mileage rate. Any other direct costs not specifically identified in the contract budget cannot be reimbursed.

D. Contract Completion Retainer:

Ten (10) percent shall be retained from each contract billing until the completion of the



contract. This retention will be released to Consultant upon completion of contract and contract deliverables to the satisfaction of Kern COG.

E. Allowable Costs and Documentation:

All costs charged to this contract by Consultant shall be supported by properly executed payrolls, time records, invoices, and vouchers, evidencing in proper detail the nature and propriety of the charges, and shall be costs allowable as determined by Title 48 Code of Federal Regulations, Chapter 1, Part 31 (Contract Cost Principles and Procedures), Subpart 31.2 (Contracts with Commercial Organizations), as modified by Subpart 31.103. Consultant shall also comply with Title 49, Code of Federal Regulations, Part 18, (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) in the procurement of services, supplies or equipment.

VII. Progress Reports

Consultant shall submit progress reports, as described in Exhibit "A" and Paragraph VI-B. above. The purpose of the reports is to allow Kern COG to determine if Consultant is completing the activities identified in the Work Program in accordance with the agreed upon schedule, and to afford occasions for airing difficulties or special problems encountered so remedies can be developed.

Consultant's Project Manager shall meet with Kern COG's Project Manager, as identified under Section II, as needed to discuss work progress.

VIII. Inspection of Work

Consultant, and any subcontractors, shall permit Kern COG, Caltrans and the Federal Highway Administration (FHWA), and other participating agencies, the opportunity to review and inspect the project activities at all reasonable times during the performance period of this contract, including review and inspection on a daily basis.

IX. Staffing

There shall be no change in Consultant's Project Manager, or members of the project team, without prior written approval by Executive Director of Kern COG. The Project Manager shall be responsible for keeping Kern COG informed of the progress of the work and shall be available for no less than four (4) meetings with Kern COG.

X. Subcontracting

Consultant shall perform the work with resources available within its own organization, unless otherwise specified in this contract. No portion of the work included in this contract shall be subcontracted without written authorization by Kern COG. In no event shall Consultant subcontract for work in excess of fifty (50) percent of the contract amount, excluding specialized services. Specialized services are those items not ordinarily furnished by a consultant performing this particular type of work. All authorized subcontracts shall contain the same applicable provisions specified in this contract.

XI. Termination of Contract

A. Termination for Convenience of Kern COG:

Kern COG may terminate this contract at any time by giving notice to Consultant of such termination, and the effective termination date, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents and other materials shall, at the option of Kern COG, become its property. If this contract



is terminated by Kern COG, as provided herein, Consultant shall be reimbursed for expenses incurred prior to the termination date, in accordance with the cost provisions of this contract. Consultant will also be allowed a proportion of any fixed fee that is equal to the same proportion of the project completed by Consultant on the date of termination of this contract.

B. Termination for Cause:

If through any cause, Consultant shall fail to fulfill in a timely and proper manner its obligations under this contract, or if Consultant violates any of the covenants, agreements, or stipulations of this contract, Kern COG shall thereupon have the right to immediately terminate the contract by giving written notice to Consultant of the intent to terminate and specifying the effective date thereof. Kern COG shall provide an opportunity for consultation with Consultant and a ten-day cure period prior to termination. In such an event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by Consultant under this contract shall, at the option of Kern COG, become the property of Kern COG. Consultant shall be entitled to receive compensation for all satisfactory work completed prior to the effective date of termination.

XII. Compliance with Laws, Rules and Regulations

All services performed by the Consultant pursuant to this contract shall be performed in accordance and full compliance with all applicable federal, state or local statutes, rules, and regulations.

XIII. Conflict of Interest

- A. Consultant, and the agents and employees of Consultant, shall act in an independent capacity in the performance of this contract, and not as officers, employees or agents of Kern COG.
- B. No officer, member, or employee of Kern COG or other public official of the governing body of the locality or localities in which the work pursuant to this contract is being carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the aforesaid work shall:
1. Participate in any decision relating to this contract which affects his personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or
 2. Have any interest, direct or indirect, in this contract or the proceeds thereof during his tenure or for one year thereafter.

Consultant hereby covenants that it has, at the time of the execution of this contract, no interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this contract. Consultant further covenants that in the performance of this work, no person having any such interest shall be employed.

XIV. Contingency Fees

Consultant warrants, by execution of this contract, that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingency fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Consultant for the purpose of securing business. For breach or violation of this warranty, Kern COG has the right to terminate



this contract without liability, allowing payment only for the value of the work actually performed, or to deduct from the contract price, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingency fee.

XV. Copyrights

Consultant shall be free to copyright material developed under this contract with the provision that Kern COG reserve a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, distribute, and to authorize others to use, and distribute for fee or otherwise, the work for any purpose. Consultant is subject to the duties of agency relating to rights in data and copyrights as set forth in 48 CFR 52.227-14.

XVI. Publication

- A. No report, information, or other data given to or prepared or assembled by Consultant pursuant to this contract, shall be made available to any individual or organization by Consultant without the prior written approval of Kern COG.
- B. The following acknowledgment of FTA's participation must appear on the cover or title page of all final products:

“The preparation of this report has been financed, in part, through a grant from the U.S. Department of Transportation, Federal Transit Administration, under the authority of the 49 USC Chapter 43 #5313(b) of the Federal Transit Laws.”

XVII. Disputes

Except as otherwise provided in this contract, any dispute concerning a question of fact which is not disposed of by mutual agreement, shall be decided by a court of competent jurisdiction.

XVIII. Hold Harmless

Consultant agrees to indemnify, defend and hold harmless Kern COG and Kern COG's agents, board members, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs, and expenses (including, but not limited to, reasonable attorneys' fees of County Counsel and other counsel retained by Kern COG, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or are in any way connected with any act or omission of Consultant or Consultant's officers, agents, employees, independent contractors, sub-contractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of Kern COG; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of Consultant by any person or entity.

XIX. Insurance

Consultant, in order to protect Kern COG and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's actions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with Kern COG's authorized insurance representative. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed



by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. Consultant shall promptly deliver Kern COG a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to Kern COG not less than 30 days prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or Kern COG as an additional insured.

Without limiting Kern COG's right to obtain indemnification from the consultant or any third parties, the consultant, at its sole expense, shall maintain in full force and affect the following insurance policies throughout the term of the contract:

- A. Comprehensive general liability insurance with coverage of not less than \$2,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. Comprehensive general liability insurance policies shall name Kern COG, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under the terms of the contract are concerned. Such coverage for additional insured shall apply as primary insurance or self-insurance and any other insurance, maintained by Kern COG, its officers, agents, and employees, shall be given excess only and not contributing with insurance provided under the consultant's policies herein.
- B. Comprehensive automobile liability insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired, and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.
- C. Professional liability insurance of at least one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- D. Worker's compensation insurance as required by law.

This insurance shall not be canceled or changed without a minimum of thirty (30) days advance written notice given to Kern COG. The consultant shall provide certification of said insurance to Kern COG within twenty-one (21) days of the date of the execution of the contract. Such certification shall show, to Kern COG's satisfaction, that such insurance coverages have been obtained and are in full force; that Kern COG, its officers, agents, and employees will not be responsible for any premiums on the policies; that as and if required such insurance names Kern COG, its officers agents, and employees individually and collectively as additional insured (comprehensive and general liability only), but only insofar as the operations under the contract are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by Kern COG, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under the consultant's policies herein; and that this insurance shall not be canceled or changed without a minimum of thirty (days) advance, written notice given to Kern COG.

In the event the consultant fails to keep in effect at all times insurance coverage as herein provided, Kern COG may, in addition to other remedies it may have, suspend or terminate the contract upon the occurrence of such event.

Consultant shall require any sub-contractors to provide workers' compensation for all of the sub-contractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under



this Agreement is not covered by Labor Code section 3700, Consultant shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

- A. The Commercial General Liability and Automobile Liability Insurance required in subparagraph A and B. shall include an endorsement naming Kern COG and Kern COG's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided on ISO form CG 20 10 Edition date 11/85 or such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
- B. Any self-insured retentions in excess of \$10,000 must be declared on the Certificate of Insurance or other documentation provided to Kern COG and must be approved by Kern COG.
- C. If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.
- D. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the Consultant must be endorsed to provide that the coverage shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. Such notice shall be by certified mail, return receipt requested. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- E. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum of a "A-;VII" rating. Any exception to these requirements must be approved by the Kern COG.
- F. If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The Kern COG will not accept such coverage unless Kern COG determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.
- G. All insurance afforded by Consultant pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by Kern COG. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against Kern COG.
- H. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude Kern COG from taking such other actions as are available to it under any



other provision of this Agreement or otherwise in law.

- I. Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. Kern COG, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, Kern COG may purchase such required insurance coverage, and without further notice to Consultant, Kern COG shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by Kern COG for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse Kern COG for the premiums and any associated costs, Consultant agrees to reimburse Kern COG for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by Kern COG to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

XX. Equal Employment Opportunity/Nondiscrimination

Consultant shall comply with Title VI of the Civil Rights Act of 1964, as amended, and with the provisions contained in 49 CFR 21 through Appendix C and 23 CFR 170.405(b). During the performance of this contract, Consultant, for itself, its assignees and successors in interest, agrees as follows:

- A. Compliance with Regulations: Consultant shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter DOT) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

Prior to any performance under this agreement, Consultant must review, sign and return to Kern COG a copy of the Title 49, Code of Federal Regulations, Part 29 Debarment and Suspension Certifications ("Certifications") attached and incorporated here as Exhibit D, "Debarment and Suspension Certification." The signed copy of the Certifications shall be incorporated by this reference into the Agreement as if set forth in full herein.

- B. Nondiscrimination: Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection or retention of subcontractors, including the procurement of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- C. Solicitations for Subcontractors, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiations made by Consultant for work to be performed under a subcontract, including the procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract, and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.
- D. Information and Reports: Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Kern COG, Caltrans, FTA, or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information



required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to Kern COG, Caltrans, FTA, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, Kern COG shall impose such contract sanctions as it, Caltrans, FTA, or FHWA may determine to be appropriate, including, but not limited to:

1) Withholding of payments to Consultant under this contract until Consultant complies; and/or 2) Cancellation, termination or suspension of the contract, in whole or in part.

F. Incorporation of Provisions: Consultant shall include the provisions of Paragraphs A through F of this Section XX in every subcontract, including procurements of materials and leases of equipment, unless exempt from the regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Kern COG, Caltrans, FTA, or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. However, in the event Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Consultant may request Kern COG to enter into such litigation to protect the interests of Kern COG, and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

XXI. Disadvantaged Business Enterprise (DBE)

It is the policy of Kern COG, the California State Department of Transportation and the U.S. Department of Transportation, that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with local, state or federal funds.

The Caltrans annual DBE Program goal is 4.8 percent with a split of 3.7% race-neutral and 1.1% race-conscious for Federal Transit Administration (FTA) fund recipients. Failure to comply with the DBE Program may result in the suspension or termination of federal funds until deficiencies are remedied as discussed in Title 49 CFR Part 26.101 and the MFTA Article IV, Section 2.

Title 49 CFR, Part 26, entitled, Participation by DBEs in Department of Transportation Financial Assistance Programs, describes a race neutral measure or program as one that is, or can be, used to assist all small businesses. Race-neutral includes gender-neutrality. On the other hand, a race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of United States Department of Transportation assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate, which may include but is not limited to:

- Withholding monthly progress payments.
- Assessing sanctions.
- Liquidated damages.
- Disqualifying the contractor from future bidding as non-responsible.



The contractor must make available to the Caltrans contract manager a copy of all DBE subcontracts upon request.

The contractor must utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains authorization from Caltrans. Unless the Department provides prior authorization approving a request for termination or substitution of a listed DBE, the Contractor shall not be entitled to any payment for work or materials unless it is performed or supplied by the listed DBEs.

Prompt Payment Clauses

Prompt Progress Payment to Subcontractors – The Local Agency shall require contractors and subcontractors to pay their subcontractors within seven (7) days for construction contracts, and within fifteen (15) days for consultant contracts, after receiving each progress payment. Any delay or postponement of payment may take place only for good cause and with the Local Agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions and remedies specified in Section 7108.5 of the CBPC and Section 10262 of the CPCC for construction contract, and Section 3321 of the CCC for consultant contract. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Withheld Funds to Subcontractors – The Local Agency shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within seven (7) days for construction contracts, or within fifteen (15) days for consultant contracts after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including; either (1), (2), or (3) of the following provisions [Local Agency equivalent will need Caltrans approval] in their federal-aid contracts to ensure prompt and full payment of retainage [withheld funds] to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the Local Agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the Local Agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the CBPC and Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
2. No retainage will be held by the Local Agency from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within seven (7) days for construction contracts, or within fifteen (15) days for consultant contracts after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the Local Agency's prior written approval. Any violation of these



provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the CBPC and Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The Local Agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Local Agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within seven (7) days for construction contracts, or within fifteen (15) days for consultant contracts after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the Local Agency. Any delay or postponement of payment may take place only for good cause and with the Local Agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the CBPC and Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Any violation of these provisions shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor

XXII. Audits

At any time during normal business hours, and as often as Kern COG, Kern COG's participating agencies, the California Department of Transportation, the Federal Transit Administration, the Federal Highway Administration, the Department of Labor, the Comptroller General of the United States, or other appropriate state and federal agencies, or any duly authorized representatives may deem necessary, Consultant shall make available for examination all of its records with respect to all matters covered by this contract for purposes of audit, examination, or to make copies or transcripts of such records, including, but not limited to, contracts, invoices, payrolls, personnel records, conditions of employment and other data relating to all matters covered by this contract. Project costs are subject to audit and approval for payment according to the eligibility requirements of the funding agencies. However, Kern COG shall not have the right to audit Consultant's fixed rates or fees, percentage multipliers, or standard charges. All project records shall be retained and access to the facilities and premises of Consultant shall be made available during the period of performance of this contract, and for three years after Kern COG makes final payment under this contract.

XXIII. Clean Air Act/Clean Water Act Requirements

Consultant, in carrying out the requirements of this contract, shall comply with all applicable



standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857[h]), Section 508 of the Clean Water Act (33 USC 1368), Presidential Executive Order 11738, and those Environmental Protection Agency regulations contained in 40 CFR Part 15.

XXIV. Notice

Any notice or notices required or permitted to be given pursuant to this contract may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following addresses:

Mr. Ahron Hakimi,
Executive Director
Kern Council of Governments (Kern COG)
1401 19th Street, Suite 300
Bakersfield, CA 93301

OR

Mr. Charles Hester
Vice President
Godbe Research
1220 Howard Avenue, Suite 250
Burlingame, CA 94010

XXV. Venue

If any party to this contract initiates any legal or equitable action to enforce the terms of this contract, to declare the rights of the parties under this contract or which relates to this contract in any manner, Kern COG and Consultant agree that the proper venue for any such action is the Superior Court of the State of California of and for the County of Kern.

XXVI. California Law

Kern COG and Consultant agree that the provisions of this contract will be construed in accordance with the laws of the State of California.

XXVII. No Authority to Bind Kern COG

It is understood that Consultant, in its performance of any and all duties under this contract, has no authority to bind Kern COG to any agreements or undertakings with respect to any and all persons or entities with whom Consultant deals in the course of its business.

XXVIII. Nonwaiver

No covenant or condition of this contract to be performed by Consultant can be waived except by the written consent of Kern COG. Forbearance or indulgence by Kern COG in any regard whatsoever shall not constitute a waiver of any covenant or condition to be performed by Consultant. Kern COG shall be entitled to invoke any remedy available to it under this contract or by law or in equity despite any such forbearance or indulgence.

XXIX. Independent Contractor

Nothing in this contract shall be construed or interpreted to make Consultant, its officers, agents, employees or representatives anything but independent contractors and in all their activities and operations pursuant to this contract, Consultant, its officers, agents, employees and representatives shall for no purposes be considered employees or agents of Kern COG.



XXX. Partial Invalidity

Should any part, term, portion, or provision of this contract be finally decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be effected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.



XXXI. Signature Authority

Each person executing this contract on behalf of Consultant represents and warrants that he or she is authorized by Consultant to execute and deliver this contract on behalf of Consultant and that this contract is binding on Consultant in accordance with the terms.

IN WITNESS WHEREOF, the Kern Council of Governments and Consultant have executed this agreement as of the date first above written.

RECOMMENDED AND APPROVED
AS TO CONTENT:

KERN COUNCIL OF GOVERNMENTS

Ahron Hakimi, Executive Director
Kern Council of Governments

APPROVED AS TO FORM:

Bob Smith, Chair
"Kern COG"

Brian Van Wyk, Deputy
Kern County Counsel

CONSULTANT

Consultant



EXHIBIT "A"

Scope of Work

1. Conduct a countywide survey of Kern County residents to gauge public perception of and reaction to quality of life issues, community services, growth, jobs and the economy, according to the following:
 - A. **PHASE 1: Questionnaire Design, Development and Project Administration**
 - Task 1.1: Project initiation and kick-off meeting
 - Task 1.2: Through an iterative process with Kern COG, develop draft survey instrument
 - Task 1.3: Conduct bi-weekly meetings and/or conference calls, as needed
 - Task 1.4: Provide monthly progress reports on project status/accomplishments, billing and upcoming goals
 - B. **PHASE 2: Survey Pre-Test**
 - Task 2.1: Pre-Test of survey instrument to determine interview length
 - Task 2.2: Kern COG review and approval of draft survey instrument and pre-test
 - Task 2.3: Consultant to develop final survey instrument
 - Task 2.4: Translate the final survey instrument into Spanish
 - C. **PHASE 3: Survey Sample and Data Collection (Consultant)**
 - Task 3.1: Select phone numbers and random sample
 - Task 3.2: Sample shall be stratified among the four sub-regions and by supervisorial district
 - Task 3.3: Interviewer briefing/training
 - Task 3.4: Data collection
 - Task 3.5: Debriefing
 - D. **PHASE 4: Data Analysis and Final Report (Consultant)**
 - Task 4.1: Data entry and analysis
 - Task 4.2: Verification of survey population
 - Task 4.3: Preparation of Final Report
2. Conduct and report on the results of a statistically valid, countywide survey to gauge public perception of and reaction to quality of life issues, community services, growth, jobs and the economy.
3. Provide up to 2 bound copies as directed by Kern COG, one unbound copy, fifteen electronic copies in word format on CD, and one electronic copy in PDF format on CD for the poll report.
4. Provide one copy of raw interview data in Excel format on CD.



EXHIBIT "B"

SCHEDULE

	January	February	March	April	May	June
Project Kick-off Meeting		■				
Review of Previous Surveys & Other Data		■				
Questionnaire Drafting and Refinement		■				
Sample Development and Matching		■				
Meeting with Kern COG to review Draft Survey			■			
Pretest and CATI Programming			■			
Survey Translation			■			
Data Collection/Interviewing			■	■		
Topline Report meeting with Kern COG				■		
Draft Analysis & Reporting				■		
Report/Recommendations Review with Kern COG				■	■	
Final Project Report Development					■	
Presentation of Findings to Kern COG						
Staff/Administration & Board						■
Post Survey Consulting on the Results (ongoing)						■

EXHIBIT "C"
BUDGET/COST

Hybrid Survey of 1,200 (n=1,200) Kern County Residents

<u>Project Task</u>	<u>18-min.</u>	<u>20-min.</u>	<u>22-min.</u>	<u>25-min.</u>
Listed Telephone Sample	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
Email Sample Purchase	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00
Third Party Cell/Email Matching	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00
Internet Programming/Testing	\$4,500.00	\$4,750.00	\$5,000.00	\$5,250.00
Telephone CATI Programming	\$1,350.00	\$1,500.00	\$1,650.00	\$1,800.00
Internet Version Recruitment	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
Internet Version Hosting	\$500.00	\$500.00	\$500.00	\$500.00
Spanish Translation/Programming	\$950.00	\$1,050.00	\$1,150.00	\$1,250.00
Telephone Interviewing	\$24,000.00	\$27,000.00	\$30,000.00	\$33,000.00
Spanish Interviewing Fee	\$1,750.00	\$2,250.00	\$2,750.00	\$3,250.00
Data Processing	\$1,000.00	\$1,100.00	\$1,200.00	\$1,300.00
Research Fee	\$9,000.00	\$9,000.00	\$9,000.00	\$9,000.00
Project Management	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00
<u>Misc./Travel Expenses</u>	<u>\$750.00</u>	<u>\$750.00</u>	<u>\$750.00</u>	<u>\$750.00</u>
Annual Community Survey Total	\$52,700.00	\$56,800.00	\$60,900.00	\$65,000.00

Project to be completed by June 30, 2021, for a total cost not to exceed \$65,000.



EXHIBIT "D"

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29
DEBARMENT AND SUSPENSION CERTIFICATION

- 1) The Consultant certifies, to the best of its knowledge and belief, that it and its contractors, subcontractors and subrecipients:
 - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b) Have not, within the three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in sub paragraph (1)(b) of this certification; and
 - d) Have not, within the three (3) year period preceding this certification, had one or more public transactions (federal, state, or local) terminated for cause or default.

- 2) The Applicant also certifies that, if Applicant later becomes aware of any information contradicting the statements of paragraph (1) above, it will promptly provide that information to Kern Council of Governments.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

(Consultant)

Date





November 19, 2020

III. E. COG

TO: Kern Council of Governments

FROM: Ahron Hakimi
Executive Director

BY: Gregory J Palomo
Financial Services Officer

SUBJECT: KERN COUNCIL OF GOVERNMENTS CONSENT AGENDA ITEM III. E.
KERN COG FY 2020-2021 Overall Work Program and Financial Plan
Amendment No. 1

DESCRIPTION: Pursuant to Kern COG policy, the Council shall review and approve amendments to the Overall Work Program (OWP) and Financial Plan (budget). Amendment No. 1 represents a net budgetary increase of \$773,226.

DISCUSSION: Attached are the worksheets documenting the details of FY 2020-2021 OWP and Financial Plan, Amendment No. 1. Staff recommends the following significant changes:

Financial Plan

- Incorporate a net increase in revenues of \$558,328. This revision includes increases in federal funds (\$73,063), state funds (\$421,015), and local funds (\$64,250).
- Incorporate a net increase in expenditure appropriations of \$660,884. This revision provides for increases in professional services (\$656,607) and services and supplies (\$4,277).

Overall Work Program

Adjustments have been made to numerous work elements so that the OWP will reconcile to the Financial Plan. The more significant revisions are detailed below.

- Eliminate work element 203.1A (\$55,058) for Sustainable Comm. Public Participation FY 19-20
- Increase work element 601.3 (\$57,059) for the RTP Outreach
- Increase work element 601.4 (\$625,087) for the RTP Performance Measures
- Increase work element 610.1 (\$64,325) for Freight Planning
- Decrease work element 610.2 (\$50,933) for the North Metro Goods Movement Study

ACTION: Approve Amendment No. 1 to the FY 2020-2021 Overall Work Program and Financial Plan and authorize Chairman to sign Resolution 20-29. ROLL CALL VOTE.

SCHEDULE OF FY 2020-2021 OVERALL WORK PROGRAM AMENDMENTS

Revised: November 10, 2020

Work Element Title	Number	Approved Budget	Amendment				Revised Budget
			Amendment No. 1	No. 2	Amendment No. 3	Amendment No. 4	
Air Quality Planning	101.1	\$ 74,335	\$ 1,500				\$ 75,835
Environmental Review Program	102.1	\$ 34,463	\$ 1,194				\$ 35,657
Inventory Mapping	201.1	\$ 355,222	\$ 20,820				\$ 376,042
Mapping Services and Technical Support	201.2	\$ 181,862	\$ 7,794				\$ 189,656
Environmental Sustainability Program	202.1	\$ -	\$ -				\$ -
Sustainable Communities Public Participation FY 19-20	203.1A	\$ 55,058	\$ (55,058)				\$ -
Sustainable Communities Public Participation FY 20-21	203.1B	\$ 84,694	\$ 1,139				\$ 85,833
Sustainable Communities Performance Measures FY 20-21	203.2B	\$ 45,247	\$ 376				\$ 45,623
Sustainable Communities Advanced Tech Planning FY 20-21	203.3B	\$ 166,489	\$ 8,762				\$ 175,251
Sustainable Communities Strategy Forecast and Travel Model Activity	203.4A	\$ 24,910	\$ (24,910)				\$ -
Sustainable Communities Strategy Forecast and Travel Model FY 20-	203.4B	\$ 127,042	\$ 4,893				\$ 131,935
Regional Housing Need Allocation Plan/Regional Early Action Plannin	203.5	\$ 684,703	\$ -				\$ 684,703
Regional Transportation Plan/CMS	601.1	\$ 179,534	\$ 5,183				\$ 184,717
RTP/CIP-Financial Element	601.2	\$ 84,226	\$ 2,103				\$ 86,329
RTP Outreach	601.3	\$ 88,786	\$ 57,059				\$ 145,845
RTP Performance Measures	601.4	\$ 22,435	\$ 625,087				\$ 647,522
Transportation Improvement Program	602.1	\$ 316,718	\$ 7,714				\$ 324,432
Local Assistance for Federal-Aid Projects	602.2	\$ 260,379	\$ 5,600				\$ 265,979
Transportation Systems Monitoring and Coordination	603.1	\$ 54,553	\$ 1,525				\$ 56,078
Traffic Count Program	603.2	\$ 92,666	\$ -				\$ 92,666
Active Transportation Demand Management	603.3	\$ 41,768	\$ -				\$ 41,768
Regional Travel Demand Model Maintenance	604.1	\$ 350,637	\$ (8,630)				\$ 342,007
Growth Forecast Model	604.2	\$ 29,039	\$ 36,122				\$ 65,161
Regional Travel Demand Model	604.3	\$ 34,194	\$ 1,110				\$ 35,304
Corridor/Major Investment/Impact Fee	605.1	\$ 3,161	\$ 105				\$ 3,266
Transit Planning	606.1	\$ 153,870	\$ 2,097				\$ 155,967
Active Transportation Planning	608.1	\$ 13,480	\$ 46,924				\$ 60,404
Active Transportation Connectivity Planning	608.3	\$ 287,627	\$ (24,933)				\$ 262,694
Transportation Demand Management	609.1	\$ 227,702	\$ 2,933				\$ 230,635
Freight Planning	610.1	\$ 76,315	\$ 64,325				\$ 140,640
North Metro Goods Movement Study	610.2	\$ 370,933	\$ (50,933)				\$ 320,000
I-5 Freight ZERO Pilot Study	610.3	\$ 212,865	\$ 572				\$ 213,437
Grant Writing	801.1	\$ 62,563	\$ 2,014				\$ 64,577
Regional Technical Assistance	902.1	\$ 41,214	\$ 459				\$ 41,673
Information and Date Management	903.1	\$ 39,723	\$ 1,954				\$ 41,677
Interregional Transportation Coordination	904.1	\$ 124,847	\$ 2,127				\$ 126,974
Local Clearinghouse Review Program	904.2	\$ 2,843	\$ 160				\$ 3,003
Local Reimbursements	1001.1	\$ 102,873	\$ 1,230				\$ 104,103
Legislative Program	1001.2	\$ 41,258	\$ 1,485				\$ 42,743
Transportation Development Act (TDA) Program	1001.3	\$ 294,561	\$ 2,242				\$ 296,803
Information Services	1001.4	\$ 138,684	\$ 8,379				\$ 147,063
Overall Work Program (OWP) Development and Monitoring	1001.5	\$ 258,891	\$ 9,851				\$ 268,742
KMAA System Implementation and Operation	2001.1	\$ 17,352	\$ 820				\$ 18,172
511 Program	2002.1	\$ 47,874	\$ 2,030				\$ 49,904
T O T A L S		\$ 5,907,596	\$ 773,224	\$ -	\$ -	\$ -	\$ 6,680,820
FY 2019-20 CARRYOVER FUNDS		\$ 921,932	\$ (6,100)	\$ -	\$ -	\$ -	\$ 915,832
FY 2020-21 ESTIMATED FUNDS		\$ 4,985,664	\$ 779,326	\$ -	\$ -	\$ -	\$ 5,764,990
TOTAL (CONTROL)		\$ 5,907,596	\$ 773,226	\$ -	\$ -	\$ -	\$ 6,680,822

Kern Council of Governments

FINANCIAL PLAN SUMMARY
FY 2020-2021

Revised: November 10, 2020

Account No./Title	2020-21 Proposed	Amendment No. 1	Amendment No. 2	Amendment No. 3	2020-21 Revised
REVENUE					
4140-Federal Grants	\$ 2,686,179	\$ 73,063			\$ 2,759,242
3955-State Grants	\$ 1,919,602	\$ 421,015			\$ 2,340,617
4220-Regional Planning/Admin.	\$ 1,437,128	\$ 1,400			\$ 1,438,528
4220-Local Contracts	\$ 79,586	\$ 62,850			\$ 142,436
5370-Miscellaneous	\$ 25,000				\$ 25,000
TOTAL REVENUE	\$ 6,147,495	\$ 558,328	\$ -	\$ -	\$ 6,705,823
EXPENDITURES					
					TOTAL
Personnel:					
6110-Regular Salaries & Wages	\$ 1,757,906				\$ 1,757,906
6200-Extra-Help Wages	\$ 65,163				\$ 65,163
6410/6600-Fringe Benefits	\$ 1,174,035				\$ 1,174,035
SUBTOTAL-PERSONNEL	\$ 2,997,104	\$ -	\$ -	\$ -	\$ 2,997,104
SUBTOTAL-7500 - PROFESSIONAL	\$ 2,184,683	\$ 656,607			\$ 2,841,290
SERVICES & SUPPLIES					
6841-Communications	\$ 38,800				\$ 38,800
6900-Insurance	\$ 18,000				\$ 18,000
6970-Maintenance-Equipment	\$ 12,000				\$ 12,000
7001-Maintenance-Structures	\$ 2,000				\$ 2,000
7400-Memberships	\$ 39,075				\$ 39,075
7450-Office Supplies	\$ 39,100	\$ 4,277			\$ 43,377
7525-Data Processing	\$ 83,200				\$ 83,200
7600-Public/Legal Notices	\$ 39,934				\$ 39,934
7630-Leases-Equipment	\$ -				\$ -
7650-Leases-Structures	\$ 150,000				\$ 150,000
7700-Special Dept. Expense	\$ 6,000				\$ 6,000
7730-Training & Development	\$ 2,000				\$ 2,000
7740-Travel Expenses	\$ 79,501				\$ 79,501
7750-Personal Vehicle Mileage	\$ 16,729				\$ 16,729
7970-Kern County Indirect Costs	\$ 3,000				\$ 3,000
7990-Depreciation Expense	\$ 21,000				\$ 21,000
7995-Bad Debt Expense	\$ -				\$ -
SUBTOTAL-SERVICES & SUPPLIES	\$ 550,339	\$ 4,277	\$ -	\$ -	\$ 554,616
SUBTOTAL-8601-CAPITAL OUTLAYS	\$ 15,000	\$ -	\$ -	\$ -	\$ 15,000
TOTAL EXPENDITURES	\$ 5,747,126	\$ 660,884	\$ -	\$ -	\$ 6,408,010
Depreciation Adjustment		\$ -	\$ -	\$ -	\$ -
OPERATING SURPLUS/(DEFICIT)	\$ 400,369	\$ (102,556)	\$ -	\$ -	\$ 297,813

FY 2020-2021 Overall Work Program
SUMMARY FINANCIAL TABLE (Revised: November 10, 2020)

Funding Source	FTA SEC.5303 MPO	FTA SEC.5303 MPO Carryover (5)	FHWA PL 89/11 (7)	FHWA PL Carryover (7)	FHWA RSTP (9)	FHWA CMAQ 89/11 (10)	STIP PPM (11b)	SB-1 18-19 (11d)	SB-1 19-20 (11e)	SB-1 20-21 (11f)	SHA (12)	HCD (12a)	HSIP (12b)	CARB (12c)	Toll Credits* (13)	Regional Planning Total (13)	Local Contracts (14)	TOTAL	
																			Cost Sharing (grantor % / KCOG %) Footnotes
Air Quality Planning	101.1	\$ 35,305	\$ 4,675	\$ 34,449											\$ 8,001	\$ 1,406		\$75,835	
Environmental Review Program	102.1	\$ 16,676	\$ 1,956	\$ 16,271											\$ 3,779	\$ 753		\$35,656	
Inventory Mapping	201.1	\$ 111,888	\$ 32,729	\$ 211,929											\$ 37,142	\$ 19,496		\$376,042	
Mapping Services and Technical Support	201.2	\$ 72,666		\$ 90,244											\$ 18,686	\$ 26,747		\$189,657	
Sustainable Communities Public Participation FY 19-20	203.1A															\$ -		\$0	
Sustainable Communities Public Participation FY 20-21	203.1B									\$ 74,980						\$ 10,852		\$85,832	
Sustainable Communities Performance Measures FY 20-21	203.2B									\$ 40,390						\$ 5,233		\$45,623	
Sustainable Communities Advanced Tech Planning FY 20-21	203.3B									\$ 147,060						\$ 28,191		\$175,251	
Sustainable Communities Strategy Forecast and Travel Model Activity Program FY 19-20	203.4A															\$ -		\$0	
Sustainable Communities Strategy Forecast and Travel Model Activity Program FY 20-21	203.4B									\$ 112,470						\$ 19,466		\$131,936	
Regional Housing Need Allocation Plan/Regional Early Action Planning Grant Program	203.5											\$ 684,703				\$ -		\$684,703	
Regional Transportation Plan/CMS	601.1	\$ 82,558		\$ 64,975	\$ 4,588		\$ 32,000								\$ 16,922	\$ 596		\$184,717	
RTP/CIP-Financial Element	601.2			\$ 58,937	\$ 25,289										\$ 9,661	\$ 2,102		\$86,328	
RTP Outreach	601.3			\$ 11,437	\$ 46,286			\$ 75,000							\$ 1,312	\$ 13,122		\$145,845	
RTP Performance Measures	601.4			\$ 19,909									\$ 540,000		\$ 2,284	\$ 27,613	\$ 60,000	\$647,522	
Transportation Improvement Program	602.1			\$ 239,326	\$ 77,392										\$ 36,328	\$ 7,714		\$324,432	
Local Assistance for Federal-Aid Projects	602.2			\$ 234,502	\$ 25,877										\$ 29,865	\$ 5,600		\$265,979	
Transportation Systems Monitoring and Coordination	603.1			\$ 52,192											\$ 5,986	\$ 3,886		\$56,078	
Traffic Count Program	603.2					\$ 79,677										\$ 12,989		\$92,666	
Active Transportation Demand Management	603.3															\$ 41,768		\$41,768	
Regional Travel Demand Model Maintenance	604.1			\$ 181,779	\$ 101,894										\$ 32,537	\$ 58,334		\$342,007	
Growth Forecast Model	604.2			\$ 8,295											\$ 951	\$ 56,866		\$65,161	
Regional Travel Demand Model	604.3			\$ 29,971											\$ 3,438	\$ 5,334		\$35,305	
Corridor/Major Investment/Impact Fee	605.1			\$ 2,792											\$ 320	\$ 475		\$3,267	
Transit Planning	606.1	\$ 9,816	\$ 77,948	\$ 63,979											\$ 17,405	\$ 4,224		\$155,967	
Active Transportation Planning	608.1			\$ 13,480										\$ 46,924	\$ 1,546	\$ -		\$60,404	
Active Transportation Connectivity Planning	608.3							\$ 232,563								\$ 30,131		\$262,694	
Transportation Demand Management	609.1					\$ 190,960										\$ 39,675		\$230,635	
Freight Planning	610.1			\$ 73,536											\$ 8,435	\$ 67,104		\$140,640	
Phase II KARGO Sustainability Study	610.2									\$ 256,000						\$ 64,000		\$320,000	
I-5 Freight ZERO Pilot Study	610.3				\$ 171,278						\$ 6,527				\$ 21,615	\$ 21,272	\$ 14,360	\$213,437	
Grant Writing	801.1															\$ 64,577		\$64,577	
Regional Technical Assistance	902.1						\$ 20,000									\$ 21,673		\$41,673	
Information and Data Management	903.1			\$ 36,031											\$ 4,133	\$ 5,646		\$41,677	
Interregional Transportation Coordination	904.1			\$ 40,503			\$ 72,000								\$ 4,646	\$ 14,471		\$126,974	
Local Clearinghouse Review Program	904.2															\$ 3,003		\$3,003	
Local Reimbursements	1001.1															\$ 104,103		\$104,103	
Legislative Program	1001.2															\$ 42,743		\$42,743	
Transportation Development Act (TDA) Program	1001.3															\$ 296,803		\$296,803	
Information Services	1001.4			\$ 73,110	\$ 32,136										\$ 12,072	\$ 41,817		\$147,063	
Overall Work Program (OWP) Development and Monitoring	1001.5															\$ 268,742		\$268,742	
KMAA System Implementation and Operation	2001.1															\$ -	\$ 18,172	\$18,172	
511 Program	2002.1															\$ -	\$ 49,904	\$49,904	
SUBTOTAL		\$ 328,909	\$ 117,308	\$ 1,557,647	\$ 484,741	\$ 79,677	\$ 190,960	\$ 199,000	\$ 232,563	\$ -	\$ 630,900	\$ 6,527	\$ 684,703	\$ 540,000	\$ 46,924	\$ 277,063	\$ 1,438,528	\$ 142,436	\$ 6,680,822
CARRYOVER FUNDS		\$ -	\$ 117,308	\$ -	\$ 484,741	\$ -	\$ -	\$ 232,563	\$ -	\$ -	\$ 6,527					\$ 60,334	\$ 14,360	\$915,832	
FY 2020-21 ESTIMATED FUNDS		\$ 328,909	\$ -	\$ 1,557,647	\$ -	\$ 79,677	\$ 190,960	\$ 199,000	\$ -	\$ 630,900	\$ 6,527	\$ 684,703	\$ 540,000	\$ 46,924	\$ -	\$ 1,378,194	\$ 128,076	\$5,764,990	
SUBTOTAL		\$ 328,909	\$ 117,308	\$ 1,557,647	\$ 484,741	\$ 79,677	\$ 190,960	\$ 199,000	\$ 232,563	\$ -	\$ 630,900	\$ 6,527	\$ 684,703	\$ 540,000	\$ 46,924	\$ -	\$ 1,438,528	\$ 142,436	\$ 6,680,822
		\$ -	\$ (0)	\$ 0	\$ 0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (0)	\$ (0)			\$ 0	\$ -	\$ (0)	

*Toll credits provided by the State of California are being utilized as a match for federal FHWA PL and FTA 5303 funds. The FHWA PL and FTA 5303 amounts shown in the Budget Revenue Summary Sheet represent 100% of the total federal participation cost, therefore toll credits are not included in the total revenue amount.

BEFORE THE KERN COUNCIL OF GOVERNMENTS
STATE OF CALIFORNIA, COUNTY OF KERN

RESOLUTION 20-29

In the matter of:

AMENDMENT NO. 1 TO THE FY 2020-2021 OVERALL WORK PROGRAM AND FINANCIAL PLAN

WHEREAS, each Metropolitan Planning Organization (MPO) is required to develop a detailed Overall Work Program (OWP); and

WHEREAS, the OWP is designed to meet the comprehensive planning requirements of the Department of Transportation, the Department of Housing and Urban Development, the Environmental Protection Agency, and state agencies; and

WHEREAS, the OWP has been developed in accordance with guidelines established by the Intermodal Planning Group; and

WHEREAS, Kern COG has adopted an OWP and Financial Plan for Fiscal Year 2020-2021; and

WHEREAS, Amendment No. 1 will result in increased total budgetary appropriations of \$773,226 as detailed in the attachments, attached hereto and made a part of this Resolution No. 19-28 by this reference.

NOW, THEREFORE, BE IT RESOLVED THAT: Amendment No. 1 to the FY 2020-2021 Overall Work Program/Financial Plan is hereby authorized.

AUTHORIZED AND SIGNED THIS 19TH DAY OF NOVEMBER 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Bob Smith, Chair
Kern Council of Governments

I hereby certify that the foregoing is a true copy of a resolution of the Kern Council of Governments, duly authorized at a regularly-scheduled meeting held on the 19th day of November 2020.

Ahron Hakimi,
Executive Director
Kern Council of Governments

Date: _____



IV. COG

November 19, 2020

TO: Kern Council of Governments

FROM: Ahron Hakimi,
Executive Director

BY: Becky Napier
Deputy Director – Administration

SUBJECT: KERN COUNCIL OF GOVERNMENTS AGENDA ITEM: IV.
KERN COG'S 2020 REGIONAL AWARD OF MERIT CEREMONY

DESCRIPTION:

Request for Board Direction regarding the 2020 Regional Award of Merit Ceremony scheduled for March 4, 2021.

DISCUSSION:

Kern Council of Governments understands the concerns of social gatherings surrounding the COVID-19 pandemic. In preparation for the 2020 Kern Council of Governments Regional Award of Merit Ceremony to be held March 4, 2021, staff wants to take into consideration the safety concerns of our Board and community members.

Staff usually begins planning for the Regional Awards Ceremony during the first week of November each year. Due to the safety concerns mentioned above, to date staff has not begun the planning process. Attached for Board information are two checklists – one representing the normal planning process and one representing a compressed process.

With all this in mind, staff is proposing the following options for this year's award celebration:

1. Cancel the 2020 Kern COG Regional Awards event scheduled for March 4, 2021 and combine it with the 2021 Ceremony to be held in 2022.
2. Postpone the 2020 Kern COG Regional Awards to later in the year to give staff time to coordinate and wait to see how the pandemic is evolving.
3. Try to plan some type of virtual Regional Awards Ceremony (may be problematic).
4. Plan for the in-person event, schedule the event for March 4, 2021, and move forward with the Call for Entries to be due the fourteenth of December.

ACTION:

Provide staff direction.



2020 Regional Awards Normal Checklist

Done	Tasks	Date Complete(d)	Column1
	Distribute Nomination Forms	11/2/2020	
	Press Release Out to Media	11/4/2020	
	Post Call for Entries to Website	11/4/2020	
	Reserve (confirm) venue	11/13/2020	
	Nomination Deadline	11/27/2020	
	Remove Call for Entries from Website	11/27/2020	
	Request Tony Moreno/Pictures	12/4/2020	
	Executive Committee Meeting	12/17/2020	
	Notification Letters Out	12/18/2020	
	Begin Script	1/4/2021	
	Press Release Announcing Winners	1/8/2021	
	Final Recipient Background	1/12/2021	
	Request Any Additional Photos	1/14/2021	
	Select Menu Items	1/14/2021	
	Updates for Program to Saba	1/15/2021	
	Email Invitations Out	1/18/2021	
	Request Legislative Certificates	1/19/2021	
	Complete Script	1/22/2021	
	All Photos Collected/Organized	1/25/2021	
	Read Script/Time	1/25/2021	
	Order Award Plaques (Kern Trophy)	1/26/2021	
	Record Script Tracks	2/4/2021	
	Final Photos/Videos to KGOV	2/5/2021	
	Receive Legislative Certificates	2/12/2021	
	Meeting w/Staff for Awards Night	2/16/2021	
	Table/Seating Arrangements	3/1/2021	



2020 Regional Awards Normal Checklist

Done	Tasks	Date Complete(d)	Column1
	Confirm Attendees/Menu/Nametags	3/1/2021	
	Showtime	3/4/2021	
	RSVP's		
	Invoices		
	Receipts		



2020 Reg. Awards Compressed Checklist

Done	Tasks	Date Complete(d)	Column1
	Distribute Nomination Forms	11/23/2020	
	Press Release Out to Media	11/25/2020	
	Post Call for Entries to Website	11/25/2020	
	Reserve (confirm) venue	11/20/2020	
	Nomination Deadline	12/14/2020	
	Remove Call for Entries from Website	12/15/2020	
	Request Tony Moreno/Pictures	12/15/2020	
	Executive Committee Meeting	12/17/2020	
	Notification Letters Out	12/18/2020	
	Begin Script	1/4/2021	
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	Email Invitations Out	1/18/2021	
	Request Legislative Certificates	1/19/2021	
	Complete Script	1/22/2021	
	All Photos Collected/Organized	1/25/2021	
	Read Script/Time	1/25/2021	
	Order Award Plaques (Kern Trophy)	1/26/2021	
	Record Script Tracks	2/4/2021	
	Final Photos/Videos to KGOV	2/5/2021	
	Receive Legislative Certificates	2/12/2021	
	Meeting w/Staff for Awards Night	2/16/2021	
	Table/Seating Arrangements	3/1/2021	



2020 Reg. Awards Compressed Checklist

Done	Tasks	Date Complete(d)	Column1
	Confirm Attendees/Menu/Nametags	3/1/2021	
	Showtime	3/4/2021	
	RSVP's		
	Invoices		
	Receipts		