

**AGENDA
KERN COUNCIL OF GOVERNMENTS
JUNE 15, 2023
6:30 P.M.**

PRIMARY MEETING LOCATION

Kern Council of Governments
Board Room
1401 19th Street, Suite 300
Bakersfield, CA 93301

**SECONDARY MEETING LOCATION
TELECONFERENCING AVAILABLE**

Ridgecrest City Hall
Conference Room B
100 W. California Avenue
Ridgecrest, CA 93555

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:** Ayon, Couch, Blades, Creighton, Crump, Krier, Prout, Reyna, Scrivner, B. Smith, P. Smith, Trujillo, Vasquez

Congestion Management Agency Ex-Officio Members: Helton, Navarro, Parra, Warney

- 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 – May 18, 2023** ROLL CALL VOTE.

B. **Concurrence in Actions of TPPC**

C. **Response to Public Comments**

D. **Authorization to Award Contract – 2023 Transportation Model Support** (Flickinger)

Comment: A proposed contract with DKS Associates has been negotiated for \$55,000 for up to 5 years to provide professional services under the Kern On-Call Transportation Model Support Contract. This item has been reviewed by County Counsel.

Action: Approve contract and authorize Chairman to sign. ROLL CALL VOTE.

E. **Contract Amendment – Kern County Traffic Count Study 2021** (Flickinger)

Comment: A proposed contract amendment with Atlantic & Pacific Data Corporation has been negotiated to increase the compensation rates while maintaining budget levels approved in the Overall Work Plan. This item has been reviewed by County Counsel.

Action: Approve the Atlantic & Pacific contract amendment and authorize the Chairman to sign. ROLL CALL VOTE.

F. **Resolution Conditionally Committing \$6 million in Regional Early Action Plan (REAP 2.0) Funds to the City of Bakersfield** (Napier)

Comment: The Regional Early Action Planning Grants of 2021 (REAP) 2.0 are a key part of strategic investments toward a more sustainable, resilient, and inclusive future for people in all areas of the state. Building off of the application submitted by the Kern Council of Governments in December 2022, as approved at the November 17, 2022, Board Meeting, this Resolution conditionally commits \$6 million in Regional Early Action Planning (REAP) 2.0 funds to the City of Bakersfield to support Bakersfield's efforts to secure additional funding for its REAP funded projects. This action furthers Bakersfield's ability to meet the goals of the REAP program and fulfill the activities associated with Kern COG's application. This item has been reviewed by County Counsel.

Action: Adopt Resolution No. 23-13 to conditionally commit the City of Bakersfield's portion of the REAP 2.0 funds and authorize the Chair to sign the Resolution. ROLL CALL VOTE

G. **Local Clearinghouse:**

Applicant: Panama-Buena Vista Union School District

Address: 4200 Ashe Road
Bakersfield, CA 93313-2029
Contact: Brooke McKnight

Federal Agency: Community Oriented Policing Services
Catalog No.: 16.710
Title: FY23 COPS School Violence Prevention Program
Description: Panama-Buena Vista Union School District School Safety Project

Federal Funds: \$500,000.00

Total Funds: \$667,000.00

Applicant: County of Kern

Address: 1115 Truxtun Avenue, Fifth Floor
Bakersfield, CA 93301-4630
Contact: Amanda Ruiz

Federal Agency: Bureau of Justice Assistance

Catalog No.: 16.606
Title: State Criminal Alien Assistance Program
Description: BJA FY 2021 State Criminal Alien Assistance Program

Federal Funds: \$550,000.00

Total Funds: \$550,000.00

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

IV. CONGESTION MANAGEMENT AGENCY: (None)

V. KERN MOTORIST AID AUTHORITY: (None)

VI. MEETING REPORTS: (None)

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

A. Warrant Register

B. Timeline

VIII. 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.

IX. CLOSED SESSION:

A. Executive Director Evaluation.

X. ADJOURNMENT: NEXT MEETING – The next scheduled meeting will be July 20, 2023 (scheduled to be dark)..

KERN COUNCIL OF GOVERNMENTS

Minutes of Meeting for May 18, 2023

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

THURSDAY
May 18, 2023
6:30 P.M.

The meeting was called to order by Chairman Smith at 7:32 p.m.

I. ROLL CALL:

Members Present: Ayon, Couch, Blades, Crump, Krier, Creighton, Prout, Reyna, B. Smith, P. Smith, Trujillo, Vasquez

Congestion Management Agency Ex-Officio Members: Parra, Warney, Navarro, Heckman

Members Absent: Scrivner

Others: Ritter, Franz, Paulson, Mussa

Staff: Hakimi, Napier, Snoddy, Pacheco, Enriquez, Ball, Stramaglia, Banuelos, Raymond, Campbell, VanWyk

- 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 none.

- 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 – April 20, 2023

B. Concurrence in Actions of TPPC

C. Response to Public Comments

D. 2023 Community Survey Final Report (Campbell)

Comment: Godbe Research was commissioned by Kern Council of Governments (COG) to conduct the 2023 Community Survey.

Action: Accept the 2023 Community Survey Final Report. ROLL CALL VOTE.

E. Agreement for Safety-Related Hazard and Obstruction Removal on State Highways (Napier)

Comment: Consideration of a Memorandum of Agreement between Kern Council of Governments, Acting as the Kern Motorist Aid Authority, and the County of Kern for

safety-related hazard and obstruction removal on state highways in Kern County in the amount of \$50,000. This item has been reviewed by County Counsel.

Action: Approve the Memorandum of Agreement between Kern Council of Governments, Acting as the Kern Motorist Aid Authority, and the County of Kern and authorize the Chair to sign the Agreement. ROLL CALL VOTE

F. **Agreement for Safety-Related Hazard and Obstruction Removal on State Highways** (Napier)

Comment: Consideration of a Memorandum of Agreement between Kern Council of Governments, Acting as the Kern Motorist Aid Authority, and the City of Bakersfield for safety-related hazard and obstruction removal on state highways within the City of Bakersfield in the amount of \$225,000. This item has been reviewed by County Counsel.

Action: Approve the Memorandum of Agreement between Kern Council of Governments, Acting as the Kern Motorist Aid Authority, and the City of Bakersfield and authorize the Chair to execute the Agreement.

G. **2023 Update: Kern Council of Governments Public Involvement Procedures & Policies** (Raymond)

Comment: The 2017 California Regional Transportation Plan (RTP) Guidelines require that a Metropolitan Planning Organization (MPO) develop a public participation plan prior to the development of the RTP. The Regional Planning Advisory Committee has reviewed this item.

Action: Information.

H. **Local Clearinghouse:**

Applicant: Kern Community College District

Address: 1801 Panorama Drive
Bakersfield, CA 93305-1219
Contact: Dr. Bonita Steele

Federal Agency: Rural Business-Cooperative Service
Catalog No.: 10.755
Title: Rural Innovation Stronger Economies (RISE)
Description: Bakersfield College – Kern RISEs Project

Federal Funds: \$975,000.00

Total Funds: \$2,292,785.00

Applicant: CSUB Auxiliary for Sponsored Programs Administration

Address: 9001 Stockdale Highway
Bakersfield, CA 93311-1022
Contact: Daphne Evans

Federal Agency: Office of Violence Against Women
Catalog No.: 16.525
Title: OVW Fiscal Year 2023 Grants to Reduce Domestic Violence, Dating Violence, Sexual Assault, and Stalking on Campus Program Solicitation
Description: Runner PRIDE: Prevention, Inclusion, Diversity, Excellence Program

Federal Funds: \$399,323.00

Total Funds: \$399,323.00

Applicant: San Joaquin Community Hospital dba Adventist Health Bakersfield

Address: 2615 Chester Avenue

Bakersfield, CA 93301-2014

Contact: Christine Lollar

Federal Agency: Substance Abuse and Mental Health Services Administration

Catalog No.: 93.243

Title: Mental Health Awareness Training Grants

Description: Wellness Navigation – training hospital and clinic staff, community, and linking patients to care

Federal Funds: \$200,000.00

Total Funds: \$203,500.00

Applicant: House of Jochebed

Address: 5114 Laguna Street

Bakersfield, CA 93306

Contact: Lorena Vasquez

Federal Agency: US Department of Justice

Competition Identification No.: O-OVC-2023-171671

Title: OVC FY 2023 Human Trafficking Fellowship Program

Description: Systematic Review of Exit and Post Exit Interventions

Federal Funds: \$400,000.00

Total Funds: \$400,000.00

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

MOTION BY DIRECTOR COUCH TO APPROVE CONSENT AGENDA ITEMS A THROUGH H, SECOND BY DIRECTOR P. SMITH, MOTION CARRIED WITH A UNANIMOUS ROLL CALL VOTE.

IV. FINAL KERN COG FY 2023-2024 FINANCIAL PLAN (Palomo)

Comment: Pursuant to policy, Kern Council of Governments (Kern COG) prepares and adopts an annual financial plan (budget) detailing estimated revenues and expenditures for the ensuing fiscal year. Staff has prepared a **final** Kern COG FY 2023-2024 Financial Plan that includes \$6,147,134 in estimated operating revenues and \$6,360,882 in estimated operating and capital expenditures.

OPEN PUBLIC HEARING

RECEIVE COMMENTS

CLOSE PUBLIC HEARING

Action: Motion by Director Reyna to Adopt the Final Kern COG FY 2023-2024 Financial Plan, second by Director Crump, motion carried with a unanimous roll call vote.

V. FINAL KMAA FY 2023-2024 FINANCIAL PLAN (Palomo)

Comment: KMAA develops an annual financial plan or budget that includes detailed estimates of revenues and expenses for the upcoming fiscal year. The financial plan is reviewed and approved by the Council. The **final** KMAA FY 2023-2024 Financial Plan proposes operating revenues totaling \$835,711, and operating appropriations totaling \$641,788.

OPEN PUBLIC HEARING

RECEIVE COMMENTS

CLOSE PUBLIC HEARING

Action: Motion by Director Couch to Adopt the Final KMAA FY 2023-2024 Financial Plan, second by Director Ayon, motion carried with a unanimous roll call vote.

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:

Mr. Hakimi reported on the San Joaquin Valley Policy Conference – April 24 – 26, 2023 - Great Wolf Lodge – Manteca

X. MEMBER STATEMENTS:

XI. CLOSED SESSION:

None.

XII. ADJOURNMENT: Seeing no other comments the meeting adjourned at 8:00 p.m. **NEXT MEETING – June 15, 2023.**

Respectfully submitted,

ATTEST:

Ahron Hakimi, Executive Director

Bob Smith, Chairman

DATE: _____



III. D. COG

June 15, 2023

TO: Kern Council of Governments

FROM: Ahron Hakimi,
EXECUTIVE DIRECTOR

By: Ed Flickinger, Regional Planner III

SUBJECT: Kern Council of Governments Consent Agenda Item: III. D.
Authorization to Award Contract – 2023 Transportation Model Support

DESCRIPTION:

A proposed contract with DKS Associates has been negotiated for \$55,000 for up to 5 years to provide professional services under the Kern On-Call Transportation Model Support Contract. This item has been reviewed by County Counsel.

DISCUSSION:

The latest Kern COG transportation model has just been updated by the San Joaquin by DKS. The model contains mode split, trucks, peak periods (am, pm, mid-day, off-peak), and approximately 2000 Transportation Analysis Zones (TAZs).

The consultant will assist the Kern COG staff with creating script files, troubleshooting modeling problems, review of modeling assumptions, model refinements, developing Air Quality forecast outputs for use in emissions analysis and provide training on significant aspects of the Kern COG Regional Transportation Model.

The project is budgeted in the 2023-24 Overall Work Program (OWP) and the draft 2023-24 OWP under Work Element 604.1. A Request for Proposals (RFP) was advertised March 1, 2023. RFPs were sent to all transportation consultants in the Kern COG database. The proposals were due April 20, 2023. Three proposals were received and were ranked by staff members of Kern COG, Caltrans, and the City of Bakersfield using a proposal evaluation form. DKS Associates of Sacramento, CA was selected on April 26, 2023. The contract was reviewed by legal counsel and approved as to form.

ACTION: Approve contract and authorize Chairman to sign. ROLL CALL VOTE.

Attachment: 2023 Kern On Call Transportation Model Support Contract

CONTRACT BETWEEN THE KERN COUNCIL OF GOVERNMENTS
AND

DKS Associates

Kern On Call Transportation Model Support

THIS CONTRACT, made and entered into this 15th day of June 2023, by and between the Kern Council of Governments, hereinafter referred to as "Kern COG," and DKS Associates hereinafter referred to as "Consultant." Kern COG and Consultant are referred to herein individually as a "Party" and collectively as the "Parties."

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, Kern COG is in need of services as specified herein; 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: Scope of Work, Schedule, and Budget/Cost Proposal, 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 April 20, 2023, for the delivery of products as specified in the Scope of Work, attached hereto as Exhibit "A," according to the Budget/Cost Proposal, attached hereto as Exhibit "B." During the performance of this contract, the representative project managers for Kern COG and Consultant will be:

Kern COG: Ed Flickinger
Consultant: John Long

III. Term

Time is of the essence in this contract. Subject to the annual written notice to proceed provisions in Section VI of this Agreement the term of this contract is July 1, 2023 through June 30, 2028.

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 Fifty five thousand dollars (\$55,000) through June 30, 2024 to be billed in accordance with the hourly rates reflected in Exhibit "B," Costs. The contract may be renewed annually for up to four more years through June 30, 2028, and the parties may negotiate compensation for the next year's services not to exceed the inflation rate each year the contract is renewed. Funding in any fiscal year is subject to Kern COG board approval in the annual budget and a written staff work order request. Because this is an on-call contract issuance of written work order requests will be subject to need as determined by Kern COG, it is possible that in some years no work will be requested.

No work shall be performed and billed under this contract without a work order signed by both the Kern COG staff and the consultant.

The total sum billed under this contract may not exceed 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.

Starting July 1, 2023, consultant shall not perform or bill for work after the beginning of Kern COG's fiscal year beginning July 1 of each year, without a written "notice to proceed" listing the maximum funding available for work activity under this contract in the new fiscal year. Kern COG will not remit payment for billings above and beyond the amount listed in the notice to proceed. Such billings, up to the specified amount, shall constitute full and complete compensation for Consultant's services.

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 604.1 as identified on the FY 2023-2024 Overall Work Program, or as may be specified in a written notice by Kern COG. Specific budget category detail is given below:

Consultant shall submit two copies of each invoice with adequate supporting documentation of work billed and costs charged by Task as defined in Exhibit A, to Kern COG, specifying those services which Consultant believes have been completed. The invoice shall specify: (1) hours worked multiplied times the billing rates authorized in Exhibit B, (2) an itemization of Other direct cost and/or subcontractor fees as agreed to in Exhibit B; (3) the total amount billed for the current period, (4) the total amount billed to-date for the project. (5) the retention amount withheld. The invoice shall include a written progress report adequately describing the services billed and provided, and summarizing the status of the PROJECT in regard to task completion, timelines, and budget.



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.

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.
- C. 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 28 CFR 179.9(c) and (d).

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 (upon request of Kern COG), and hold harmless Kern COG and all of its officers, agents and employees from any and all actions, causes of action, claims, demands, costs, liabilities, losses, damages and expenses of whatsoever kind and nature (including reasonable attorney's fees) for injuries to or death of any person or persons, or damage to property of third persons, to the extent arising out of or in any way connected with the negligent acts, errors or omissions by Consultant in the performance of the services to be provided pursuant to this contract by Consultant or Consultant's officers, agents or employees.

XIX. Insurance

- A. Consultant shall procure and maintain in force, at all times during the term of this contract, the following insurance coverages:
 - 1) Worker's Compensation in the amount required by law; 2) Commercial general liability insurance, including contractual liability coverage, covering all of its actions under this contract with limits of not less than \$2,000,000 combined single limit for bodily injury and property damage or \$1,000,000 per person and per occurrence for bodily injury and \$1,000,000 per each occurrence for property damage and \$2,000,000 aggregate; and 3) Commercial automobile liability coverage with the same limits as the commercial general liability insurance described above, covering all owned, hired, and non-owned automobiles and any other vehicle or equipment used by Consultant or its agents in performance of this contract.
- B. All policies of insurance mentioned above shall be placed with insurers admitted to do business in California and with current "Best's Key Rating Guide" rating of no less than an A-, VII. The commercial general liability and automobile liability policies shall contain endorsements naming the Kern Council of Governments, its officers, employees, agents and governing body and each member thereof, as additional insureds and providing for a legal defense, if such is requested, for all such additional insureds. In addition, all policies of insurance mentioned in paragraph A. above shall not be canceled or reduced



until thirty (30) days after Kern COG receives notice of such cancellation or reduction. A signed copy of a certificate or certificates of insurance evidencing each of the coverages and requirements for the policies of insurance mentioned above, and evidencing each of the endorsements described herein, shall be submitted to Kern COG prior to Consultant performing any work under this contract.

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 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with local, state or federal funds.

Consultant shall ensure that DBEs, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of this contract. In this regard, Consultant shall take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and to perform subcontracts arising out of this contract. Failure to carry out the requirements of this paragraph shall constitute a breach of contract and may result in termination of this contract or such other remedy Kern COG may deem appropriate.

During the period of this contract, the Consultant shall maintain records of all applicable subcontracts advertised and entered into germane to this contract, documenting the opportunity given to DBEs to participate in this contract, actual DBE participation, and records of materials purchased from DBE suppliers. Such documentation shall show the name and business address of each DBE subcontractor or vendor, and the total dollar amount actually paid each DBE subcontractor or vendor. Upon completion of the contract, a summary of these records shall be prepared and certified correct by the Consultant, and shall be furnished to Kern COG.

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, California 93301

OR
Terry Klim
Principal
DKS Associates
8950 Cal Center Drive, Suite 340
Sacramento, CA 95826

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 DKS Associates 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

Bob Smith, Chair
"Kern COG"

APPROVED AS TO FORM:

CONSULTANT

Brian Van Wyk, Deputy
Kern County Counsel



Consultant

R



Exhibit "A"

Scope of Work

The consultant will assist the Kern COG staff with on call support services to the regional transportation model on an hourly basis as described in greater detail in the Request for Proposals dated March 1, 2023. The work consists of creating script files, troubleshooting modeling problems, review of modeling assumptions, model refinements, developing air quality forecast outputs for use in emissions analysis and provide training on significant aspects of the model.

A. Create script files:

1. Assist KERN COG staff with the development of new or refined model scripts.
2. Research and develop scripts that will help KERN COG use the model more effectively and efficiently.

B. Trouble shooting modeling problems:

1. Assist KERN COG staff with the development of new or refined methods of extracting data from the model;
2. Trouble shoot major and minor problems related to the model or model related data
3. Perform model runs upon request.

C. Review of Modeling data and assumptions:

1. Assist KERN COG staff with the development and updating of land use data;
2. Assist KERN COG staff in development of Access or Excel based automated land use data base.
3. Provide recommendations for improvement in data development and calculation methods
4. Assist with model calibration/validation updates as requested.

D. Model Refinements:

1. Assist KERN COG staff with network identification and accuracy;
2. Assist staff with the recognition of network links as associated with speed characteristics, geometrics and special circumstances.
3. Assist KERN COG staff with development of network project access or Excel database to maintain master network.
4. Assist KERN COG staff with GIS operations in model refinement (such as TAZ updates) and other modeling related tasks.

E. Provide yearly training/or KERN COG staff:

1. Prepare a training outline and associated material annually to assist in the professional development of KERN COG staff;
2. Inform KERN COG staff of the updated software and/or new programs that relate to transportation modeling.
3. Recommend software and software updates.

F. Other modeling duties as requested and agreed on by the consultant in a signed work order.



Consultant will provide all textual work products using MS WORD software. All data and reports may be shown on the KERN COG web site at the discretion of KERN COG.

The consultant will manage project tasks and submit written progress reports with invoices. The progress report will document specific accomplishments of each task, identify percent completion by task, and difficulties encountered.



Exhibit "B"

Budget/Cost Proposal

Exhibit B
Budget/Cost Proposal

Task Description	Principal in Charge	Project Manager	Senior Technical Advisor	Senior Data Analyst	Senior Transportation Planner	Travel Demand Modeler	Planned Engineer	Direct Expenses	Total Hours	Total Cost
Task 1 Create Script Files	\$ 331.00	\$ 243.00	\$ 309.07	\$ 259.07	\$ 152.30	\$155.20	\$128.05			
Task 2 Troubleshooting Modeling Problems		30							30	\$ 7,309.61
Task 3 Review of Modeling Data and Assumptions	1	40			8	4	20		73	\$ 14,478.69
Task 4 Model Refinements	1	30	8	8	8	4	20		79	\$ 16,598.44
Task 5 Training for Kern COG Staff		40			4		8		52	\$ 11,379.97
Subtotal Cost Labor		20							20	\$ 4,873.07
Total Hours	2	160	8	8	20	8	48		-	\$ 54,639.78
Direct Expenses (Social Pinpoint, Travel, Lodging, Food, etc...)								\$ 360.00		\$ 360.00
Total Cost	664	\$ 38,984	\$ 2,480	\$ 2,077	\$ 3,047	\$ 1,242	\$ 6,146			\$ 55,000



Exhibit "C"

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

The Consultant, under penalty of perjury, certifies that, except as noted below, he/she or any person associated therewith in the capacity of owner, partner, director, officer, manager:

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

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)

05/17/2023

Date



Exhibit "D" – Sample Work Order Form

WORK ORDER – On-Going Model Consulting



Contractor: _____ **Contract No.** _____
Date: _____ **Work Order #** _____

Scope of Assignment:

- 1)
- 2)
- 3)
- 4)
- 5)
- 6)
- 7)
- 8)
- 9)

Source Data Provided by Kern COG:

Deliverables:

Estimated Resources by Task:

Estimated Timeframe:

Estimated Work order Cost:

Kern COG Approval: _____ **Date:** _____

Consultant Acceptance: _____ **Date:** _____


Work Order shall not exceed contract total.





TRANSACTION DETAILS	DOCUMENT DETAILS
Reference Number EBF00E0D-3940-45D6-83B1-49D67D5A257C	Document Name Consultant Agreement Model Support 2023 - Execution Copy
Transaction Type Signature Request	Filename consultant_agreement_model_support_2023_-_execution_copy.pdf
Sent At 05/17/2023 19:58 EDT	Pages 14 pages
Executed At 05/17/2023 21:05 EDT	Content Type application/pdf
Identity Method email	File Size 641 KB
Distribution Method email	Original Checksum 917368290f918f86ac670689230ab29e5e1857a1fc02b247a8ffa62638b2677c
Signed Checksum 769ec646445a9b47f2c08bde03f11c7ae5a1d4309cab154a04fb7c2e5e482e97	
Signer Sequencing Disabled	
Document Passcode Disabled	

SIGNERS

SIGNER	E-SIGNATURE	EVENTS
Name Jim Damkowitch	Status signed	Viewed At 05/17/2023 21:04 EDT
Email jim.damkowitch@dksassociates.com	Multi-factor Digital Fingerprint Checksum adcce6284a68c295f57d0c0507ef69b34de7a3aad64b74494c510d8e8469f4f6	Identity Authenticated At 05/17/2023 21:05 EDT
Components 3	IP Address 108.204.123.95	Signed At 05/17/2023 21:05 EDT
	Device Chrome via Windows	
	Drawn Signature 	
	Signature Reference ID D16B5ABC	
	Signature Biometric Count 3	

AUDITS

TIMESTAMP	AUDIT
05/17/2023 19:58 EDT	Elizabeth Aguilar (elizabeth.aguilar@dksassociates.com) created document 'consultant_agreement_model_support_2023_-_execution_copy.pdf' on Chrome via Windows from 216.75.245.6.
05/17/2023 19:58 EDT	Jim Damkowitch (jim.damkowitch@dksassociates.com) was emailed a link to sign.
05/17/2023 21:04 EDT	Jim Damkowitch (jim.damkowitch@dksassociates.com) viewed the document on Chrome via Windows from 108.204.123.95.
05/17/2023 21:05 EDT	Jim Damkowitch (jim.damkowitch@dksassociates.com) authenticated via email on Chrome via Windows from 108.204.123.95.
05/17/2023 21:05 EDT	Jim Damkowitch (jim.damkowitch@dksassociates.com) signed the document on Chrome via Windows from 108.204.123.95.



III. E. COG

June 15, 2023

TO: Kern Council of Governments

FROM: Ahron Hakimi,
Executive Director

By: Rob Ball, Planning Director
Ed Flickinger, Regional Planner

SUBJECT: Kern Council of Governments Consent Agenda Item: III. E.
CONTRACT AMENDMENT– KERN COUNTY TRAFFIC COUNT STUDY 2021

DESCRIPTION:

A proposed contract amendment with Atlantic & Pacific Data Corporation has been negotiated to increase the compensation rates while maintaining budget levels approved in the Overall Work Plan. This item has been reviewed by County Counsel.

DISCUSSION:

Beginning in 2006, the regional traffic count program was authorized by the Kern COG Board to be funded as an off-the-top allocation of Regional Surface Transportation Program (RSTP) in the FTIP. Kern COG has administered three regional count contracts that has successfully acquired over 24,000 counts on local roads in first 18 years of the program and over 1700 bike/pedestrian counts in the first 6 years of the program. These counts are available through an interactive online mapping system on Kern COG's main web page (<http://www.kerncog.org/data-center/regional-traffic-count-data-map>).

Traffic monitoring is mandated by the federal surface transportation act. The scope of the contract is to improve data in the regional transportation model while reducing duplicative traffic counting efforts.

The study is an annual program that is renewable annually for up to 5 years.

During the course of the study, Kern COG staff and the consultant team agreed that the contract period would need to be extended from June 30, 2026 to June 30, 2027.

The project is listed in the Board adopted 2023 FTIP as project KER200401 in the 2023 FTIP, and in the Overall Work Program under Work Element 603.2, and the contract amendment reviewed by legal counsel as to form.

ACTION: Approve the Atlantic & Pacific contract amendment and authorize the Chairman to sign.
ROLL CALL VOTE.

Attachment: Atlantic & Pacific Traffic Count Contract Amendment No 1.

AMENDMENT No. 1 TO CONTRACT BETWEEN
KERN COUNCIL OF GOVERNMENTS
AND
ATLANTIC & PACIFIC DATA CORPORATION

THIS AMENDMENT (hereinafter “Amendment No. 1”) TO CONTRACT, for reference purposes is made and entered into on _____ (“Execution Date”) by and between the Kern Council of Governments (hereinafter “KERN COG”) and Atlantic & Pacific Data Corporation (hereinafter “CONSULTANT”).

WITNESSETH

WHEREAS, KERN COG and CONSULTANT entered into a contract (“Contract”) dated May 21, 2021 to provide traffic counts at various locations throughout Kern County; and

WHEREAS, the contract identified a start date of July 1, 2021; and

WHEREAS, the Parties to the Contract desire to enter into this Amendment No. 1 to increase the rates payable and extend the term of the Agreement; and

WHEREAS, the extension has no effect on other projects or programs of KERN COG; and

WHEREAS, the contract rate increase has no effect on other projects or programs of KERN COG.

NOW, THEREFORE, KERN COG AND CONSULTANT do mutually agree as follows:

1. Beginning July 1, 2023 Section V., Compensation to Consultant, is deleted and replaced with the following:

As compensation for all services to be provided by Consultant, Kern COG shall pay Consultant according to the following schedule of fixed fees:

TASKS	Cost Per Count
1. 24-Hour Count - Locate, setup, GPS, collect, process, and report 24-hour traffic counts (both directions, 1-8 lanes).	\$30.00
2. 24-Hour Classification Count - Locate, setup, GPS, collect, process, and report 24-hour vehicle classification traffic counts (both directions, 1-8 lanes).	\$45.00
3. 48-Hour Count - Locate, Setup, Collect, Process, and Report 48 -hour Traffic Counts (both directions). [1-8 lanes]	\$42.50
4. 48-Hour Classification Lane Count – Locate, setup, GPS, collect, process, and report 48-hour vehicle classification traffic counts (both directions, 1-8 lanes).	\$57.50
5. 7-Day Annual Control Station Count - Locate, setup, GPS, collect, process, and report vehicle control station counts. Counts collected 4 times per year. Rate is for 1 count per quarter. Count reported after each collection, reporting annual average and daily-of-week/seasonal adjustment factors quarterly, summarizing the 4 most recent counts (as available). (7-days, 24-hours a day, both directions, 1-8 lanes).	\$157.50 (per quarterly count from site)

<p>6. Segment Ped & Bike Count Including:</p> <ul style="list-style-type: none"> • Pedestrians • Bikes • Wheel Chairs • Motorized Bikes (if possible to identify or will be classified as a standard bike) • Other Class Type Easily Identified (upon request in advance) • Mid-Block Marked Crosswalk or Illegal street crossing in the area of the segment count • On-Off Bus (upon request if in segment count area) • On-Off Train (upon request in advance if in segment area and with authorization to set up camera(s) in platform area) or can be done as a separate count (additional charge) in conjunction with a segment ped & bike count(s) <p>The data will be counted and separated as (1) side of street, (2) travel on sidewalk, (3) travel on street without a bike lane, (4) travel on the street with a bike lane and (5) travel off-street with a designated bike-ped-equestrian path.</p> <p>Optional Costs: Turning Movement Count-TMC=\$28.50 per hour (with ped & bike=\$36.50 per hour) Video Delivery = \$28.50 + \$1.75 per hour with TMC or \$3.50 per hour without TMC</p>	<p><u>\$ 7.95 x 24</u> (Per hour per Site) (24 hour)</p> <p><u>\$ 10.75 x 12</u> (Per hour per Site) (12 hour during daylight only, unless otherwise agreed.)</p> <p><u>\$ 18.75 x 4</u> (Per hour per Site) (4 hour around schools: 6-10 am only, unless otherwise agreed.)</p>
<p>Other optional costs: The maximum rate for the below services is \$27.50 per hour:</p> <p>Intersection Turning Movement Count * Parking Lot Study * Pedestrian & Bike Study * Queue Study * Site Measurement & Configuration * Transit Data Study * Video Recording & Surveillance</p> <p>The maximum rate for the below services is \$55.00 per hour:</p> <p>Asset & Inventory (Physical Count & Management) * Biega Intersection Ped & Bike O-D Study * Classification Turning Movement Count * Casino & Mall Study * Freeway Class and/or Volume Count * Gap & Time Delay Study * GPS Based Travel Time Study * Occupancy Study * Origin-Destination Study * Project Consulting & Management * Pedestrian & Bike Travel Time Study * Saturation Flow Study * Oral or In-Person Study * Trail Study * Any Type of Data Collection & Management Project</p>	

Fixed fees shall include all of Consultant's actual reasonable and necessary travel costs and expenses incurred on behalf of Kern COG, but in no event greater than the IRS rate for the year in which the expenses are incurred. The amount payable pursuant to this Agreement shall not exceed Seventy Nine

Thousand Six Hundred Seventy Seven Dollars (\$79,677) per year for the period of July 1, 2021 to June 30, 2026.

Starting July 1, 2021, consultant shall not perform or bill for work after the beginning of Kern COG's fiscal year beginning July 1 of each year, without a written "notice to proceed" listing the maximum funding available for work activity under this contract in the new fiscal year. Kern COG will not remit payment for billings above and beyond the amount listed in the notice to proceed. Such billings, up to the specified amount, shall constitute full and complete compensation for Consultant's services.

Kern COG will consider proposed annual increases to Consultant's rates provided that those increases shall not exceed the rate of inflation as determined by the Consumer Price Index for All Urban Consumers (CPI-U) or other comparable index should CPI-U cease to be published.

2. The term of the Agreement is extended through June 30, 2027.
3. Except as expressly amended herein, all provisions of the Contract shall remain in force and effect.

IN WITNESS WHEREOF, this Amendment Number 1 to the Contract has been executed as of the Execution Date.

APPROVED AS TO CONTENT:

KERN COUNCIL OF GOVERNMENTS

ATLANTIC & PACIFIC DATA CORPORATION

Ahron Hakimi, Executive Director
"Kern COG"

Douglas Bowen
"CONSULTANT"

Bob Smith, Chair
"Kern COG"

APPROVED AS TO FORM

Brian Van Wyk, Deputy
County Counsel



III. F. COG

June 15, 2022

TO: Kern Council of Government Board of Directors

FROM: Ahron Hakimi
Executive Director

BY: Becky Napier
Deputy Director - Administration

SUBJECT: KERN COUNCIL OF GOVERNMENTS CONSENT AGENDA ITEM III. F.
Resolution Conditionally Committing \$6 Million in Regional Early Action Plan
(REAP 2.0) Funds to the City of Bakersfield

DESCRIPTION

The Regional Early Action Planning Grants of 2021 (REAP) 2.0 are a key part of strategic investments toward a more sustainable, resilient, and inclusive future for people in all areas of the state. Building off of the application submitted by the Kern Council of Governments in December 2022, as approved at the November 17, 2022, Board Meeting, this Resolution conditionally commits \$6 million in Regional Early Action Planning (REAP) 2.0 funds to the City of Bakersfield to support Bakersfield's efforts to secure additional funding for its REAP funded projects. This action furthers Bakersfield's ability to meet the goals of the REAP program and fulfill the activities associated with Kern COG's application. This item has been reviewed by County Counsel.

DISCUSSION

REAP 2.0 provided funds to regional governments to accelerate housing production and facilitate compliance with the 6th cycle of the Housing Element including Regional Housing Needs Assessment (RHNA). REAP 2.0 funds are explicitly intended to meet multiple objectives – infill development, housing for all incomes, vehicle miles traveled (VMT) reduction, and affirmatively furthering fair housing (AFFH). Funds are expected to meet these objectives in ways that lead to transformative policy outcomes and accelerate the implementation of regional and local plans to achieve these goals.

On November 17, 2022, this Board approved the submission of an application to the Department of Housing and Community Development (HCD) in the amount of \$12,670,717 for the Kern region. Included in that application was \$6 million for the Bakersfield Senior Center Affordable Senior Housing and Facility, a two phase 52-unit mixed-use senior affordable housing complex which includes the redevelopment of the existing Bakersfield Senior Center at 530 4th Street and an adjacent vacant lot. This \$6 million is one of a proposed ten sources needed to complete this project. One of the primary sources for phase II of the project is the Transformative Climate Communities program (TCC). Due August 1, 2023, this funding source, if

awarded, would be the catalyst to position phase II of the project to apply and compete for 4% tax credits in 2024 and, from there, begin construction. In addition, it would bring a number of complimentary improvements to the area, including urban greening and transportation improvements, thus furthering the objective of the REAP program.

The resolution before the Board will support the City of Bakersfield's ability to provide an enforceable financial commitment (EFC) to the development team in preparation of the TCC application. As part of the qualification process for TCC, applicants must leverage at least 50% of the total funding request (up to \$29,500,000) in other funding in order to be eligible to apply. As such, REAP funds are a critical part to the City of Bakersfield's upcoming application and our ability to meet leveraging requirements. Tonight's resolution demonstrates this commitment, however, provides conditions that do not bind Kern COG to commit funds to the City of Bakersfield in the event REAP 2.0 funds are not provided to the agency.

Attached for Board consideration is a resolution conditionally committing REAP 2.0 funds to the City of Bakersfield to support application efforts to secure funding through the TCC program.

ACTION

Adopt Resolution No. 23-13 to conditionally commit the City of Bakersfield's portion of the REAP 2.0 funds and authorize the Chair to sign the Resolution. (ROLL CALL VOTE)

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

RESOLUTION 23-13

In the matter of:

RESOLUTION CONDITIONALLY COMMITTING \$6 MILLION IN REGIONAL EARLY ACTION PLANNING 2.0 GRANT FUNDS TO THE CITY OF BAKERSFIELD.

WHEREAS, the Department of Housing and Community Development is authorized to provide up to \$510,000,000 to Metropolitan Planning Organizations and Councils of Government (“Applicant”) listed in Health and Safety Code Section 50515.08, subdivisions (a)(1)-(6) under the Regional Early Action Planning grants program (REAP 2.0), as detailed in Health and Safety Code Section 50515.08-10. B; and

WHEREAS the State of California (the “State”), Department of Housing and Community Development (“Department”) issued a Notice of Funding Availability on July 26, 2022 for REAP 2.0 grants available to Metropolitan Planning Organizations and Councils of Government; C; and

WHEREAS Kern Council of Governments (“COG”) as a Metropolitan Planning Organization or Council of Government was eligible to submit a Request for Funds pursuant to Health and Safety Code Section 50515.08(c) to develop and accelerate the implementation of the requirements described in Health and Safety Code section 50515.08(c)(1); and

WHEREAS COG applied in the amount of amount of \$17,280,234.59 for a set-aside allocation of \$12,670,717 for the region as directed by the COG Board of Directors on November 17, 2022, including four projects to receive the set-aside allocation and two additional projects for consideration in the event additional resources are available; and

WHEREAS the Bakersfield Senior Center Affordable Senior Housing and Facility project (“project”) was incorporated into the application to receive \$6 million of the regional set-aside for the program; and

WHEREAS it is the intent of the COG to assist the City of Bakersfield (“CITY”) to facilitate the development of the Bakersfield Senior Center Mixed-Use Housing Project by granting SIX MILLION DOLLARS (\$6,000,000) in REAP 2.0 funds to support the CITY’s ability to support the partnership between the Housing Authority of the County of Kern and the Bakersfield Senior Center (“development team”) to complete the proposed project; and

WHEREAS CITY desires a conditional funding commitment from COG to support its ability to facilitate the proposed Bakersfield Senior Center Mixed-Use Housing Project in its pursuit of additional funding resources.

NOW, THEREFORE, BE IT RESOLVED THAT by the Board of Directors of the Kern Council of Governments as follows:

1. The above recitals are true and correct and incorporated herein.
2. The Board of Directors finds and declares that it is necessary and in the best interests of the COG to provide the following commitment to the City of Bakersfield in pursuit of the project as submitted in the COG application for REAP 2.0 funds dated December 21, 2022: Six Million

Dollars (\$6,000,000.00) of REAP 2.0 funds to be awarded at a later date to the development team to undertake the Bakersfield Senior Center Mixed-Use Project.

3. This funding commitment is made with the following conditions:

3.1. CITY shall utilize funds under the resolution exclusively for uses authorized and incorporated into the COG application for funding under the REAP 2.0 program as authorized by the board on November 17, 2022 and submitted by the COG to the Department of Housing and Community Development in the final application dated December 21, 2022.

3.2. Key components of the project's development as enumerated in the COG's application the State of California dated December 21, 2022 shall not change without the COG's approval and observance and compliance with all programmatic requirements as set forth by the Department of Housing and Community Development.

3.3. All REAP 2.0 assisted units shall remain affordable for at least the minimum required affordability period as authorized by the REAP 2.0 program. CITY has represented to COG that CITY is familiar with REAP 2.0 program requirements and shall be responsible for compliance with all applicable program requirements. Further, funds will only be used to support eligible activities as delineated in the REAP 2.0 application and as authorized in the COG's REAP 2.0 application dated December 21, 2022.

3.4. CITY shall take all action necessary to ensure construction of the project does not commence until the development team can demonstrate the project has all the funding committed for the project's construction and permanent financing.

3.5. A preliminary subsidy underwriting and layering review will be completed by the CITY prior to executing a resolution to conditionally commit funds to the development team to support the pursuit of additional resources.

3.6. Upon securing all funding commitments required to pursue the project, CITY will perform a final subsidy underwriting and layering review to confirm project viability and full compliance with REAP 2.0 regulations prior to entering into a written funding agreement with development team overseeing the project. CITY will ensure that any failure to fix any compliance issues identified with the REAP 2.0 program or the City of Bakersfield's underwriting and subsidy-layering review during this review will result in the denial of REAP 2.0 funding for this undertaking.

3.7. CITY shall ensure the development team undertaking the Bakersfield Senior Center Mixed-Use Housing Project do not undertake or commit any funding to choice-limiting actions, including entering into any contracts (including conditional contracts) to undertake such actions prior to the environmental clearance required under the National Environmental Protection Act (NEPA). Any violations of this provision may result in the denial of any funding under this resolution.

3.8. CITY and future REAP recipients of these funds understand that this resolution does not constitute a commitment of funds or site approval, and the commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the City of Bakersfield of an approval of the request for release of funds and certification from the U.S. Department of Housing and Urban Development under 24 CFR Part 58. The provision of any funds to the project is conditioned on the City of Bakersfield's determination to proceed with, modify or cancel the project based on the results of the environmental review.

3.9. CITY understands that the award or commitment of REAP 2.0 funds under this resolution, and all other federal and non-federal fund sources, is conditioned upon the receipt of NEPA clearance and the provision of federal assistance under the Housing Choice Voucher program and the HOME Investment Partnership Program.

3.10. Funding under this resolution is conditioned upon approval by the Department of Housing and Community Development of the COG's application for REAP 2.0 funding dated December 21, 2022 and the execution of a funding agreement by the COG and the Department of Housing and Community Development. Once approved, CITY will execute a written agreement with the COG agreeing to the conditions stated herein and any other items deemed necessary to implement the requirements of the REAP 2.0 program and any other applicable local, state, and federal laws.

4. The COG Board of Directors gives authority to the Executive Director or his designee to carry out the direction of this resolution upon the conditions and terms provided herein.

AUTHORIZED AND SIGNED THIS 15th DAY OF JUNE, 2023.

AYES:

NOES:

ABSTAIN:

ABSENT:

Bob Smith, Chairman
Kern Council of Governments

ATTEST:

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 20th day of April 2023.

Ahron Hakimi, Executive Director
Kern Council of Governments