

REQUEST FOR PROPOSALS

2024 QUALITY OF LIFE COMMUNITY SURVEY

Kern Council of Governments
1401 19th Street, Suite 300
Bakersfield, CA 93301
(661) 635-2906

Additional background information on this Request for Proposals can be found on the Kern COG website:

www.kerncog.org

Refer to tab:

“Working with Kern COG”

REQUEST FOR PROPOSALS

2024 QUALITY OF LIFE COMMUNITY SURVEY

DATE RFP RELEASED: SEPTEMBER 13, 2023
PROPOSALS DUE: OCTOBER 13, 2023

I. INTRODUCTION AND BACKGROUND

Kern Council of Governments (Kern COG) invites the submission of proposals for professional services to prepare the 2024 Quality of Life Community Survey. The 2024 Community Survey is a countywide survey of adult Kern County residents designed to gauge public perception of and reaction to quality-of-life issues, community services, transportation, growth, jobs and the economy. This survey will be a follow-up to surveys completed in 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023.

This Request for Proposals (RFP) describes services required, potential scope of work, consultant selection process, and the minimum level of information that must be included in all submitted proposals.

The selected firm will work with representatives of Kern COG. The contract will be awarded without discrimination relative to race, religion, color, age, sex, or national origin.

II. PREVIOUS COMPLETED PLANNING EFFORTS

- 2012 Quality of Life Community Survey
- 2013 Quality of Life Community Survey
- 2014 Quality of Life Community Survey
- 2015 Quality of Life Community Survey
- 2016 Quality of Life Community Survey
- 2017 Quality of Life Community Survey
- 2018 Quality of Life Community Survey
- 2019 Quality of Life Community Survey
- 2020 Quality of Life Community Survey
- 2021 Quality of Life Community Survey
- 2022 Quality of Life Community Survey
- 2023 Quality of Life Community Survey

Go to this link to download any of these documents:

[Other Documents Archives - Kern Council of Governments \(kerncog.org\)](https://www.kerncog.org/Other-Documents-Archives)

III. PURPOSE AND OBJECTIVES OF THE PROPOSAL

Kern COG seeks a qualified consultant to prepare a countywide statistically valid telephone/text/online survey with a household sample size large enough to ensure a 95 percent or greater confidence level and a margin of error +/-5 percent or less.

Using the 2023 survey instrument as a guide, consultant shall develop a draft survey instrument for review and approval by the Kern COG Project Manager. Consultant shall pretest the survey instrument to determine interview length. Consultant shall be responsible for the survey sample and all data collection. The sample shall be stratified among four sub-regions: East Kern, West Kern, Central Valley and the Mountains and five Supervisorial Districts. Consultant shall provide data entry and analysis of the survey results, verification of survey population and preparation of a final report.

The final, detailed Scope of Work for the contract will be developed in cooperation with the selected consultant from the submitted proposal. Kern COG is open to variations from the Scope of Work that would increase the quality of survey and survey analysis.

SCOPE OF SERVICES

A. Project Management

The consultant will manage project tasks; submit written monthly progress reports with invoices, and schedule, at minimum, bi-weekly phone calls with the Kern COG Project Manager. The monthly progress report will document specific accomplishments of each task, identify percent completion by task, difficulties encountered, and any adjustments recommended in the project schedule.

The Consultant will be responsible for scheduling, coordinating and preparing all necessary materials throughout the duration of the contract.

Within one month from the time Kern COG issues the Notice to Proceed, the consultant will be required to coordinate a kick-off meeting with Kern COG's Project Manager and any stakeholders he/she deems appropriate.

It is anticipated that the consultant will make at least one (1) presentation on the final survey results to the Kern COG Board of Directors.

The consultant will be expected to maintain all electronic and hard copy files pertaining to the project and will provide Kern COG with an electronic version of all reports, technical memos, and backup data prior to completion of the project and of the contract. This will include MSWord, MS Excel and PDF versions of the final report. In addition, the consultant and sub-consultants will maintain consistent quality control procedures.

IV. COORDINATION

Kern COG is solely responsible and will be the sole point of contact for all contractual matters related to this project. The consultant will take direction only from Kern COG and will regularly inform Kern COG of project progress, any outstanding issues, and all project-related matters.

Participating entities may offer suggestions and/or recommendations regarding the survey. While Kern COG enjoys a close relationship with, and has considerable confidence in the capabilities of these other parties, the consultant will not act on any suggestions, solicited or unsolicited, without obtaining specific direction from Kern COG. Unless otherwise directed, all oral and written communication will be directed only to Kern COG. Any distribution of project-related communication and information will be at the discretion of Kern COG.

The selected consultant will best demonstrate the ability to deliver quality work on schedule and in a cost-effective manner, consistent with the tasks and deliverables in this RFP, and as requested by Kern COG's Project Manager.

All data, maps and all other materials prepared or collected under this contract will become the property of Kern COG. The Consultant will provide progress reports orally or by email to the Kern COG Project Manager. These status reports will include descriptions of work tasks completed that month, and will identify any issues that may affect project schedule or project deliverables.

V. SCHEDULE

Activity	Date
Request for Proposals Released	September 13, 2023
Last Day to Submit Written Questions	October 6, 2023
Deadline for Proposal Submittal	October 13, 2023
Selection Process/Interviews (if needed)	Week of October 16, 2023
Kern COG Board Approval	November 16, 2023
Notice to Proceed	November 20, 2023
Project Completion	No Later than May 31, 2024

These dates are subject to change; schedule updates will be posted on the Kern COG website: www.kerncog.org refer to tab: "Working with Kern COG."

VI. PROPOSAL REQUIREMENTS

Proposal content and completeness are important. Clarity and conciseness are essential and will be considered in assessing the proposer's capabilities. A review committee will screen all consultant proposals submitted in response to this request.

One (1) electronic copy of the proposal will be accepted by email to scampbell@kerncog.org. Printed proposals may be mailed to Kern Council of Governments, 1401 19th Street, Suite 300, Bakersfield, CA 93301. All proposals must be submitted no later than 4:00 p.m. **October**

13, 2023. Proposals received later than that date and time will not be considered.

A. Provide contact and email address.

Proposers will provide a contact person and email address to be used in responding to questions and for notification of updated RFP information.

B. Proposal Organization

In order to simplify the review process and maximize the degree of comparative analysis, the proposal should be organized in the following manner:

1. Transmittal letter

The transmittal letter should be signed by an official authorized to bind the consultant contractually and will contain a statement to the effect that the proposal is a firm offer for 90 days. The letter accompanying the proposal will also provide the following: name, title, address, and telephone number of individuals with the authority to negotiate and contractually bind the company. The transmittal shall contain a statement of understanding of the RFP.

2. Table of Contents

Include identification of the material by section and page number.

3. Overview

This section should clearly convey the Consultant's understanding of the nature of the work and the general approach to be taken to its performance. This section should include, but not be limited to, a discussion of the purpose of the project, the organization of the project effort, and a summary of the proposed approach.

4. Detailed Work Plan

The prospective contractor will provide a schedule for completing the project, within the schedule set forth in this RFP. The schedule shall identify the major tasks to be undertaken and the time frame for each task.

This section should include the following components:

a. Task Description

Include a full description of each step to be followed in carrying out the various tasks for conducting a statistically valid survey. The work description should be presented in sufficient detail (tasks, subtasks, etc.) to show a clear understanding of the work and the proposed approach.

b. Deliverables

Please provide a description of the format, content, and level of detail that can be expected for each deliverable.

c. Timeline

A general timeline showing an anticipated sequence of each task, subtasks, etc. and a completion date for each task. Important milestones should be identified.

5. Management Approach

This section should describe the firm's management approach. If the proposal is a team effort, the distribution of work among the team members should be indicated. Describe the organization of the management, the structure of the work assignments, and any specific features of the management approach that require special explanation. Designate by name the project manager to be employed to oversee various tasks. No substitutions of the identified project manager will be allowed without prior approval of Kern COG's Project Manager.

Include the name and qualifications of all professional personnel to be employed, a resume for each professional, a statement indicating how many hours each professional will be assigned to the contract and what tasks each professional will perform. Staffing assignments should be specific enough to demonstrate understanding of skills required and commitment of proper resources. The selected consultant will not substitute members of the project team without prior approval of the Kern COG's Project Manager.

6. Budget and Billing Format

Under various circumstances the budget could be subject to Pre-audit and/or the final cost subject to Post-audit by Kern COG or Caltrans' Division of Audits and Investigations. Whether individual items of cost can be allowed will be determined by 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq. The Contractor will also be required to comply with 49 CFR, Part 18, and Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments. The contractor should have an accounting system capable of segregating direct cost from indirect costs per the above cited regulations. The Contractor and Subcontractors will comply with all applicable laws and maintain books, documents, papers, and accounting records for a period of three years from the date of final payment.

a. Project Budget

A maximum of \$75,000 has been budgeted for Consultant services for this project.

b. Estimated Costs for Tasks

A schedule of estimated costs to complete each task should include a subsidiary breakdown by task of hours and billing rate charges. To ensure a full understanding of the resources committed to the project, the schedule should clearly indicate the number of hours key personnel will be used in each task.

c. **Budget and Cost Breakdown**

Upon being retained, the consultant will prepare a detailed cost breakdown for each environmental assessment (project) to be performed during the course of the contract regardless of the method of reimbursement chosen. This will include all tasks required to complete the project including final reports and presentation.

- i. **Direct Labor Costs** – A schedule of billing rates and hours worked by employee or category of employee is required of the prime contractor and all subcontractors. Billing rates shall be based on actual pay rates and should cover all costs associated with the employee (salary, benefits, and anticipated cost of living and/or merit increases during the term of the contract). Depending on the individual cost structure, overhead may be applied as a component of the billing rate or applied separately. The proposer should be prepared to validate billing rates with payroll registers, wage agreements, or other payroll documentation.
- ii. **Overhead Rates** – The overhead rate should include all indirect cost not readily assignable to cost objectives specifically benefited. Typically, an overhead rate is calculated on a company or division wide basis by segregating expenses into direct cost and indirect cost categories and then dividing the indirect costs by a direct cost base such as direct labor to arrive at an overhead rate. The overhead rate is then applied on a contract-by-contract basis to recapture the indirect costs that are not chargeable directly to a final objective such as general and administrative, facilities, equipment, supplies, accounting, maintenance, materials, etc. Some cost structures may be broken into various overhead rates that are applied to different bases. The proposer should be prepared to provide supporting documentation such as prior agreements with government agencies or audits of prior year activities to validate overhead rates structures.
- iii. **Direct Cost** – Direct costs are those incremental costs that can be identified specifically with a particular final cost objective. Although in some instances direct cost and indirect cost may include similar categories, incremental direct cost attributable to final objectives must be separated and not included in the overhead calculation. All direct costs specifically attributed to the project and not included in the billing rates must be itemized by budget category to be eligible for reimbursement. Once contractually authorized,

- iv. **Sub-Consultant Fees** – Sub-Consultants must provide the same cost data detail as the prime contractor.
- v. **Fixed Fee** – A fixed fee is calculated as a basis of total direct and indirect costs. State law permits a 10% maximum fee.

7. Insurance Requirements

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

- a. Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of the Agreement with Kern COG), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of work under the Agreement. The Commercial General Liability insurance shall contain no exclusions or limitations for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.
- b. 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 \$1,000,000.
- 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. 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 coverage has been obtained and is in full force; that Kern COG, its officers, agents, and employees will not be responsible for any premiums on the policies; that 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 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 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.

For additional insurance requirements please reference the attached Sample Contract.

8. Disadvantaged Business Enterprise (DBE) Certification

It is the policy of Kern COG, the California 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.

9. Conflicts of Interest

The prospective contractor shall disclose any financial, business, or other relationship with Kern COG, or other entities such as the other MPOs involved in this project, that may have an outcome on the selection.

10. Summary of Qualifications

Proposals shall include a summary of the firm's qualifications, including resumes of assigned staff.

11. SIGNING OF PROPOSAL/AUTHORIZATION TO NEGOTIATE

The proposal shall be signed by an official authorized to bind the proposer and shall contain a statement to the effect that the proposal is a firm offer for a 90-day period. The proposal shall also provide the following: Name, Title, Address, and Telephone number of individuals with authority to negotiate and contractually bind the Company.

12. Attachments

Attachments to be included at the end of the proposal are as follows:

- Attachment A: Title VI Assurance
- Attachment B: Budget and Cost Schedule Template
- Attachment C: Sample Scope of Work
- Attachment D: Sample Contract

VII. PROPOSAL SUBMITTAL

A. Preparation of Proposal

The proposal shall be formatted in accordance with the requirements specified in the Section titled "Proposal Requirements" of this RFP. Proposal forms shall be executed by an authorized signatory as described herein. All proposals shall be prepared by and at the expense of the proposer.

B. Examination of RFP Document

The proposer shall be solely responsible for examining, with appropriate care, the RFP, including Attachments A through D and any addenda issued during the proposal period. The proposer shall also be responsible for informing itself with respect to any and all conditions, which may in any way affect the amount or nature of the proposal or the performance of the work in the event the proposer is selected. Failure of the proposer to examine and inform itself in this manner shall be at the proposer's own risk and no relief for error or omission shall be given.

C. Submission of Proposal/Period of Acceptance

One electronic copy will be accepted by email to scampbell@kerncog.org. Printed proposals may be mailed to Kern

Council of Governments, 1401 19th Street, Suite 300, Bakersfield, CA 93301. All proposals must be delivered to Kern COG no later than **October 13, 2023**. Proposals will not be accepted after 4:00 p.m. PDT. Postmarks will not be accepted. Proposals may be delivered to:

Ahron Hakimi
Executive Director
Kern Council of Governments
1401 19th Street, Suite 300
Bakersfield, CA 93301

All proposals will remain firm for a period of ninety (90) days following the final date for submission. All proposals will become the sole property of Kern COG and a part of its official records without obligation on the part of Kern COG.

This RFP is not to be construed as a contract of commitment on the part of Kern COG. Kern COG reserves the right to reject all proposals, to seek additional information from each proposer, or to issue another RFP, if deemed appropriate.

D. Modification or Withdrawal of Proposals

Any proposal received before the date and time specified above for receipt of proposals may be withdrawn or modified by written request of the proposer. To be considered, however, the modified proposal must be received by the proposal due date and time specified previously.

All verbal modifications to these conditions or provisions are ineffective for proposal evaluation purposes. Only written changes issued by proposers to Kern COG are authorized and binding.

E. Rejection of Proposals

Failure to meet the requirements for the Request for Proposals will be cause for rejection of the proposal. Kern COG may reject any proposal if it is conditional, incomplete, or contains irregularities or inordinately high cost rates. Kern COG may waive an immaterial deviation in a proposal. Waiver of an immaterial deviation shall in no way modify the Request for Proposals document or excuse the proposer from full compliance with the contract requirements if the proposer is awarded the contract.

VIII. CONSULTANT SELECTION

The actual award of the contract will be by the Kern COG Board of Directors (tentatively set for **November 16, 2023**). Proposal opening does not constitute the awarding of a contract. The contract is not in force until it is awarded by Kern COG and executed by the Kern COG designees. A committee will evaluate the proposals and recommend the selected consultant to the Kern COG Transportation Planning and Policy Committee for approval.

IX. PROPOSER OBJECTIONS

A proposer may object to any of the terms or provisions set forth in the RFP's Scope of Work or to the selection of a particular proposer on the grounds that Kern COG's procedures, the provisions of this RFP, or applicable provisions of federal, state, or local law have been violated or inaccurately or inappropriately applied by submitting Kern COG a written explanation of the basis for the objection. Deadlines for submittal of objections are:

- No later than two weeks prior to the date proposals are due, for objections to RFP provisions; or
- Within three working days after the date on which the contract award is authorized or the date the proposer is notified that it was not selected, whichever is later, for objections to proposer selection.

If the proposer does not state any objections, Kern COG will assume that the RFP Scope of Work is acceptable to the proposer and has been fully factored into the firm's response. If the proposer intends to negotiate with Kern COG concerning any part of the Scope of Work the proposer finds objectionable, the proposer must provide specific language in the firm's response that would address or cure its objections.

X. CORRECTIONS AND ADDENDA

If a proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the proposer shall immediately notify the Contact Person of such error in writing and request clarification or modification of the document. Modifications will be made by addenda as indicated below to all parties in receipt of this RFP.

If a proposer fails to notify the Contact Person prior to the date fixed for submission of proposals of a known error in the RFP, or an error that reasonably should have been known, the proposer shall submit a proposal at their own risk, and if the proposer is awarded a contract they shall not be entitled to additional compensation or time by reason of the error or its subsequent correction.

Addenda issued by Kern COG interpreting or changing any of the items in this RFP, including all modifications thereof, shall be incorporated in the proposal. The proposer shall sign and date the Addenda Cover Sheet and submit same with the proposal (or deliver them to the [name and address of department], if the proposer has previously submitted a proposal to the department).

Any oral communication by Kern COG's designated Contact Person or any other Kern COG staff member concerning this RFP is not binding on Kern COG and shall in no way modify this RFP or the obligations of Kern COG or any proposers.

XI. KERN COG RIGHTS

Kern COG may investigate the qualifications of any proposer under consideration, require confirmation of information furnished by a proposer, and require additional evidence of qualifications to perform the work described in this RFP.

Kern COG reserves the right to:

- Reject any or all of the proposals if it deems such action is in the public interest.
- Issue subsequent Requests for Proposals.
- Cancel the entire Request for Proposal.
- Remedy technical errors in the Request for Proposals process.
- Appoint an evaluation committee to review the proposals and make the selection based upon the written proposal only.
- Seek the assistance of outside technical experts in proposal evaluation.
- Approve or disapprove the use of particular subcontractors.
- Establish a short list of proposers eligible for interviews after review of written proposals.
- Negotiate with some, all, or none of the respondents to the RFP.
- Solicit best and final offers from all or some of the proposers.
- Award a contract to one or more proposers.
- Accept an offer other than the lowest price offer; and
- Waive informalities and irregularities in proposals and the bid process.

This RFP does not commit Kern COG to enter into a contract, nor does it obligate Kern COG to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. All proposals will be subject to public disclosure as required by the California Public Records Act.

Kern COG reserves the right to investigate the qualifications of all firms under consideration to confirm any part of the information furnished by a proposer, or to require other evidence of managerial, financial, or other capabilities which are considered necessary for the successful performance of the contract.

At the discretion of the Kern COG Board of Directors, Kern COG reserves the right to retain Consultant for the Quality-of-Life Community Survey for up to an additional four fiscal years beyond the first fiscal year of the survey (FY 2023/24).

XII. FORM OF AGREEMENT

No agreement with Kern COG is in effect until a contract has been signed by both parties. Attached to this RFP as Exhibit "D" is a sample agreement which is in substantially the form the successful proposer will be expected to sign. The final agreement may include the contents of the RFP, any addenda to this RFP, portions of the successful proposer's proposal and any other modifications determined by Kern COG to be necessary prior to its execution by the parties.

The sample agreement included in this RFP is for informational purposes and should not be returned with a proposal; however, the proposal shall include a statement that the proposer has reviewed the sample

agreement and either i) will agree to the terms contained therein if selected, or ii) indicate those specific provisions of the sample agreement to which the proposer takes exception and why. Raising of significant exceptions in a proposal, as determined in the sole discretion of Kern COG, may be cause for rejection of the proposer's proposal. Failure to submit specific exceptions to the terms and conditions of the agreement, shall be viewed as an acceptance of all of the sample agreements terms and conditions.

The selected Consultant will be required to execute an agreement with Kern COG for the services requested within 90 days of the award. If agreement on the terms and conditions of the contract that are acceptable to Kern COG including, but not limited to, compensation, cannot be achieved within that timeframe, Kern COG reserves the right to continue negotiations or to award the bid to another Consultant and begin negotiations with that Consultant.

XIII. DISPOSITION OF PROPOSALS AND PROPRIETARY DATA

All materials submitted in response to this RFP become the property of Kern COG. Any and all proposals received by Kern COG shall be subject to public disclosure and inspection, except to the extent the proposer designates trade secrets or other proprietary data to be confidential, after the Evaluation Committee has completed its deliberative process and either the proposer has been informed that they are not the vendor selected by the Evaluation Committee for recommendation to the Board of Supervisors, or the matter has been set for consideration before the Board of Supervisors, whichever comes first.

Material designated as proprietary or confidential shall accompany the proposal and each page shall be clearly marked and readily separable from the proposal in order to facilitate public inspection of the non-confidential portion of the proposal. Prices, makes and models or catalog numbers of the items offered, deliverables, and terms of payment shall be publicly available regardless of any designation to the contrary. Kern COG will endeavor to restrict distribution of material designated as confidential or proprietary to only those individuals involved in the review and analysis of the proposals.

Proposers are cautioned that materials designated as confidential may nevertheless be subject to disclosure. Proposers are advised that Kern COG does not wish to receive confidential or proprietary information and that proposers are not to supply such information except when it is absolutely necessary. If any information or materials in any proposal submitted is labeled confidential or proprietary, the proposal shall include the following clause:

(legal name of proposer) shall indemnify, defend and hold harmless Kern COG of Kern, its officers, agents and employees from and against any request, action or proceeding of any nature and any damages or liability of any nature, specifically including attorneys' fees awarded under the California Public Records Act (Government Code §6250 et seq.) arising out of, concerning or in any way involving any materials or information in this proposal that (legal name of proposer) has labeled as confidential, proprietary or otherwise not subject to disclosure as a public record.

XIV. RFP QUESTIONS

All questions on the RFP should be submitted in writing via email to:

scampbell@kerncog.org

Susanne Campbell, Project Manager
Kern Council of Governments
1401 19th Street, Suite 300
Bakersfield, CA 93301

All questions shall be submitted no later than **October 6, 2023**. Written questions submitted by this date will be answered and posted at <http://www.kerncog.org>. Refer to tab: "Working with Kern COG."

Attachment A

TITLE VI ASSURANCE

Kern Council of Governments, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-4 and Title 49, Code of Federal Regulations, department of Transportation, Subtitle A, Office of the Secretary, Part 21 Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority businesses enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or nation origin in consideration of an award.

Attachment B

BUDGET AND COST SCHEDULE TEMPLATE

(Name)			(Name)		(Name)			
(Role)			(Role)		(Role)			
(Hourly Billing Rate)	TASKS		(Hourly Billing Rate)		(Hourly Billing Rate)		Total Task Hours	Total Task Cost
Hours	Task	Cost	Hours	Cost	Hours	Cost		
	Tasks Subtotal							

Direct Costs

	Direct Cost	Amount
	Direct Costs Subtotal	

Subconsultants

	Subconsultants	Total Cost
	Subconsultants Subtotal	

	PROPOSAL GRAND TOTAL	
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ATTACHMENT C
SAMPLE SCOPE OF WORK

This is a SAMPLE Scope of Work developed by staff to give a clearer picture of the product expected from this contract. Consultants are encouraged to modify and make improvements based on their professional expertise and best judgment. Please avoid unenforceable, vague language in the proposal Scope of Work to facilitate incorporation into the final contract. Clearly describe the deliverables to facilitate contract enforceability. Thank you.

2024 Quality of Life Community Survey

SCOPE OF WORK

Kern Council of Governments (Kern COG) invites the submission of proposals for professional services to prepare the 2024 Quality of Life Community Survey (Survey). The 202 Survey is a countywide survey of adult Kern County residents designed to gauge public perception of and reaction to quality of life issues, community services, transportation, growth, jobs and the economy. This survey will be a follow-up to surveys completed in 2012, 2013, 2014, 2015, 2016 2017, 2018, 2019, 2020, 2021, 2022 and 2023.

Kern COG seeks a qualified consultant to prepare a countywide statistically valid telephone survey with a household sample size large enough to ensure a 95 percent or greater confidence level and a margin of error +/-5 percent or less.

Using the 2023 survey instrument as a guide, consultant shall develop a draft survey instrument for review and approval by the Kern COG Project Manager. Consultant shall pretest the survey instrument to determine interview length. Consultant shall be responsible for the survey sample and all data collection. The sample shall be stratified among four sub-regions: East Kern, West Kern, Central Valley and the Mountains and five Supervisorial Districts. Consultant shall provide data entry and analysis of the survey results, verification of survey population and preparation of a final report.

Task 1 – Project Management

The consultant shall manage project tasks, submit written monthly progress reports with invoices, and schedule bi-weekly phone calls with the Kern COG Project Manager. The monthly progress report shall document specific accomplishments of each task, identify percent completion by task, difficulties encountered, and any adjustments recommended in the project schedule.

The consultant shall maintain all electronic and hard copy files pertaining to the project and shall provide Kern COG with an electronic version of all reports, technical memos, and backup data prior to completion of the study. This shall include an MSWord, MS Excel and PDF versions of the final report. The consultant and sub-consultants shall maintain consistent quality control procedures.

Sample Deliverables:

- 1.1 Monthly progress reports
- 1.2 Brief meeting notes and action items
- 1.3 Additional informational materials that can be posted on Kern COG's website, as appropriate
- 1.4 Completion date: Throughout project

Task 2 – Questionnaire Design and Development

Within one month from the time Kern COG issues the Notice to Proceed, the consultant shall be required to coordinate the project kick-off meeting with Kern COG staff and other invitees as determined by Kern COG.

Using the 2024 survey instrument as a guide, consultant shall develop a draft survey instrument for review and approval by the Kern COG Project Manager.

Sample Deliverables:

- 1.1 Project kick-off meeting
- 1.2 Brief meeting notes and action items
- 1.3 Develop draft survey instrument
- 1.4 Completion date: _____

Task 3 – Survey Pretest

Consultant shall pretest the survey instrument to determine interview length. Consultant shall be responsible for the survey sample and all data collection. Consultant shall provide data entry and analysis of the survey results, verification of survey population and preparation of a final report.

Sample Deliverables:

- 1.1 Pretest of survey instrument to determine interview length
- 1.2 Kern COG staff review and approval of draft survey instrument and pretest
- 1.3 Consultant develop final survey instrument
- 1.4 Completion date: _____

Task 4 – Survey Sample and Data Collection by Consultant

Consultant shall be responsible selection of phone numbers and random sample. Sample shall be stratified among the four sub-regions: East Kern, West Kern, Central Valley and Mountains (see attached map). The sample shall also be stratified by Kern County Supervisorial District. Consultant shall be responsible for interviewer briefing, data collection and debriefing.

Sample Deliverables:

- 1.1 Selection of phone numbers and random sample

- 1.2 Sample stratified among the four sub-regions and Kern County Supervisorial District
- 1.3 Interviewer briefing
- 1.4 Data Collection
- 1.5 Debriefing
- 1.6 Completion date: _____

Task 5 – Data Analysis and Final Report by Consultant

Consultant shall be responsible for data entry and analysis of sample results. Consultant shall compare the results of the 2013 survey with previous surveys completed: 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 and 2023. Consultant shall be responsible for verification of survey population by age, ethnicity, gender, etc.

Sample Deliverables:

- 1.1 Data entry and analysis
- 1.2 Verification of survey population
- 1.3 Preparation of Final Report
- 1.4 Provide Kern COG one (1) electronic copy in PDF format.
- 1.5 Presentation to the Kern COG Board of Directors
- 1.6 Completion date: _____

Task 6 - Coordination

Kern COG is solely responsible and will be the sole point of contact for all contractual matters related to this project. The consultant will take direction only from Kern COG and will regularly inform Kern COG of project progress, any outstanding issues, and all project-related matters.

Participating entities may offer suggestions and/or recommendations regarding the survey. While Kern COG enjoys a close relationship with, and has considerable confidence in the capabilities of these other parties, the consultant will not act on any suggestions, solicited or unsolicited, without obtaining specific direction from Kern COG. Unless otherwise directed, all oral and written communication will be directed only to Kern COG. Any distribution of project-related communication and information will be at the discretion of Kern COG.

The selected consultant will best demonstrate the ability to deliver quality work on schedule and in a cost-effective manner, consistent with the tasks and deliverables in this RFP, and as requested by Kern COG's Project Manager.

All data, maps and all other materials prepared or collected under this contract will become the property of Kern COG. The Consultant will provide monthly progress reports to the Kern COG Project Manager. These monthly status reports will include descriptions of work tasks completed that month, and will identify any issues that may affect project schedule or project deliverables.

**ATTACHMENT D
SAMPLE CONTRACT**

CONTRACT BETWEEN THE KERN COUNCIL OF GOVERNMENTS
AND

XXXXXXXXXX

THIS CONTRACT, made and entered into this 16th day of November, by and between the Kern Council of Governments, hereinafter referred to as "Kern COG," and, XXXXXXXX hereinafter referred to as "Consultant."

WITNESSETH:

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;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

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 XXXXXXXX, 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: XXXXXXXXXX
Consultant: XXXXXXXXXX

III. Term

Time is of the essence in this contract. The term of this contract is XXXXXXXX through XXXXXX 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 XXXXXXXX, are subject to the inclusion and funding agency approval of this project in Kern COG's XXXXXXXX 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 XXXXXX, to be billed in accordance with Exhibit "C," Costs. 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.

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 XXXX as identified on the FY XXXXX 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 (XXXX/day meals; XXXXX/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.

B. 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 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 Kern COG Counsel and 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 Consultant or any third parties, Consultant, at its sole expense, shall maintain in full force and affect the following insurance policies throughout the term of the contract:

- A. Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of the Agreement with Kern COG), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of work under the Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.
- B. 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 \$1,000,000.
- 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 coverage has been obtained and is in full force; that Kern COG, its officers, agents, and employees will not be responsible for any premiums on the policies; that 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 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.

- E. 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.
- F. 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.
- G. 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.
- H. 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.

- I. 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.
- J. 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.
- K. 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.
- L. 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.
- M. 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 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
XXXXXXXX
Principal
XXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

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 _____ 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

XXXXX, Chair
"Kern COG"

APPROVED AS TO FORM:

CONSULTANT

Brian Van Wyk, Deputy
Kern County Counsel

Consultant

