

Fresno County Mobility Hub Feasibility Study Request for Proposal

Question & Answer

Questions Due: February 14, 2024 by 5:00 PM

Answers Released: February 16, 2024

1. Can the Fresno COG extend the deadline for submitting proposals to March 8th?
[Fresno Council of Governments will not be extending the deadline for submittal. The deadline for submittals is February 28, 2024, 5:00 P.M. \(PST\).](#)
2. Can the Fresno COG share the approved grant application document for this project?
[See Attachment A](#)
3. The RFP specifies desired qualifications and other important considerations, but not specific selection criteria for the proposals. Can the Fresno COG add a section with the selection criteria?
[See Attachment B](#)
4. For Task 3: Public outreach, what languages does the Fresno COG expect the team to deliver the outreach? Considering the variation of languages across the different towns, and the added cost of interpretation in other languages, we suggest to standardize outreach to English and Spanish only.
[English and Spanish are both acceptable and expected translations. Additional translations could result based on public feedback and community input.](#)
5. Task 5: Develop planning level cost estimates for selected sites requires 30% design or conceptual drawings to fulfill the task. 30% design is typically considered schematic, which requires a higher level of detail and accuracy that what is needed for this scope. We suggest modifying this task to request concept drawings or concept design.
[That is understandable, since this is a planning study the concept drawings and concept design is acceptable which are planning level concepts based on preliminary data.](#)
6. The RFP does not include a sample contract. Can the Fresno COG provide a sample contract for reference?
[See Attachment C](#)
7. Section H of the RFP states that the Fresno COG will meet and exceed the overall DBE goals under 49 CFR Part 26. Can the Fresno COG specify what the minimum DBE requirements will be for this project, and if other categories apply (i.e., SBE, WBE, MBE)?
[Fresno COG's three year DBE goal from October 2021 through September 2024 is 7.14 percent. Yes, all other categories apply. More information can be found: \[Disadvantaged Business Enterprise \\(DBE\\) - Fresno Council of Governments \\(fresnocog.org\\)\]\(#\)](#)
8. Will COG recommend members for the Steering Committee?
[The Steering Committee will include the Fresno COG, Fresno Area Express, Clovis Transit, Fresno County Rural Transit Agency, Fresno Economic Opportunities Commission, Caltrans, SSTAC representative, community organizations and interested public members.](#)

This will represent a cross section of Fresno County governmental and non-governmental organizations.

9. Can you elaborate on scope and expectations for the outreach to the Tribal Government? Use Fresno COG's list of recognized tribal governments, this outreach would be very similar to community based groups and unincorporated communities.
10. Can you confirm you intend this Study to identify a wide range of potential mobility hub locations around Fresno County (far more than four locations), then have the Study prepare further analysis, programming, and designs to four locations to test feasibility? The intention is to only select four sites. Two locations in the rural regions of Fresno County and two locations in the urbanized regions of Fresno County.
11. Do you anticipate the project team meeting just one time each in task 7. Presentation and Board Review Acceptance with the Transportation Technical Committee, the Policy Advisory Committee, and the Policy Board, or would they also review the project at earlier phases? Presentations to the Transportation Technical Committee and Policy Advisory Committee take place on the same date, while the Policy Board presentation would take place about two weeks later. There would be only one instance of presenting to the governing body of Fresno COG. Due to the Steering Committee navigating the study alongside the project team (in which there will be multiple meetings of this group), their involvement and recommendations relieves the need to present to the Transportation Technical Committee, Policy Advisory Committee, and Policy Board more than once.
12. Would you accept a proposal for Public Outreach that describes a menu of engagement methods that the consultant is able to perform, but without describing the exact quantity, location, or schedule of outreach activities to be performed? Our reading of the RFP is that you wish to collaborate with the consultant at the start of the project to define the outreach activity details.
Yes. That is correct.
13. Task 5 of the scope of work describes "sketch plans will be illustrative and planning-level in nature". Can you please confirm that this is consistent with conceptual drawings and would not require 30% designs that rely on a higher detail of engineering design?
Yes. That is correct.
14. Will Fresno COG be providing a list of potential mobility hub and smart corridor locations with building information as part of Task 1: Existing Conditions?
Existing Plans and GIS data from the jurisdiction will have to be collected by the consultant. Fresno COG, in addition to the Steering Committee will advise.
15. Please clarify the deliverables for Task 5: Is the "30% design or conceptual drawings" different from the "sketch plans"?
No. The sketch plans or 30% design or conceptual drawings are the same. This is a planning level study.

16. The 30% design is noted as an “architectural/engineering” drawing while sketch plans are noted as “not reflecting engineering design”. Please clarify whether we should provide 30% designs or sketch plans or both.
[Sketch plans will suffice since this is a planning study.](#)
17. Please clarify the deliverables for Task 5: The task summary notes “the Consultant will work with the Project Team to identify and design two types of sites”. Should the project team provide 30% designs for the 2 rural and 2 urban sites or only 1 rural and 1 urban site?
[The conceptual drawings or sketch plans should be for a total of four sites, 2 rural and 2 urban.](#)
18. Please clarify the deliverables for Task 5: The only deliverables published are “cost estimates” and “30% design or conceptual drawings”; however, the task summary includes a technical memo and four posters or fact sheets. Are these deliverables as well?
[Yes, in addition to the cost estimates, conceptual drawings for the four identified sites; fact sheets are a deliverable as well.](#)
19. We understand there will be a steering committee for this effort. Will the steering committee be formed specifically for this project?
[Yes.](#)
20. In addition to input on the outreach plan, what other responsibilities do you envision the steering committee will have?
[Review the completion of the tasks by the consulting firm. Provide vital input on data available to make recommendations on overall analysis of potential sites for future development. The Steering Committee will provide guidance throughout the study development process.](#)
21. Do you anticipate the consulting team will facilitate the steering committee meetings?
[Yes.](#)
22. Will steering committee meetings be in person or virtual?
[Steering committee meetings will be both in-person and virtual as what is deemed suitable for the study development.](#)
23. The Public Outreach scope asks the proposer to develop a Public Outreach Plan. We understand there are many potential outreach strategies that could be included in this plan. Is it Fresno COG’s expectation that the selected consultant will not only develop the plan, but also implement the plan?
[Yes.](#)
24. Based on experience, we assume outreach would be in Spanish and English, but are there other languages to include?

English and Spanish are both acceptable and expected translations. Additional translations may be necessary depending on the community language (Hmong, Arabic, or Punjabi).

25. Would the consultant manage the Public Input webpage for this project, or will that be Fresno COG staff?

The consultant will manage the Public Input webpage for this project if familiar with the platform. If the consultant is not, they will create all content and Fresno COG staff will build the site. The consultant would then be required to monitor responses and contact.

26. Does Fresno COG have a DBE requirement specific to this project?

DBE goals under 49 CFR Part 26: [eCFR :: 49 CFR Part 26 -- Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs](#)

Scope of Work Checklist

The Scope of Work (SOW) is the official description of the work that is to be completed during the contract. Tasks 1-6 outlined in the SOW are for illustrative purposes only.

Applications with missing components will be at a competitive disadvantage. Please use this checklist to make sure your Scope of Work is complete.

Scope of Work Checklist	
(✓)	Ensure these items are completed prior to submitting to Caltrans
	Use the Fiscal Year 2023-24 template provided
	Include the activities discussed in the grant application
	List all tasks using the same title as stated in the Project Cost and Schedule
	Include task numbers in accurate and proper sequencing, consistent with the Cost and Schedule
	Exclude sub-task numbers; only include sub-headings
	Exclude tasks for project management and/or staff/consultant coordination; these activities should be spread among relevant tasks
	Include a thorough Introduction to describe relevant background, related planning efforts, the project and project area demographics, including a description of the disadvantaged community involved with the project, if applicable
	Include a thorough and accurate narrative description of each task
	<p>Task 01 is a required task. It must be titled "Project Administration", it cannot exceed 5% of the grant award amount, and only the grantee and sub-recipient(s) can charge against this Task. This Task must only include the following activities and deliverables:</p> <ul style="list-style-type: none"> • Caltrans and grantee Project kick-off meeting at the start of the grant • Invoicing and quarterly reporting to Caltrans • DBE Reporting (federal grants only)
	Include Task 02 for the procurement of a consultant (if needed). This task is for the <u>grantee and sub-recipient(s) only</u> .
	Include detailed public participation and services to diverse communities in the Public Outreach Task (excluding technical projects)
	Identify public outreach strategies in a manner that provides flexibility and allows for a diverse range of outreach methods (both in-person and on-line), considering the current COVID-19 environment (excluding technical projects)
	Include a Task(s) for a Draft and Final product. The draft plan must include an opportunity for the public to provide feedback (excluding technical projects).
	Include a summary of next steps your agency will take towards implementing the project in the Final Product
	List achievable project deliverables for each Task
	EXCLUDE environmental, complex design, engineering work, and other ineligible activities outlined in the Grant Application Guide

SCOPE OF WORK

Project Information	
Grant Category	Sustainable Communities
Grant Fiscal Year	2023-2024
Project Title	Fresno County Mobility Hub Feasibility Study
Organization (Legal name)	Fresno Council of Governments

Disclaimer

Agency commits to the Scope of Work below. Any changes will need to be approved by Caltrans prior to initiating any Scope of Work change or amendment.

Introduction

The Fresno Council of Governments, along with the selected consultant team, will develop a Mobility Hub Plan that identifies the potential siting of mobility hubs, along with the criteria for successful projects. The improvement projects identified in the Mobility Hub Study will inform the project submittal process for the 2026 Regional Transportation Plan Sustainable Communities Strategy (RTP/SCS), and local governments can start pursuing funding to conduct individual Mobility Hub project assessment that will lead to implementation of the projects. FCOG will be requesting reimbursement for indirect costs.

Project Area Demographics

The project area will cover the entire Fresno County, which is home to over a million residents. Fresno region is culturally diverse, with 53.6% of population identifying as Hispanic or Latino, 27% white, 10.9% Asian and 4.4% Black or African American. According to CalEnviroScreen 4.0, 110 out of the total 199 census tracts in Fresno County are at or above 75 percentile, which covers 55.3% of the total population in Fresno region. Based on the California Healthy Places Index (HPI), 50.3% of Fresno County residents live in census tracts which have HPI score at or below 25 percentile (poor health conditions). In 2021, the median household income in Fresno County was \$63,656, which is 25% lower than the California state average. The poverty rate in Fresno County was 19.5%, which is significantly higher than the state rate of 12.3%. 58.4% of Fresno County population lives in low-income communities defined by AB 1550. According to the 2021 ACS, 28.4% of Fresno County population live in the rural communities. There are three Native American Tribes in Fresno County with a total population of 199.

The disadvantaged and low-income communities are especially prone to the transportation issues as they have less resources to mitigate the lack of transportation. The low-income and disadvantaged population are largely transit dependent. This project will actively engage the disadvantaged and underserved communities through public outreach as well as representation of such communities on the Steering Committee by community organizations.

Project Stakeholders

Fresno COG, with the assistance of a consultant team, will be responsible for this project. The stakeholders in the Steering Committee include the three transit agencies in the region,

community groups, tribal representatives, business representatives and the general public. The consultant team will be responsible for Task 1-8.

Overall Project Objectives

- Identify feasible locations in Fresno County for Mobility Hubs
- Develop methodology for prioritization of mobility hub locations
- Develop criteria for mobility hub features and amenities
- Provide a robust public outreach program with an emphasis on underserved and disadvantaged populations in Fresno County

Summary of Project Tasks

Task 01: Project Administration

Project Oversight

- Oversee the project process, grant administration, deliverables, coordination with the consultant, the Working Group, and Caltrans.

Kick-off Meeting with Caltrans

- Fresno COG will hold a kick-off meeting with Caltrans staff to discuss grant procedures and project expectations including invoicing, reporting, and all other project information.

Requests for Reimbursement

- Submit Requests for Reimbursement to Caltrans no more frequently than monthly but at a minimum quarterly.

Quarterly Report

- Prepare Quarterly progress reports for Caltrans.

Task Deliverables
Kick-off meeting with Caltrans - Meeting Notes
Quarterly invoices
Progress reports

Task 02: Consultant Procurement

Develop a Request for Proposal for Consultant Services

- Develop and issue a Request for Proposal for consultant services.

Consultant Selection & Contract Execution

- Review consultant proposals and work with a scoring committee to recommend preferred consultant. Develop and execute contract with the preferred consultant.

Task Deliverables
Request for Proposal, including any amendments
Consultant proposal
Contract between consultant and grantee, including any amendments
FCOG procurement procedures
Meeting notes from project kick-off with consultant

Task 1: Existing Conditions

- Review existing conditions as well as all current plans including, not limited to:
 - Fresno Clovis Metropolitan Area Short Range Transit Plan
 - FCRTA Rural Short-Range Transit Plan
 - Fresno COG's 2022 Regional Transportation Plan and Sustainable Communities Strategy
 - Fresno County Active Transportation Plan
 - All relevant General Plans in Fresno County
 - California Transportation Plan 2050
 - State Plans
 - HSR Station Area Plan
 - Fresno COG Long Range Transit Plan
 - Annual Productivity Evaluation
 - Other relevant Fresno County Studies
- Existing conditions should be reviewed thoroughly also while coordinating with other State agencies to ensure that there is proper transmittal of information. This process can be met with delays thus, over-match of funds is justified in resources spent gathering relevant information.

Task Deliverables
Existing Conditions Report

Task 2: Analysis

- Develop the methodology for mobility hub site identification.
- Establish criteria for mobility hub selection prioritization and features; including but not limited to:
 - Existing and planned transit connections
 - Multimodal hub integration to existing transit stations
 - Identify current/anticipated ridership demand in the communities being considered
 - Impact on transit ridership/service demands
 - Major trip generators
 - Areas of mobility need
 - Property/ROW availability
 - Order of magnitude cost
 - Social Equity
 - Identify existing best practices
 - Identify charging infrastructure needs for electric bikes/scooters/carshare needs to at hubs and key destinations
- Prepare recommended implementation guidelines
 - Review of multimodal implementation throughout the State

- Analysis will include intergovernmental coordination and thorough metrics for site suitability and prioritization. This process may be met with delays thus, over-match of funds is justified in resources spent gathering relevant information.

Task Deliverables
Summary of Analysis Criteria list for mobility hubs (rural and urban) Recommended Implementation Policies

Task 3: Public Outreach

- Identify a Steering Committee. The Steering Committee will include the Fresno COG, Fresno Area Express, Clovis Transit, Fresno County Rural Transit Agency, Fresno Economic Opportunities Commission, Caltrans, SSTAC representative, community organizations and interested public members.
- Develop a public outreach plan. The consultant will develop a public outreach plan that outlines format of the outreach activities and identifies specific outreach activities. Such outreach activities should include but not limited to a project website, virtual or/and in-person workshops, pop-up events, community surveys, and online interactive tools, etc. The Outreach Plan will specify how to reach out to the disadvantaged/ underserved communities and Tribal Governments. The Steering Committee will provide input for the outreach plan before it is finalized. All outreach material to be provided in multiple languages as identified by the steering committee.
- This process can be met with delays thus, over-match of funds is justified in resources spent delivering and conducting thorough outreach activities.

Task Deliverables
Outreach Summary

Task 4: Select Four Project Sites

- Identify two locations for rural mobility hubs based on selected criteria
- Identify two locations for urban mobility hubs based on selected criteria

Task Deliverables
Site Selection Memorandums Rural site selections (2) Urban site selections (2)

Task 5: Develop Planning Level Cost Estimates for Selected Sites

- Develop planning level cost estimate for each identified site
- Provide up to 30% design or conceptual drawings (architectural/engineering) for each identified site

Task Deliverables

Cost estimates
30% design or conceptual designs

Task 6: Draft and Final Plan

- Develop the draft plan that includes recommendations for next steps and receive input from the working group.
- Publish the draft plan for 30-day public review.
- Receive public input.

Task Deliverables

Draft Plan
Public Review – list of comments
Final Plan that includes a summary of next steps towards implementation
Preparation for submittal to Caltrans in an ADA accessible electronic copy

Task 7: Presentation and Board Review Acceptance

- Present the draft final plan to the Transportation Technical Committee, the Policy Advisory Committee and the Policy Board for acceptance.
- Incorporate comments from the committees into the final report.

Task Deliverables

Presentation materials
Meeting minutes with board acceptance/approval

Attachment B

Criteria		Max Points
The Proposal		
Thoroughness of the proposal	Does the proposal discuss the methodology, schedule, scope, and work products?	15
Comprehension of the project	Does the proposal demonstrate an understanding of the project?	20
Meeting the RFP Objectives	Does the proposal clearly demonstrate that all the project objectives will be met?	20
Consultant Qualifications and Experience		
Relevant Experience of Team Members/Firm	What is the experience and technical ability of the people working on the project? Weight the experience of the project manager and the people actually doing the work.	25
Cost		
Cost	How does the cost compare with other proposals? Is cost reasonable? Look at number of proposed staff hours as well.	10
Overall Impression		
Overall Impression	How do you feel about the overall proposal and the ability of the consultant to deliver the desired product on time?	10
TOTAL SCORE		100

**FRESNO COUNCIL OF GOVERNMENTS
AGREEMENT FOR CONTRACTOR SERVICES**

This Agreement for Contractor Services (hereafter referred to as "AGREEMENT"), made and entered into this _____ day of _____, 2023, hereafter referred to as "Effective Date") by and between the FRESNO COUNCIL OF GOVERNMENTS, 2035 Tulare St., Suite 201, Fresno, California 93721, a joint powers Public Agency (hereafter referred to as "FCOG"), and _____ a corporation incorporated in the State of _____ (hereafter referred to as "CONTRACTOR"). FCOG and CONTRACTOR are each a "Party" to this Agreement and collectively are the "Parties" to this Agreement.

WITNESSETH:

WHEREAS, it is necessary and desirable that FCOG retain a firm to _____ (hereafter referred to as "PROJECT"); and

WHEREAS, CONTRACTOR represents it is qualified to perform the services required for the PROJECT and is willing to perform such services pursuant to the terms and conditions stated in this Agreement; and

NOW, THEREFORE, it is agreed by FCOG and CONTRACTOR as follows:

I. CONTRACTOR'S OBLIGATIONS

A. The CONTRACTOR shall perform all work necessary to complete the PROJECT. CONTRACTOR shall perform those services as described in: FCOG's Request for Proposals, dated _____, 201_, attached hereto as (Exhibit A) and incorporated herein by this reference as though set forth in full, and CONTRACTOR's Proposal, dated _____, 201_, titled _____, attached hereto as (Exhibit B), and incorporated herein by this reference as if set out in full. CONTRACTOR shall perform those tasks and services in accordance with the instructions set forth in Exhibit A. In the event of any inconsistency between this Agreement, the FCOG's RFP and the CONTRACTOR's Proposal such inconsistency shall be resolved by giving precedence in the following order of priority: (1) to the text of this Agreement; (2) to the FCOG's RFP; (3) the CONTRACTOR's Proposal.

B. CONTRACTOR shall perform the task and services contemplated by this Agreement substantially according to the proposed work schedule as set forth in Exhibit B, and according to the requirements of this Agreement.

C. CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to FCOG pursuant to this Agreement shall conform to the standards of CONTRACTOR's profession.

II. FCOG's OBLIGATIONS

A. FCOG shall compensate CONTRACTOR as provided in section III of this Agreement.

B. FCOG will make available to the CONTRACTOR any document, studies, or other information in its possession related to the PROJECT.

III. COMPENSATION

A. Total Compensation.

Notwithstanding any other provision in this Agreement, the basic fee for the services rendered shall be computed at the hourly and cost rates as set forth in Exhibit B and shall be limited by an amount not to exceed the sum of \$_____.

B. Progress Payments.

FCOG shall make progress payments to CONTRACTOR upon receipt and approval by FCOG of CONTRACTOR's monthly invoices, based upon completion of the task and services as set forth in Exhibit B. Payment of said progress payments to CONTRACTOR shall be based upon FCOG's evaluation of the completion of each respective component.

Ten percent (10%) of each progress payment shall be retained by FCOG as performance retention. Upon CONTRACTOR's full performance of its obligations under this agreement, including, without limitation, submission of its Final Report, and FCOG's approval of CONTRACTOR's performance hereunder, the accrued performance retention shall be paid to CONTRACTOR by FCOG. The CONTRACTOR may request FCOG to make payment of retention funds withheld from progress payments as provided under Section 10263 of the California Public Contracts Code.

C. Invoices.

CONTRACTOR shall submit two copies of each invoice with adequate supporting documentation of work billed and costs charged by Task as set forth in Exhibit B, to FCOG, specifying those services which CONTRACTOR believes have been completed. The invoice shall specify: (1) hours worked multiplied times the billing rates authorized in Exhibit B, (2) an itemization of incurred direct costs and/or subcontractor fees as set forth 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.

D. Payment.

Within 30 days of receipt of a proper invoice, FCOG shall determine whether CONTRACTOR has adequately performed to the satisfaction of FCOG the item(s) for which CONTRACTOR seeks payment, and shall remit payment thereof to CONTRACTOR.

E. Disputes.

If FCOG determines that CONTRACTOR has not adequately performed any such task or services, FCOG shall inform CONTRACTOR of those acts in writing which are necessary for satisfactory completion of the item(s). CONTRACTOR shall undertake any and all work to satisfactorily complete the item(s) at no additional charge to FCOG.

In the event there is a dispute over an alleged error or omission by CONTRACTOR, FCOG shall have the right to withhold payment of CONTRACTOR's fees in the disputed amount.

FCOG and CONTRACTOR shall endeavor to resolve any dispute informally between them. Any controversy or claim arising out of this Agreement, or the breach thereof, shall be settled by arbitration of the dispute before an independent arbitrator. The Parties mutually select an independent arbitrator or panel of arbitrators from Judicial Arbitration and Mediation Services,

Inc. (“JAMS”), or another entity mutually agreed to in writing by the Parties. In the event a panel of arbitrators is selected, each Party shall select one member, and shall mutually agree on a third member of the panel. Any arbitration shall occur in Fresno County, California.

IV. TERMINATION

A. Termination Without Cause.

This Agreement may be terminated without cause at any time by FCOG or the CONTRACTOR upon thirty (30) calendar days written notice. If FCOG terminates this Agreement, CONTRACTOR shall be compensated for services satisfactorily completed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to in Section III.

If CONTRACTOR terminates the Agreement for reasons other than material breach by FCOG, the CONTRACTOR shall reimburse FCOG, up to a maximum of \$5,000, for the actual expense of issuing a request-for-proposal, engaging a new contracting firm, and the new contracting firms cost in becoming familiar with the previous CONTRACTOR’s PROJECT design.

B. Breach of Contract.

FCOG may immediately suspend or terminate this Agreement in whole or in part, where in the determination of FCOG there is:

1. an illegal or improper use of funds;
2. a failure to comply with any term of this Agreement;
3. a substantially incorrect or incomplete report, study, or other documents or documentation submitted to FCOG;
4. improperly performed services under this Agreement.

In no event shall any payment by FCOG constitute a waiver by FCOG of any breach of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to FCOG with respect to the breach or default.

C. Non-Allocation of Funds.

The terms of this Agreement, and the services to be provided hereunder, are contingent on the approval of funds by the appropriating government agency. CONTRACTOR services and reimbursements beyond June 30, 20__, are subject to the inclusion and funding agency approval of this project in the FCOG FY1_-1_ Overall Work Program. Should sufficient funds not be allocated, the services to be provided hereunder may be modified, or this Agreement terminated at any time by FCOG’s giving the CONTRACTOR thirty (30) days advance written notice.

D. In the event of any termination of this Agreement, all finished and unfinished work materials, including, without limitation, notes, minutes, research, documents, maps, graphs, and studies, shall be FCOG’s property, and at FCOG’s sole option, shall be delivered by CONTRACTOR to FCOG.

V. RIGHT TO PUBLISH/OWNERSHIP OF MATERIALS

FCOG shall be the owner of all materials produced pursuant to this Agreement upon completion and full performance of this Agreement by CONTRACTOR and shall have the right to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, or other materials prepared by CONTRACTOR under this Agreement. CONTRACTOR shall not be liable

for misuse or modification beyond their control by FCOG of materials produced pursuant to this agreement.

VI. INDEPENDENT CONTRACTOR

In performance of the work, duties, and obligations assumed by CONTRACTOR to be provided under this Agreement, it is mutually expressly understood and agreed that CONTRACTOR, including any and all of CONTRACTOR's officers, agents, and employees will at all times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of FCOG. Furthermore, FCOG shall have no right to control or supervise or direct the manner or method by which CONTRACTOR shall perform its work and function. However, FCOG shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions thereof. CONTRACTOR and FCOG shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right to employment rights and benefits available to FCOG employees. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save FCOG harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security, withholding, and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to FCOG or to this Agreement.

VII. ASSIGNMENT

CONTRACTOR shall not assign or subcontract its duties under this Agreement without the prior express written consent of the FCOG. No such consent shall be construed as making the FCOG a Party to such subcontract, or subjecting the FCOG to liability of any kind to any subcontractor.

No subcontract whether existing or later entered into as set forth herein, under any circumstances shall relieve the CONTRACTOR of its liability and obligation under this contract, and all transactions with the FCOG must be through the CONTRACTOR. Subcontractors may not be changed by CONTRACTOR without the prior express written approval of FCOG.

CONTRACTOR has submitted a Proposal (Exhibit B) which names _____ ("Approved Subcontractors") as subcontractor(s) for the purposes of this Agreement. CONTRACTOR represents and covenants by entering into this Agreement that it is the prime contractor in this Agreement, and that it is responsible for all acts or omissions of its said subcontractors. CONTRACTOR shall also be responsible for submitting invoices, in accordance with the requirements of Section III of this Agreement, to FCOG for work performed by the Approved Subcontractors, and shall remit payment to the Approved Subcontractors in accordance with the agreements between CONTRACTOR and the Approved Subcontractors. FCOG shall have no responsibility to provide compensation directly to the approved Subcontractors.

VIII. BINDING NATURE OF AGREEMENT; MODIFICATION

The Parties agree that all of the terms of this Agreement and its Exhibits shall be binding upon them and that together these terms constitute the entire Agreement of the Parties with respect to the subject matter hereof. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Parties. This Agreement shall be binding upon FCOG, the CONTRACTOR, and their successors in interest, legal representatives, executors, administrators, and assigns with respect to all covenants as set forth herein.

IX. INDEMNITY

CONTRACTOR agrees to indemnify, save, hold harmless, and at FCOG's request, defend the FCOG, its boards, committees, representatives, officers, agents, and employees from and against any and all costs and expenses (including reasonable attorneys fees and litigation costs), damages, liabilities, claims, and losses (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death, and property damage) occurring or resulting to FCOG to the extent they are caused from any negligent, recklessness or willful misconduct of CONTRACTOR, its officers, agents, subcontractors, or employees in their performance of this Agreement, and from any and all costs and expenses (including reasonable attorneys fees and litigation costs), damages, liabilities, claims, and losses (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death and property damage), occurring or resulting to any person, firm, corporation, or entity who may be injured or damaged to the extent such injury or damage arises from any negligent acts, errors or omissions of CONTRACTOR, its officers, agents, subcontractors, or employees in their performance of this Agreement.

Section IX shall survive termination of this Agreement.

X. NON DISCRIMINATION AND DBE

CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONTRACTOR shall carry out all applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract and such other remedy as FCOG deems appropriate.

XI. INSURANCE

Without limiting FCOG's right to obtain indemnification from CONTRACTOR or any third Parties, CONTRACTOR, at its sole expense, shall maintain in full force and affect the following insurance policies throughout the term of this Agreement:

A. Comprehensive general liability insurance with coverage of not less than \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

Comprehensive general liability insurance policies shall name the FCOG, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned.

Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by FCOG, its officers, agents, and employees, shall be

excess only and not contributing with insurance provided under the CONTRACTOR'S policies herein.

B. Comprehensive automobile liability insurance with limits for bodily injury of not less than \$25,000 per person, \$250,000 per accident and for property damages of not less than \$50,000, or such coverage with a combined single limit of \$250,000.

C. Professional liability insurance in the minimum amount of at least \$1,000,000 coverage per occurrence.

D. Workers compensation insurance as required by law.

CONTRACTOR shall not cancel or change any insurance policy required under this agreement without a minimum of thirty (30) days advance, written notice given to FCOG.

CONTRACTOR shall provide certification of said insurance to FCOG within twenty-one (21) days of the date of the execution of this Agreement.

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

In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, FCOG may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

XII. CONFLICT OF INTEREST

CONTRACTOR covenants that it has no interest, and will not have any interest, direct or indirect, which would conflict in any manner with the performances of the services required hereunder.

XIII. EFFECTIVE DATE, TERM

This Agreement shall become effective as of the date of the effective date and shall remain in full force and effect through _____, 201_, unless sooner terminated or unless its term is extended. Upon the mutual written Agreement of the Parties hereto, this Agreement may be extended beyond that date.

XIV. NOTICES

Any and all notices between FCOG and the CONTRACTOR provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the Parties, or in lieu of such personal service, when deposited in the United States Mail, postage prepaid, addressed to such Party, at such addresses set forth below:

FCOG

Fresno Council of Governments

CONTRACTOR

2035 Tulare, Suite 201
Fresno, CA 93721

For all claims arising out of or related to this Agreement, nothing in this section establishes, waives, or modifies, any claims presentation requirements or procedures provided by law, including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code, commencing with section 810).

XV. PROJECT MANAGER

The CONTRACTOR's project manager shall be _____. CONTRACTOR may not change its project manager without obtaining prior express written approval by FCOG. It is understood by the Parties hereto that in entering into an agreement of this type with CONTRACTOR, FCOG has evaluated CONTRACTOR's proposal (Exhibit B) and taken into consideration the project team designated therein for this PROJECT, including but not limited to CONTRACTOR's designation of _____ as the project manager for said PROJECT.

XVI. VENUE; GOVERNING LAW

Venue for any claim or action arising under this Agreement shall only be in Fresno County, California. This Agreement shall be governed in all respects by the laws of the State of California.

XVII. COMPLIANCE WITH LAWS

CONTRACTOR shall comply with all current Federal, State, and local laws, ordinances, and regulations applicable in carrying out its obligations under this Agreement.

CONTRACTOR also agrees to comply with applicable federal procedures in accordance with Title 2, CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and 2 CFR, Part 1201, Uniform Administrative Requirements Costs Principles, and Audit Requirements for Federal Awards.

Any costs for which payment has been made to CONTRACTOR that are determined by subsequent audit to be unallowable under Title 2, CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards or 2 CFR, Part 1201, Uniform Administrative Requirements Costs Principles, and Audit Requirements for Federal Awards, are subject to repayment by CONTRACTOR to FCOG.

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable, and other matters connected with the performance of the contract pursuant to Government Code 8546.7, the CONTRACTOR, contractor's subcontractors, and the FCOG shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the cost of administering the contract.

All Parties shall make such material available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. Any duly authorized representative of the FCOG, the state, or federal government shall have access to any books, records, and documents that are pertinent to the contract for audits examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Personnel Administration as specified by the California Department of Transportation's Travel Policy unless written verification is supplied that hotel rates were not then commercially available at the time and location required.

Any subcontract entered into by CONTRACTOR as a result of this contract, shall contain all of the provisions of this section.

XVIII. CONTRACTOR'S LEGAL AUTHORITY

Each individual executing or attesting this Agreement on behalf of CONTRACTOR hereby covenants, warrants, and represents: (1) that he or she is duly authorized to execute or attest and deliver this Agreement on behalf of such corporation in accordance with a duly adopted resolution of the corporation's board of directors and in accordance with such corporation's article of incorporation or charter and bylaws; (2) that this Agreement is binding upon such corporation; and (3) that CONTRACTOR is a duly organized and legally existing corporation in good standing in the State of California.

XIX. NO THIRD-PARTY BENEFICIARIES

Notwithstanding anything else to the contrary herein, the Parties acknowledge and agree that no other person, firm, corporation, or entity shall be deemed an intended third-party beneficiary of this Agreement.

XX. SEVERABILITY

In the event any provisions of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the Parties will use their best efforts to meet and confer to determine how to mutually amend such provisions with valid and enforceable provisions, and the remaining provisions of this Agreement will nevertheless continue in full force and effect without being impaired or invalidated in any way.

XXI. HEADINGS; CONSTRUCTION; STATUTORY REFERENCES

The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. This Agreement is the product of negotiation between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party. Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in interpreting this Agreement. All references in this Agreement to particular statutes, regulations, ordinances or resolutions of the United States, the State of California, or the County of Fresno shall be deemed to include the same statute, regulation, ordinance or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

XXII. DRUG FREE WORK PLACE

CONTRACTOR shall certify compliance with Government Code Section 8355 pertaining to providing a drug-free workplace per Exhibit C - "Drug Free Workplace Certification", attached hereto and incorporated herein by this reference as though set forth in full.

XXIII. FEDERAL FUNDS

CONTRACTOR shall acknowledge the participation of federal funds in this PROJECT by causing to have printed on the cover page of any final document provided subsequent to this Agreement, "The preparation of this report has been financed in part through grants from the United States Department of Transportation".

XXIV. INTEGRATED AGREEMENT

This Agreement, and Exhibits A through C, attached hereto and incorporated herein by this reference, represents the full and complete understanding of the Parties with respect to the subject matter hereof, and all preliminary negotiations and oral or written agreements with respect thereto are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date and year first above written.

FRESNO COUNCIL OF GOVERNMENTS

By _____
TONY BOREN, Executive Director

CONTRACTOR,

By _____
Name: _____
Title: _____

APPROVED AS TO LEGAL FORM ON BEHALF OF THE FCOG:
DANIEL C. CEDERBORG, County Counsel

By _____
BRYAN D. ROME, Deputy County Counsel

SAMPLE