

**MEMORANDUM OF UNDERSTANDING**

This MEMORANDUM OF UNDERSTANDING made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Selma, a municipal corporation (hereinafter "SELMA", and the Fresno Council of Governments, a Joint Powers Public Agency (hereinafter "FCOG") regarding the preparation of a Traffic Impact Analysis for a potential interchange at SR 99 and Dinuba Avenue.

**RECITALS**

WHEREAS SELMA and FCOG desire to conduct a Traffic Impact Analysis for a potential interchange at SR 99 and Dinuba Avenue; and

WHEREAS SELMA and FCOG desire to equally share the cost of the Traffic Impact Analysis; and

NOW, THEREFORE, it is mutually agreed as follows:

**Section 1. – FCOG RESPONSIBILITIES**

- a. Subject to budgetary appropriation and approval of a consultant by the FCOG Board, FCOG shall enter into and administrate the contract for the Traffic Impact Analysis.
- b. FCOG shall host a Project Development Team (hereinafter PDT) to coordinate the Traffic Impact Analysis with the consultant, SELMA, Caltrans, and any other involved agency.
- c. FCOG shall provide a copy of any documentation generated pursuant to the Traffic Impact Analysis to SELMA along with copies of invoices paid to the contractor.
- d. FCOG will review and pay invoices submitted by the selected contractor, and invoice SELMA for the cities share of the cost.

**Section 2. – SELMA RESPONSIBILITIES**

- a. SELMA will attend PDT meetings and provide relevant comments, if necessary, on any progress reports, plans, specs, charts or other documentation developed during the Traffic Impact Analysis.
- b. SELMA will remit the agreed share of each contractor invoice as invoiced by FCOG.

**Section 3. - Funding**

The total cost for the project, SR 99/Dinuba Avenue Traffic Analysis Feasibility Study Proposed Methodology, (Exhibit A, dated 8/15/16), not to exceed \$38,560 shall be shared equally between SELMA AND FCOG.

Agency	Agency Specific Cost
FCOG	\$19,280.00
SELMA	\$19,280.00

**Section 4. - INDEMNITY**

Each party to this Agreement hereby agrees to hold harmless and indemnify all other parties, and their respective officers, agents and employees, from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance or failure to perform, by SELMA or FCOG, or their respective officers,

agents, and employees, in carrying out such party's obligations under this Agreement. This section shall survive expiration or termination of this Agreement.

#### **SECTION 5. - INSURANCE**

Without limiting the right of any party to obtain indemnification from any other party, it is understood that each party to this Agreement shall each maintain, at their sole expense, insurance policies or self insurance programs including, but not limited to, an insurance pooling arrangement, and/or Joint Powers agreement, sufficient to fund its respective liabilities hereunder throughout the term of this Agreement. Coverage shall be provided for comprehensive general liability, automobile liability, professional liability, and worker's compensation exposure. Evidence of Insurance, Certificates of Insurance or similar documentation shall not be required of any party under this Agreement.

#### **SECTION 6. - ASSIGNMENT**

No party to this Agreement shall assign, transfer or sub-contract this Agreement, or any of its rights or duties under this Agreement, without the advance written consent of each of the other parties to this Agreement.

#### **SECTION 7. – SEVERABLE**

The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision of this Agreement shall not affect the other provisions.

#### **SECTION 8. – TERM**

This AGREEMENT shall become effective immediately upon execution hereof by all of the parties and shall remain in effect until such time as the Traffic Impact Analysis has been completed and accepted by all parties to this Agreement, and all claims arising hereunder have been settled or otherwise fully and finally resolved.

#### **SECTION 9. – COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which when executed will be deemed to constitute one and the same instrument and agreement.

#### **SECTION 10. – CONTENT**

Each party acknowledges that it has read and fully understands the content of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, or agreements, either written or oral.

#### **SECTION 11 – MODIFICATION**

This Agreement may be modified only by written instrument executed by duly authorized representatives of all of the parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first herein above written.

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Tony Boren, Executive Director  
FCOG

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Date

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City Manager  
City of Selma

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Date